

BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA

RESOLUTION NO. R-96-2

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF OAKLAND AND THE COUNTY OF ALAMEDA

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), the County of Alameda (the "County") and the City of Oakland (the "City") have heretofore executed a Joint Exercise of Powers Agreement, dated as of August 2, 1990, which Joint Exercise of Powers Agreement creates and establishes the Oakland-Alameda County Coliseum Authority (the "Authority");

WHEREAS, the City and the County desire to amend and restate the Joint Exercise of Powers Agreement to provide for the issuance of bonds by the Authority, including, but not limited to, the issuance of not to exceed \$225,000,000, aggregate principal amount of Oakland-Alameda County Coliseum Authority Lease Revenue Bonds (Oakland Coliseum Project), for the purpose of financing improvements to and expansion of the Oakland-Alameda County Coliseum (the "Coliseum") required for the Los Angeles Raiders to play professional football at said Coliseum, and financing additional improvements to the Coliseum for the benefit of the Oakland Athletics (collectively, the "Project");

WHEREAS, there has been prepared and presented to this Board for consideration at this meeting a proposed form of Amended and Restated Joint Exercise of Powers Agreement (the "Amended and Restated Joint Powers Agreement"); and

WHEREAS, it appears that the proposed form of the Amended and Restated Joint Powers Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended;

NOW THEREFORE, the Board of Supervisors of the County of Alameda hereby finds, determines, declares and resolves as follows:

Section 1. All of the recitals above set forth are true and correct, and the Board so finds and determines.

Section 2. The proposed form of Amended and Restated Joint Powers Agreement, between the County and the City, on file with the Clerk of the Board of Supervisors, is hereby approved. The President of the Board of Supervisors or the County Administrator or their designees is hereby authorized to execute and deliver, and the Clerk of the Board of Supervisors or any Deputy thereto is hereby authorized and directed to affix the seal of the County and to attest, the Amended and Restated Joint Powers Agreement in substantially said form, with such additions thereto or changes therein as such officers may require,

recommend or approve upon consultation with County Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. This resolution shall take effect from and after its adoption and approval.

PASSED AND ADOPTED by the Board of Supervisors of the County of Alameda, California, this 11th day of July, 1995, by the following vote:

AYES: Supervisors Campbell, Carson, Chan, King and President Steele - 5

NOES: None

ABSENT: None

ABSTAIN: None

Gail Steele

President of the Board
of Supervisors of the
County of Alameda

(Seal)

Attest:

Charles J. [Signature]
Clerk of the Board of Supervisors
of the County of Alameda

OAKLAND CITY COUNCIL

RESOLUTION NO 72009 C M S

now

INTRODUCED BY COUNCILMEMBER _____

VON:nl

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT BY AND BETWEEN THE CITY OF OAKLAND AND THE COUNTY OF ALAMEDA

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), the City of Oakland (the "City") and the County of Alameda (the "County") have heretofore executed a Joint Exercise of Powers Agreement, dated as of August 2, 1990, which Joint Exercise of Powers Agreement creates and establishes the Oakland-Alameda County Coliseum Authority (the "Authority");

WHEREAS, the City and the County desire to amend and restate the Joint Exercise of Powers Agreement to provide for the issuance of bonds by the Authority, including, but not limited to, the issuance of not to exceed \$225,000,000, aggregate principal amount of Oakland-Alameda County Coliseum Authority Lease Revenue Bonds (Oakland Coliseum Project), for the purpose of financing improvements to and expansion of the Oakland-Alameda County Coliseum (the "Coliseum") required for the Los Angeles Raiders to play professional football at said Coliseum, and financing additional improvements to the Coliseum for the benefit of the Oakland Athletics (the "Project");

WHEREAS, there has been prepared and presented to this City Council for consideration at this meeting a proposed form of Amended and Restated Joint Exercise of Powers Agreement (the "Amended and Restated Joint Powers Agreement"); and

WHEREAS, it appears that the proposed form of the Amended and Restated Joint Powers Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended;

NOW THEREFORE, the City Council of the City of Oakland hereby finds, determines, declares and resolves as follows:

Section 1. All of the recitals above set forth are true and correct, and the City Council so finds and determines.

Section 2. The proposed form of Amended and Restated Joint Powers Agreement, between the City and the County, on file with the City Clerk, is hereby approved. The City Manager or his designee is hereby authorized to execute and deliver, and the City Clerk or any Deputy thereto is hereby authorized and directed to affix the seal of the City and to attest, the Amended and Restated Joint Powers Agreement in substantially said form, with such additions thereto or changes therein as such officers may require, recommend or approve upon consultation with the City Attorney, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. This resolution shall take effect from and after its adoption and approval.

I certify that the foregoing is a full, true and correct copy of a Resolution passed by the City Council of the City of Oakland, California on

JUL 11 1995

*CEDA FLOYD
City Clerk and Clerk of the Council*

Per *Onetha Middleton* Deputy

AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT

BY AND BETWEEN

THE CITY OF OAKLAND

AND

THE COUNTY OF ALAMEDA

for the

OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY

Dated as of December 17, 1996

FINAL DECEMBER 16, 1996

AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT

THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT, dated as of December 17, 1996, by and between the CITY OF OAKLAND (the "City"), and the COUNTY OF ALAMEDA (the "County" and together with the City, the "Members"), each duly organized and operating under the laws and constitution of the State of California (the "State"), amends and restates that certain Joint Exercise of Powers Agreement, dated as of August 2, 1990, by and between the City and the County (as amended and restated, this "Agreement").

WITNESSETH:

WHEREAS, Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes the City and the County to create a joint exercise of powers entity (the "Oakland-Alameda County Coliseum Authority" or the "Authority") which has the power to jointly exercise any powers common to the City and the County;

WHEREAS, the Members are each empowered by the laws of the State of California to own, purchase, lease, sell, exchange or dispose of any real or personal property or any interests in it for any of their respective public purposes and to enter into contracts for public capital improvements;

WHEREAS, Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Marks-Roos Local Bond Pooling Act of 1985") authorizes and empowers the Authority to issue bonds for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by the County;

WHEREAS, the Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell such bonds to public or private purchasers at public or negotiated sale;

WHEREAS, by this Agreement, the City and the County desire to create and establish the Oakland-Alameda County Coliseum Authority for the purposes set forth herein and to exercise the powers described herein;

WHEREAS, the Members have participated in the negotiation of (1) a Master Agreement, among the Authority, the City, the County, the Oakland-Alameda County Coliseum, Inc. ("OACC"), the Los Angeles Raiders (the "Raiders"), the Oakland-Alameda County Coliseum Financing Corporation (the "Corporation," and

together with the City, the County, OACC and the Authority, the "East Bay Entities"; (2) a Loan Agreement between the Corporation and the Raiders; (3) an Operating Agreement between the Authority and OACC; (4) a Construction License and Coordination Agreement between the Raiders and OACC; (5) a Revenue Trust and Security Agreement, among the Authority, OACC, the Treasurer of the County and the Raiders; (6) a Marketing Agreement, between the Authority and the Raiders; (7) a Management Agreement, among the City, the County and the Authority; (8) an Assignment Agreement from the Corporation to the Authority; and (9) a Master Lease from the Authority to the City and the County. Items (1) through (9) above are sometimes referred to herein as the "Agreements."

WHEREAS, the Members agree that the performance of certain functions under and related to the Agreements, by each of the Members acting separately would result in duplication of efforts, inefficiencies in administration and excessive cost, all of which, in the judgement of the Members, could be eliminated, to the substantial benefit of the citizens and taxpayers of each of the Members, if these duties and responsibilities were to be performed through a single public agency, and such is the purpose of this agreement; and

WHEREAS, the Members desire to finance from time to time improvements to the Oakland-Alameda County Coliseum (the "Coliseum") and provide for joint operations through the Authority;

NOW, THEREFORE, the City and the County, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

Act

The term "Act" shall mean Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State.

Authority

The term "Authority" shall mean the Oakland-Alameda County Coliseum Authority created by this Agreement.

Auditor

The term "Auditor" shall mean the Auditor of the Authority who shall be the Auditor of the County of Alameda.

Board

The term "Board" shall mean the governing board of the Authority.

Bonds

The term "Bonds" shall mean bonds (including, but not limited to, lease revenue bonds, assessment bonds, redevelopment agency bonds, government issued mortgage bonds and industrial development bonds), notes (including bond, revenue, tax, or grant anticipation notes), commercial paper, floating rates, and variable maturity securities, and any other evidences of indebtedness and also includes certificates of participation or lease-purchase agreements.

Chair

The term "Chair" shall mean the Chair of the Authority.

City

The term "City" shall mean the City of Oakland, a charter city validly organized and existing under the laws of the State of California.

Coliseum Complex

The term "Coliseum Complex" shall mean the Oakland Alameda County Coliseum, consisting of the stadium and the arena.

Commission

The term "Commission" shall mean the Commission referred to in Section 4, which shall be the governing body of the Authority.

Commissioners

The term "Commissioners" shall mean the representatives of the Members appointed to the Commission pursuant to Section 4.

Contract

The term "Contract" shall mean a contract by and between the Authority and the City and/or County, whereby the Authority designs, constructs or acquires for the City and/or County all or a portion of a Project and the City and/or County repays the Authority for such costs.

County

The term "County" shall mean the existing legal subdivision and body corporate and politic of the State of California known as the County of Alameda.

Fiscal Year

The term "Fiscal Year" shall mean the period from July 1 to and including the following June 30.

Members and Member

The term "Members" and "Member" shall mean each of the parties to this Agreement, and "Member" means any such party.

Law

The term "Law" shall mean Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (Sections 6500-6599), including the Marks-Roos Local Bond Pooling Act of 1985, as amended.

Lease

The term "Lease" shall mean a lease by and between the Authority and the City and/or County, whereby the Authority acquires and leases to the City and/or County all or a portion of a Project.

Project

The term "Project" shall mean the design, acquisition or construction of any public capital improvement (as defined in the Law) required to be provided by the Authority to the City and/or County pursuant to a Lease, a Contract or any other agreement and designated for such purpose.

Public Agency

The term "Public Agency" shall mean any public agency authorized by the Act to enter into a joint exercise of powers agreement with the Members.

Secretary

The term "Secretary" means the City Finance Director.

Treasurer

The term "Treasurer" means the Treasurer of the Authority who shall be the City Finance Director.

Vice Chair

The term "Vice Chair" means the Vice Chair of the Authority.

SECTION 2. PURPOSE

This Agreement is made pursuant to the Law to provide for the joint exercise of powers common to the City and the County for the purpose of financing public capital improvements in accordance with the Law by exercising the powers referred to in the recitals hereof and described in Section 5 herein.

The City and the County desire to assist in the acquisition of Projects and in order to accomplish that goal are willing to assist pursuant to the Law in designing, acquiring, selling and financing these Projects.

The Authority will fulfill the purposes of this Agreement by among other things, undertaking the sale and issuance of Bonds in accordance with the Marks-Roos Local Bond Pooling Act of 1985. The City and the County hereby agree that any such Bonds issued by the Authority for Projects shall not constitute general obligations of the Authority but shall be payable solely from the moneys pledged to the repayment of principal of or interest on such Bonds under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which the Bonds are issued. Such Bonds shall not constitute debts, liabilities or obligations of the City or the County.

The Authority will further fulfill the purpose of this Agreement by designing, constructing and acquiring such public capital improvements and leasing, leasing-back, selling or reselling such public capital improvements to the City or the County for the City's or the County's use or providing such public capital improvements to the City or the County in exchange for repayment of the costs thereof. The City and the County agree that the Authority's obligations under any Lease, Contract or other agreement entered into with the City or the County for such purpose and the Authority's obligations under any assignment agreement, indenture, trust agreement or other instrument entered into with a corporate trustee providing for the issuance of any Bonds to be paid from payments to be made by the City or the County under such Leases, Contracts or other agreements or any such Bonds shall not constitute general obligations of the Authority but shall be payable solely from moneys received by the Authority from the City or the County.

SECTION 3. TERM

This Agreement shall become effective as of the date hereof and shall continue in full force and effect so long as the Members shall own the Coliseum; provided, however, that this Agreement and the Authority shall continue to exist for the purposes of disposing all claims, the distribution of assets, and any other functions necessary to conclude the affairs of the Authority, unless extended or

earlier terminated by a supplemental written agreement of the City and the County; provided, however, that in no event shall this Agreement terminate while any Bonds of the Authority remain outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued. In any event, the Authority shall cause all records regarding its formation, existence, the Projects, any Bonds issued by it and proceedings pertaining to its termination to be retained for at least six years following termination of the Authority or final payment of any Bonds issued by the Authority, whichever is later.

SECTION 4. AUTHORITY

A. Creation of Authority

There is hereby created pursuant to the Law an agency and public entity to be known as the "Oakland-Alameda County Coliseum Authority." As provided in the Law, the Authority shall be a public entity separate from the City and the County. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the City or the County.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State of California in the manner set forth in Section 6503.5 of the Law.

B. Commission

There shall be four (4) Commissioners consisting of two (2) City Council members of the City appointed as provided by the City Council and two (2) members of the Board of the County appointed by the Board of Supervisors. By resolution of the Authority, the number of Commissioners may be increased by the Commission in even number increments, but in no event shall total number of Commissioners exceed ten (10). If the Commissioners increase the number of Commissioners, the County Board of Supervisors and the City Council shall each appoint one-half of the additional commissioners. Each Commissioners shall be appointed for a term of two (2) years and any Commissioner may be reappointed upon the expiration of such term. Any Commissioner appointed by the County Board of Supervisors may be removed at any time by resolution of the Board of Supervisors. Any Commissioner appointed by the City Council may be removed at any time by resolution of the City Council. The Commission shall be called the "Commission of the Oakland-Alameda County Coliseum Authority." All voting power of the Authority shall reside in the Commission.

Commissioners shall not be entitled to compensation, but the Commission may authorize reimbursement of expenses incurred by the Commissioners. Vacancies on the Commission shall be filled by the respective appointing parties as set forth in this section.

Any Commissioner appointed by the County who ceases to be a member of the Board of Supervisors or any commissioner appointed by the City who ceases to be a member of the City Council shall immediately cease to be a Commissioner. If any Commissioner shall resign, be removed, cease to be a Commissioner as set forth in the preceding sentence or shall become incapacitated, the City Council, if such Commissioner was appointed by the City Council, or the Board of Supervisors, if such Commissioner was appointed by the Board of Supervisors, shall appoint or give notice of appointment within thirty days another elected official to fill the vacancy so created on the Commission. If no such appointment or notice to appoint is made within such 30 days, the Commission may appoint any person from the appropriate legislative body to fill such vacancy.

C. Meetings of the Commission

(1) Regular Meetings. The Commission shall hold at least one regular meeting each year, and, by resolution, may provide for the holding of regular meetings at more frequent intervals. The date upon which, and the hour and place at which, each such regular meeting shall be held shall be fixed by resolution of the Commission.

(2) Legal Notice. All meetings of the Commission shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950-54961)) or any successor State legislation hereinafter enacted.

(3) Minutes. The Secretary of the Authority shall cause minutes of all meetings of the Commission to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Commission and to the City and the County.

(4) Quorum. A majority of the members of the Commission shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time until a quorum is obtained. The affirmative vote of a majority of the Commissioners shall be required to take any action by the Commission unless a greater vote is required by law.

(5) Bylaws. The Commission may adopt, from time to time, such bylaws, rules and regulations for the conduct of its meetings as are necessary for the purposes hereof.

D. Officers; Duties

(1) The Commission shall elect a Chair and a Vice Chair from among the Commissioners, and shall appoint a Secretary who may, but need not, be

a Commissioner. Such officers shall serve for such time as provided herein and shall perform the duties normal to said offices; and

(a) the Chair shall sign all contracts on behalf of the Authority and shall perform other such duties as may be imposed by the Commission;

(b) the Vice Chair shall act, sign contracts and perform all of the Chair's duties in the absence of the Chair; and

(c) the Secretary shall countersign all contracts signed by the Chair or Vice Chair on behalf of the Authority, perform other such duties as may be imposed by the Commission and cause a copy of this Agreement to be filed with the Secretary of the State pursuant to the Act.

(2) Pursuant to Section 6505.6 of the Act, the Secretary of the Authority is hereby designated as the Treasurer of the Authority. Moreover, the County Auditor-Controller is hereby designated as the Auditor of the Authority. Subject to the applicable provisions of any indenture, trust agreement or resolution providing for a trustee or other fiscal agent, and, except as may otherwise be specified by resolution of the Authority, the Treasurer shall be the depository and shall have custody of all accounts, funds and money of the Authority from whatever source, and the Treasurer and the Auditor shall have the duties set forth in Sections 6505 and 6505.5 of the Act and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Authority.

(3) The County and the City shall each determine the charges to be made against the Authority for the services of their respective staff members to the Authority.

(4) The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond in the amount of \$25,000 as required by Section 6505.1 of the Law; provided that such bond shall not be required if the Authority does not possess or own property or funds with an aggregate value of greater than \$500.00.

(5) The Auditor of the Authority is hereby authorized and directed to prepare or cause to be prepared:

(a) a special audit as required pursuant to Section 6505 of the Government Code of the State of California every year during the term of this Agreement; and

(b) a report in writing on the first day of July, October, January, and April of each year to the Board, the County and the Commission which

report shall describe the amount of money held by the Treasurer of the Authority for the Commission, the amount of receipts since the last such report, and the amount paid out since the first such report.

(6) On behalf of the Authority, the Commission shall have the power to appoint such other officers and employees as it may deem necessary and to retain consultants and accountants. The City Manager and County Administrator shall provide administrative support to the Authority and shall perform such duties as may be prescribed by the Commission. The City Attorney of the City and the County Counsel of the County shall act jointly as the legal advisor of the Authority and shall perform such duties as may be prescribed by the Commission. They shall have the right to recommend the retention of outside counsel to represent the Authority or provide advice on matters, as appropriate.

(7) All of the privileges and immunities from liability, exemption from laws ordinances and rules, all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties in this Agreement.

(8) None of the officers, agents or employees directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by any Member or, by reason of their employment by the Authority, to be subject to any of the requirements of the Members.

(9) Subject to Section 4 hereof, the Commission may appoint such assistants to act in the place of the Secretary or other officers of the Authority (other than any Commissioner) as the Commission shall from time to time deem appropriate.

E Advisory Board

The Authority may establish a Coliseum Advisory Board of an even number up to 20 members to provide to the Authority advice and recommendations on any matters it deems appropriate relating to the operation of the Coliseum Complex. The City Council of the City and the Board of Supervisors of the County shall each appoint one-half the members of the Coliseum Advisory Board. Each member of the advisory Board shall serve a two-year term and may be reappointed.

Members of the Coliseum Advisory Board shall receive no compensation for their services and shall have no right to vote on any matters before the Authority or to control the operations of the Authority or the Coliseum Complex.

SECTION 5. POWERS

The Authority shall have the power to cause the acquisition of Projects and to finance such Projects through the issuance of Bonds for the purposes set forth in Section 2 hereof, all in accordance with the Law.

The Authority shall have the power to cause the acquisition of real and personal property for the use of the City and/or the County and to cause the design, acquisition and construction of public capital improvements for the use of the City and/or the County and to finance such public capital improvements by entering into Leases, Contracts and other agreements with the City and/or the County or other persons or entities, and assignment agreements, indentures, trust agreements, swap or other hedge agreements, credit agreements, liquidity agreements and other agreements with corporate trustees or other entities relating to the issuance of Bonds, all in accordance with the Law.

The Authority is authorized, in its own name, to do all acts necessary for the exercise of said powers for said purposes, including but not limited to any or all of the following: to make and enter into contracts; to employ agents and employees; and to sue and be sued in its own name.

Such power shall be exercised subject only to such restrictions upon the manner of exercising such power as are imposed upon the County in the exercise of similar powers, as provided in Section 6509 of the Law, except, however, nothing herein shall limit the powers of the Authority under the Marks-Roos Local Bond Pooling Act of 1985.

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

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SECTION 6. TERMINATION OF POWERS

The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement as provided in Section 3 or until the City and the County shall have mutually rescinded this Agreement; provided, however, that in no event shall this Agreement be terminated or rescinded while any Bonds of the Authority remain outstanding under the terms of the trust agreement or other instrument pursuant to which the Bonds are issued.

SECTION 7. FISCAL YEAR

Unless and until changed by resolution of the Commission, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to the following June 30.

SECTION 8. DISPOSITION OF ASSETS

After completion of the Authority's purposes, any surplus money on deposit in any fund or account of the Authority shall be returned in proportion to the contributions made as required by Section 6512 of the California Government Code. The Commission is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority. Upon termination of this Agreement, all property of the Authority, both real and personal, shall be divided among the parties hereto in such manner as shall be agreed upon by the parties.

SECTION 9. CONTRIBUTIONS AND ADVANCES

Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by the City and the County for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance shall be made subject to repayment, and shall be repaid, in the manner agreed upon by the City or the County, as the case may be, and the Authority at the time of making such advance. It is mutually understood and agreed that neither the City nor the County has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though either may do so. The City or the County may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority. After termination of this Agreement pursuant to Section 3, any surplus money in possession of the Authority shall be returned to the City and the County in proportion to the unreimbursed contributions each has made.

SECTION 10. AGREEMENT NOT EXCLUSIVE

This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between the City and the County, except as the terms of this Agreement may conflict therewith, in which case the terms of this Agreement shall prevail.

SECTION 11. ACCOUNTS AND REPORTS

To the extent not covered by the duties assigned to a trustee chosen by the Authority, the Treasurer of the Authority shall establish and maintain such funds and accounts as may be required by good accounting practice, including appropriate internal controls. The books and records of the Authority shall be open to inspection at all reasonable times by the City and the County and their representatives. The Authority shall give an audited written report of all financial activities for each fiscal year to the City and to the County within 120 days after the close of each fiscal year.

So long as required by Section 6505.6 of the Government Code of the State of California, the Auditor of the Authority shall either make, or contract with a

certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with the City, the County and if required by Section 6505 of the Government Code of the State of California, with the Treasurer of the County. Such report shall be filed within 120 days of the end of the fiscal year or years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit pursuant to this section shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for the purpose.

In any year the Authority may, by unanimous request of the Board, replace the annual special audit with an audit covering a two-year period.

SECTION 12. CONFLICT OF INTEREST CODE

The Authority, unless otherwise exempt, shall adopt a Conflict of Interest Code.

SECTION 13. BREACH

If default shall be made by the City or the County in any covenant contained in this Agreement, such default shall not excuse either the City or the County from fulfilling its obligations under this Agreement and the City and the County shall continue to be liable for the performance of all conditions herein contained. The City and the County hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the City and the County hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies. Nothing herein shall be construed to create any indebtedness of the City or the County and neither the tax revenue nor faith and credit of the City or the County are pledged or encumbered by this Agreement.

SECTION 14. SEVERABILITY

Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

SECTION 15. SUCCESSORS; ASSIGNMENT

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by supplemental agreement executed by the City and the County at any time to provide for the financing of public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by the City and the County in accordance with the Law or for any other purpose; provided, however, that in no event shall this Agreement terminate while any Bonds of the Authority remain outstanding under the terms of the trust agreement or other instrument pursuant to which such Bonds are issued.

SECTION 17. FORM OF APPROVALS

Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of the County, by resolution duly and regularly adopted by the Board of Supervisors of the County, and, in the case of the City, by resolution duly and regularly adopted by the City Council of the City, and, in the case of the Authority, by resolution duly and regularly adopted by the Commission. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

SECTION 18. WAIVER OF PERSONAL LIABILITY

No member, officer or employee of the Authority, the City or the County shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of every kind, nature and description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the Authority shall defend such members, officers or employees against any such claims, losses, damages, costs, injury and liability.

SECTION 19. SECTION HEADINGS

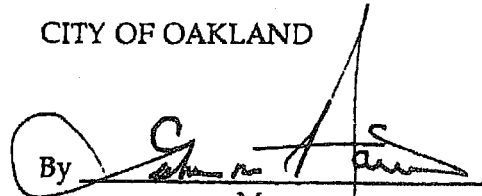
All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

SECTION 20. EFFECTIVE DATE

This agreement shall be effective upon appointment by each of the City and County of the four Commissioners in the manner set forth in Section 4 hereof.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

CITY OF OAKLAND

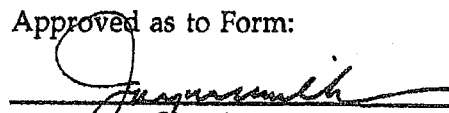
By 
Mayor

[SEAL]

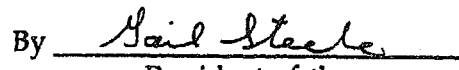
Attest:


for City Clerk
of the City of Oakland

Approved as to Form:

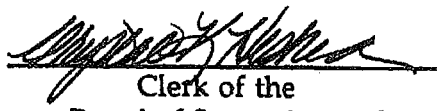

City Attorney

COUNTY OF ALAMEDA

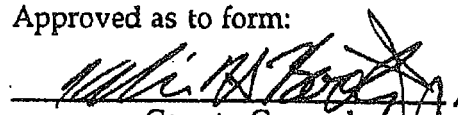
By 
President of the
Board of Supervisors of
the County of Alameda

[SEAL]

ATTEST:


Clerk of the
Board of Supervisors of
the County of Alameda

Approved as to form:


County Counsel

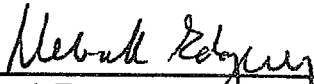
\$201,300,000
OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY
LEASE REVENUE BONDS
(OAKLAND COLISEUM PROJECT)
\$75,400,000 2000 REFUNDING SERIES C-1 (TAX-EXEMPT)
\$75,400,000 2000 REFUNDING SERIES C-2 (TAX-EXEMPT)
\$50,500,000 2000 REFUNDING SERIES D (TAXABLE)

SECRETARY'S CERTIFICATE RE: AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT

I, Deborah Edgerly, Secretary of the Oakland-Alameda County Coliseum Authority, hereby certify that the foregoing is a full, true and correct copy of the Amended and Restated Joint Exercise of Powers Agreement dated as of December 17, 1996 (the "JPA Agreement") by and between the County of Alameda and the City of Oakland.

Said JPA Agreement as so amended and modified has not been rescinded or revoked, and the same is now in full force and effect.

Dated: May 25, 2000



Deborah Edgerly
Secretary of the Oakland-Alameda County
Coliseum Authority

Executive Office
Archives
Business Programs
Business Filings
Notary Public
Uniform Commercial Code
Elections
Information Technology
Management Services
Political Reform



BILL JONES
Secretary of State
State of California

BUSINESS PROGRAMS
Special Filings
1500 - 11th Street, Room 345
Sacramento, CA 95814
P.O. Box 944225
Sacramento, CA 94244-2250
(916) 653-3984
Internet: www.ss.ca.gov

SEPTEMBER 20, 1999

OAKLAND ALAMEDA COUNTY COLISEUM AUTHORITY
7000 COLISEUM WAY
OAKLAND CA 94621

The purpose of this letter is to acknowledge the filing in this office of an Amendment to a Joint Powers Agreement for: OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY pursuant to California Government Code Section 6503.5 or 6503.7. This was filed as of: SEPTEMBER 16, 1999 and assigned file number: 1106.

In the future, if additional information concerning this Joint Powers Is to be reported to the Secretary of State's Office, please use the enclosed Amendment to a Joint Powers Agreement form.

Sincerely,

Special Filings Unit

Enclosures

State of California



SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 17 2000



Bill Jones

Secretary of State



State of California

Bill Jones

Secretary of State

FILE NO. 1106

FILED
In the office of the Secretary of State
of the State of California

SEP 16 1999

BILL JONES, Secretary of State

(Office Use Only)

AMENDMENT TO A JOINT POWERS AGREEMENT (Government Code Section 6503.5 or 6503.7)

Instructions:

1. Complete and mail to: Secretary of State, P.O. Box 944225, Sacramento, CA 94244-2250 (916) 653-3984
2. Include filing fee of \$5.00.
3. Do not include attachments.

Date of filing initial notice with the Secretary of State: August 8, 1990

File number of initial notice: 1080

Name of Joint Powers agreement: Oakland-Alameda County Coliseum Authority

Mailing Address: 7000 Coliseum Way, Oakland CA 94621

Complete one or more boxes below. The agreement has been amended to:

Change the parties to the agreement as follows: _____

Change the name of the administering agency or entity as follows: _____

Change the purpose of the agreement or the powers to be exercised as follows: _____

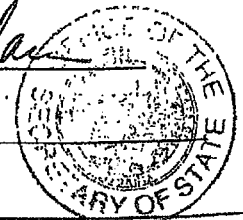
Change the short title of the agreement as follows: _____

Make other changes to the agreement as follows: Change the composition of the Board of Commissioners; make other conforming changes; add authority to appoint advisory committee

September 1, 1999
Date

Signature

General Counsel
Typed Name and Title



State of California



SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 17 2000




Bill Jones

Secretary of State



State of California
 Bill Jones
 Secretary of State

FILED
 in the Office of the Secretary of State
 of the State of California
 MAY 17 2000

 BILL JONES, Secretary of State
 (Office Use Only)

STATEMENT OF FACTS
 ROSTER OF PUBLIC AGENCIES FILING
 (Government Code Section 53051)

Instructions:

1. Complete and mail to: Secretary of State,
 P.O. Box 944225, Sacramento, CA 94244-2250 (916) 653-3984
2. A street address must be given as the official mailing address or as
 the address of the presiding officer.
3. Complete addresses as required.
4. If you need additional space, please include information on an 8½ X 11 page.

New Filing Update

Legal name of Public Agency: OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY

Nature of Update: Current name and address of each member of the governing board.

County: Alameda

Official Mailing Address: 7000 Coliseum Way, Oakland, California 96621

Name and Address of each member of the governing board:

Chairman, President or other Presiding Officer (Indicate Title): Chair

Name: Ignacio De La Fuente Address: 7000 Coliseum Way, Oakland, CA 96621

Secretary or Clerk (Indicate Title): Treasurer/Secretary

Name: Deborah Edgerly Address: SAME
 (Not Member Of Board)

Members:

Name: Mary V. King Address: SAME

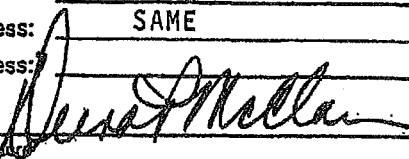
Name: Larry E. Reid Address: SAME

Name: Gail Steele Address: SAME

Name: Patrick O'Connell, Auditor Address: SAME
 (Not Member Of Board)

Name: _____ Address: _____

Date: May 10, 2000


 Signature

Deena P. McClain, General Counsel
 Typed Name and Title



BY-LAWS, RULES AND REGULATIONS
OF THE
OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY

Adopted August 10, 1995

ARTICLE I - THE AUTHORITY

Section 1.1. Name. The official name of the Authority shall be the "Oakland-Alameda County Coliseum Authority". The Authority was created pursuant to that certain Amended and Restated Joint Exercise of Powers Agreement, dated as of July 1, 1995 (the "Agreement"), between the County of Alameda (the "County") and the City of Oakland (the "City").

Section 1.2. Authority Board Members. The Authority shall be administered by a governing (the "Board") whose members shall be, at all times, the City Manager, who shall be deemed appointed by the City, and the County Administrator, who shall be deemed appointed by the County. Each member shall designate an alternate with full power and authority to act in its place. Vacancies on the Board shall be filed by the respective appointing parties.

Section 1.3. Office. The business office of the Authority shall be c/o County of Alameda, 1221 Oak Street, 5th Floor, Oakland, California 94612, or at such other place as may be designated by the Board.

Section 1.4. Compensation. Members shall not be entitled to compensation, but the Board may authorize reimbursement of expenses incurred by the members of the Board.

Section 1.5. Conflicts of Interest. A copy of the Authority's Conflict of Interest Code is attached hereto as Exhibit A.

Section 1.6. Seal. The Authority shall cause to be prepared a Seal of the Authority (the "Seal") and such Seal shall be impressed, printed, lithographed or engraved by facsimile reproduction, together with the signature of an officer of the Authority, on all resolution, bonds, contracts and official documents of the Authority.

ARTICLE II - OFFICERS

Section 2.1. Officers. The Officers of the Authority shall be the Chairman, Vice-Chairman, Secretary, Treasurer and Auditor.

Section 2.2. Chairman. The Chairman of the Authority shall be elected by the members of the Authority. The Chair shall preside at all meetings of the Authority, and shall submit such information and recommendations to the Board as he or she may consider proper concerning the business, policies and affairs of the Authority.

Section 2.3. Vice-Chairman. The Vice-Chairman shall be elected by the members of the Authority. The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman.

Section 2.4. Secretary. The Secretary shall be the City Finance Director. The Secretary shall keep the records of the Authority, shall act as Secretary at the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

Section 2.5. Treasurer. Pursuant to the Agreement, the Secretary of the Authority is hereby designated as the Treasurer of the Authority, and shall perform the duties set forth in the Agreement.

Section 2.6. Auditor. Pursuant to the Agreement, the County Auditor-Controller is hereby designated as the Auditor of the Authority, and shall perform the duties set forth in the Agreement.

Section 2.7. Election of Officers. Confirmation of officers shall be the first order of business at the first meeting of the Authority, regular or special, held in each calendar year.

Section 2.8. Authority to Bind Authority. No member, officer, agent or employee of the Authority, without prior specific or general authority by a vote of the Board, shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount.

ARTICLE III - EMPLOYEES AND AGENTS

Section 3.1. Appointment of Employees and Agents. The Authority may from time to time request from the County or the City the services of such personnel, counsel or agents, permanent or temporary, as may be necessary to carry out the business and affairs of the Authority. The Board may in addition employ temporary professional and technical personnel on such terms and at such rates of compensation as the Board may determine, for the performance of Authority business and affairs, provided that adequate sources of funds are identified for the payment of such temporary professional and technical services.

ARTICLE IV - MEETINGS

Section 4.1. Regular Meetings. Regular meetings shall be held at the business office of the Authority, or at such other place as the Chairman may designate, on dates and at a time as fixed by Resolution of the Authority. If at any time any regular meeting falls on a legal holiday, such regular meeting shall be held on the next business day at the same time. At least 72 hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law.

Section 4.2. Special Meetings. A special meeting may be called at any time by the Chairman or upon the request of any of the members of the Board by delivering written notice to each member and to each person or entity entitled by law to receive such notices. Notices to the Board shall be sufficient if delivered to the Secretary. Notices to other persons or entities entitled by law to receive notices must be delivered personally or by mail and must be received at least 24 hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted and shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. No other business shall be considered at such meetings by the Board. Such written notice may be dispensed with as to any Board member who at or prior to the time the meeting convenes files with the Secretary of the Authority a written waiver of notice. Such waiver may be given by telegram or telecopy. Such written notice may also be dispensed with as to any member who is actually present at the time it convenes.

Section 4.3. Closed Sessions. Nothing contained in these By-laws, Rules and Regulations shall be construed to prevent the Board from holding closed sessions during a regular or special meeting concerning any matter permitted by law to be considered in a closed session.

Section 4.4. Public Hearings. All public hearings held by the Board shall be held during regular or special meetings of the Board.

Section 4.5. Adjourning Meetings and Continuing Public Hearings to Other Times or Places. The Board may adjourn any meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all Board members are absent from any regular meeting or adjourned regular meeting the Secretary or Acting Secretary of the Authority may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Any public hearing being held, or any hearing noticed or ordered to be held at any meeting may by order or notice of continuance be continued or reconvened to any subsequent meeting in the same manner and to the same extent set forth herein for the adjournment of the meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

Section 4.6. Meetings to be Open and Public. All meetings of the Board to take action or to deliberate concerning Authority business and its conduct shall be open and public. All persons shall be permitted to attend any such meetings except as otherwise provided or permitted by law and Section 4.3 of these By-laws, Rules and Regulations.

Section 4.7. Quorum. The two members of the Board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other official purposes, except that less than a quorum may adjourn from time to time until a quorum is obtained.

Section 4.8. Order of Business. At the regular meetings of the Authority, the following shall be the general order of business:

1. Roll Call
2. Approval of Minutes
3. Reports
4. Unfinished Business
5. New Business
6. Matters Not Appearing on the Agenda
7. Adjournment

Section 4.9. Parliamentary Procedure. The rules of parliamentary procedure set forth in Robert's Rules of Order shall govern all meetings of the Authority, except as otherwise herein provided.

ARTICLE V - REGULATIONS REGARDING PUBLIC CAPITAL IMPROVEMENTS

Section 5.1. Public Capital Improvement Projects. Pursuant to Section 6597.5 of the Government Code of the State of California and Section 5 of the Agreement, the Authority establishes the following rules and regulations for the construction or completion of the public capital improvement financed by the Authority:

a. DEFINITIONS

The following words and phrases whenever used in these By-laws, Rules and Regulations shall be construed as defined in this Section 5.1:

- (1) "Supplies" shall mean and include supplies, materials, commodities and equipment.
- (2) "Services" shall mean and include labor, professional services, consulting services, or a combination of services and supplies which shall include public works projects.

- (3) "Chairman" shall mean the Chairman of the Authority or an officer specifically designated to act for the Chairman. Authorizations not specified in these By-laws, Rules and Regulations shall be made in writing by the Chairman and filed with the Secretary.
- (4) "Purchase" shall mean and include rental or lease of supplies, as well as purchase.
- (5) "Minority Supplier" shall mean a minority, group, contractor, business enterprise, or vendor that is an individual or group of individuals representative of a minority group class and who own or control 50% or more of the investment capital of an established business enterprise. In case of a publicly owned business, ownership must be 51% of the stock. A "minority group class" shall be as defined by the City of Oakland Affirmative Action Program.
- (6) "Local Business" shall mean a business firm with fixed offices or distribution points located within the County boundaries and listed in the Permits and License Tax Paid File with a business street address within the County.

b. AUTHORITY OF CHAIRMAN

Supplies and Services. Subject to the availability of funds and the procedures set forth in these By-laws, Rules and Regulations, the Chairman is hereby authorized to bind the Authority, by written contract or purchase order, involving an expenditure not exceeding Fifteen Thousand Dollars (\$15,000,000.00) in any one transaction, without advertising or previous specific action by the Authority, for the purchase of supplies or payment for services, or a combination thereof, to be furnished to the Authority.

Local Vendor Preferences. The Chairman is hereby authorized in the evaluation of all sealed bids, for the purchase of supplies, to extend a 5% preference for a local business and an additional 5% preference for local minority supplier in award of all Purchase Orders.

Emergency Acquisitions. In a situation deemed by the Chairman to be an emergency for the immediate preservation of the public peace, health or safety, the Chairman may authorize a contract or Purchase Order exceeding fifteen thousand dollars (\$15,000.00) in any one transaction, without advertising or previous specific action by the Authority, for the purchase of supplies or payment for services, or a combination thereof, to be furnished to the Authority.

In the event such emergency action should become necessary, the Chairman shall make every reasonable attempt to notify each member of the Board of such action. The Chairman shall make a full and complete report to the Board at its next regular scheduled meeting, at which time the Board may make such findings as may be required and confirm said actions of the Chairman.

Services Performed on Public Buildings. No other provision of these By-laws, Rules and Regulations withstanding, nothing shall prevent the Chairman from using City or County personnel to perform services in the erection, improvement, painting or repair of public buildings, regardless of dollar amount, without recourse to competitive bidding.

c. CONTRACTS IN EXCESS OF \$15,000

Unless otherwise provided herein all contracts for supplies, services or a combination of services and supplies involving an expenditure exceeding Fifteen Thousand Dollars (\$15,000.00), shall be awarded by the Board. No contract shall be binding or of any force or effect until signed by the Chairman. Chairman signature shall constitute certification that there remains unexpended and unapplied balances of the appropriations or funds applicable thereto sufficient to pay the estimated expense of executing such contract.

d. USE OF CONTRACTS AND PURCHASE ORDERS

(1) Purchase Orders. Purchase orders may be used:

- (i) For the purchase of supplies when the total cost does not exceed Fifteen Thousand Dollars (\$15,000.00) in any one transaction.
- (ii) In contracting for services or for a combination of services and supplies when the total cost does not exceed Fifteen Thousand Dollars (\$15,000.00) in any one transaction.

(2) Contracts, Control Procedure.

- (i) Formal written contracts shall be used for all purchases of supplies or services, or combinations thereof, in excess of Fifteen Thousand Dollars (\$15,000.00).
- (ii) The Chairman shall institute control procedures for requests for drafting of formal contracts.

(3) Exceptions. The Chairman shall establish control procedures for petty cash funds without prior use of purchase orders or contracts.

e. BID PROCEDURE

- (1) When Advertising Required. Where the cost of services, supplies or combination thereof required by the Authority exceeds the sum of Fifteen Thousand Dollars (\$15,000.00), the Secretary shall call for formal bids therefor by advertising at least once in the official newspaper of City not less than ten (10) calendar days prior to the date set for receiving said bids. The Chairman may deem it advisable to require more than one advertising of the call for bids.

- (2) Bid Security. Whenever the Authority calls for bids for services, and whenever the Chairman deems it to be advisable in calls for bids for supplies, each bidder shall be required to submit with the bid as bid security either cash, certified check, or a cashier's check of or on some responsible bank in the United States, in favor of and payable at sight to the Authority, in an amount not less than ten percent (10%) of the aggregate amount of the bid. If the bidder to whom the contract is awarded shall, for twenty (20) calendar days after receipt of such contract fail or neglect to enter into the contract and file the required bonds, the bid security shall be forfeited, the Chairman shall draw the money due on such bid security and pay the same or any cash deposited into the Authority Treasury, and under no circumstances shall it be returned to the defaulting bidder. In lieu of the foregoing, any bid may be accompanied by a surety bond in said amount furnished by a surety authorized to do surety business in the State of California, guaranteeing to the Authority that said bidder will enter into the contract and file the required bonds within said period. Failure of the bidder to enter into the contract as specified herein shall result in a forfeiture of the amount specified in the surety bond. With the approval of the Chairman, prospective bidders may file annual surety bonds covering all bids to be made by such bidder during a calendar year.
- (3) No person, firm, or corporation shall be allowed to make or file or be interested in more than one bid for the same supplies, services or both.
- (4) All bids shall be made upon forms to be prepared by Authority and furnished upon application. All bids shall be clearly and distinctly written without any erasure or interlineation.
- (5) Opening of Bids and Awards. All bids shall be sealed, identified as bids on the envelope and shall be submitted to the Chairman at the place and time specified in the public notice inviting bids. Bids shall be opened by the Chairman or his designated representative, in public, at the time and place designated in the notice inviting bids. Bids received after the specified time shall not be accepted and shall be returned to the bidder unopened. The contract shall be let to the lowest responsible bidder, as defined herein, by the Authority at any time not exceeding thirty (30) calendar days after bid opening. The Board may reject any and all bids and waive any informalities or minor irregularities in the bids. In the bid for Public Works Construction Projects, the Chairman may deem it advisable to delay the submission of a list of subcontractors that shall be utilized on the project. Such list shall be sealed, identified as a subcontractor list on the envelope and be submitted to the Chairman at the place and time specified in the public notice inviting bids.

- (6) Disposition of Bid Security. All bid securities and bid bonds shall be returned to the unsuccessful bidders after award of the contract to the successful bidder. The bid security and bid bond of the successful bidder shall be returned after execution of the contract and deposit of the necessary bonds.
- (7) Approval of Faithful Performance and Labor and Materials Bonds; Waiver. Faithful performance and labor and materials bonds in an amount equal to at least fifty percent (50%) of the contract price shall be required by Authority specifications or contracts for services. Whenever the Chairman deems it to be advisable in the purchase of supplies, Chairman may require the furnishing of a faithful performance bond in an amount equal to at least twenty-five percent (25%) of the total amount of the contract price.
- (8) Time of Completion. The contract shall specify the time within which the work shall be commenced and when it shall be completed in accordance with the specifications. The Chairman may extend said time for acts of the Authority, acts of God, weather or strikes, or other circumstances over which the contract has no control. The Board may extend said time, but in no event shall the time for the performance of any contract be extended more than ninety (90) days in addition to extensions as authorized by the Authority, except by a vote of the Board.

In case of failure on the part of the contractor to complete the contract within the time specified in the contract or within said extension of said time as herein provided for, the contract may be terminated and the contractor shall not be paid or allowed any further compensation for any work done under said contract, and the Chairman may proceed to complete such contract either by reletting or otherwise, and the contractor and contractor's surety shall be liable to the Authority for all loss or damage which the Authority may suffer on account of contractor's failure to complete the contract on time.

- (9) Exceptions to Competitive Bidding. Upon the finding and determining in each instance by the Board that any of the following conditions exist, the restrictions and provisions of this section shall not apply.
- (i) To contracts involving the obtaining of professional or specialized services such as, but not limited to, services rendered by architects, engineers, and other specialized professional consultants.
 - (ii) Where calling for bids on a competitive basis is impracticable, unavailing or impossible.

- (iii) Placement of insurance coverage.
 - (iv) When public work is performed by employees of the City or the County.
 - (v) In other cases when specifically authorized by the Board after a finding and determination that it is in the best interests of the Authority.
- (10) No Bids. If no valid bids are received after advertising therefor as required in these By-laws, Rules and Regulations, the Chairman may proceed to hire or have the services performed or purchase the supplies in the open market.

f. LOWEST RESPONSIBLE BIDDER

In addition to price, in determining the lowest responsible bidder, consideration shall be given to:

- (1) The quality and performance of the supplies to be purchased or services to be provided by the seller.
- (2) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or services required.
- (3) The ability of the bidder to provide the supplies or services promptly, or within the time specified, without delay.
- (4) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (5) The quality of bidder's performance on previous purchases by, or contracts with, the Authority.
- (6) The ability of the bidder to provide future maintenance, repair parts and services for the use of the supplies purchased.
- (7) The certified "Bidders Affirmative Action Hiring Plan" to be submitted with all sealed bids for supplies and commodities over Five Thousand Dollars (\$5,000.00).
 - (i) To be considered responsible, bidder shall submit certification that bidder is in compliance with all provisions of Executive Order No. 11246 (as amended by Executive Order No. 11375) of the City of Oakland and;

- (ii) To be considered responsible, the bidder must have a current work force racially and ethnically proportionate to the population parity for the area from which bidder's work force is drawn (national, state or local), must comply with (i) above, or must have an affirmative action plan to achieve population parity for the area in which they do business. The plan should include all aspects of employment recruiting, hiring, promotions, and layoff.

g. OPEN MARKET PURCHASES

Except as otherwise provided by these regulations or unless otherwise directed by the Chairman, all purchases of supplies or services involving an expenditure of Authority funds in an amount not exceeding Fifteen Thousand Dollars (\$15,000.00) shall be purchased, when feasible and when in the best interest of the Authority, in the open market by written quotation or telephone solicitation, without newspaper advertisement and without observing the procedure prescribed for the award of formal bid purchases.

The procedure for such open market purchases shall be as specified in control procedures to be established by the Chairman.

h. COOPERATIVE PURCHASING AGREEMENTS

Where advantageous for the Authority, the Chairman may purchase supplies or services as defined in subsection "a" above, through legal contracts of other governmental jurisdictions or public agencies without further contracting, solicitation, or formal bidding.

i. SURPLUS SUPPLIES, PURCHASES

When it is advantageous to the Authority, the Chairman may direct the purchase of surplus supplies from the United States Government, or any agency thereof, or from the State of California, or any agency thereof, or any public body, without compliance with open market purchase provisions, formal bidding requirements or entering into a formal contract therefor.

j. INSPECTION AND TESTING

The receiving department shall inspect supplies delivered and services performed to determine their conformity with the specifications set forth in the purchase order or contract and shall report any deficiencies to the Chairman or officer authorized by the Chairman. The Authority may require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

k. CONTRACT SPLITTING PROHIBITED

- (1) It shall be unlawful to split or separate into smaller work orders, projects, purchase orders or contracts or any public work project, for the purpose of evading the provisions of these By-laws, Rules and Regulations.
- (2) Splitting or separating a transaction shall mean and include the reducing the amount of any supply or service to be furnished to the Authority under circumstances where there is a reasonable knowledge that the same supply or service will be additionally required within the same budgetary term. There are funds available for that project or purchase and the sole purpose is to knowingly avoid the formal calling of bids. In instances where it is deemed to be to the benefit of the Authority to split or separate a transaction, the proposed splitting or separation shall be referred to the Board for its findings and determination in accordance with subsection e(9) hereof.

l. SURPLUS SUPPLIES AND EQUIPMENT; DISPOSAL OR DESTRUCTION

- (1) Authority of Chairman. All using departments shall submit to the Chairman, at such times and in such form as Chairman shall prescribe, reports showing all supplies which are no longer used or which have become obsolete or worn out. The Chairman shall have authority to sell at public auction after advertising for one day in the official newspaper of City all supplies which cannot be used by any department or which have become unsuitable for Authority use, or to exchange or trade in the same for new supplies. However, the sales of such supplies may be made to other public bodies at the fair market value.
- (2) Authority of Chairman. Except as otherwise prohibited by law, the Chairman may authorize the abandonment, destruction or donation to public bodies, charitable, civic or non-profit organizations, of Authority property which has no commercial value or of which the estimated cost of continued care, handling, maintenance or storage would exceed the estimated proceeds of sale. Such determination shall be made in writing and countersigned by the Secretary.
- (3) Donation of Property. Except as otherwise prohibited by law, the donation to public bodies, charitable or non-profit civic organizations, of surplus supplies or any other surplus property owned by the Authority (excluding real property) which property has a value exceeding its continued care, handling, maintenance or storage, may be authorized only by resolution or ordinance of the Board upon a finding and determination by the Board that such property is surplus to the

needs of the Authority and that the donation is in the best interests of the Authority.

- (4) Sale of Property. Sale by means other than public auction of surplus supplies or any other surplus property owned by the Authority (excluding real property) may be authorized only by resolution or ordinance of the Board upon a finding and determination by the Board that such sale is in the best interests of the Authority. However, such sales shall be authorized only at or above the fair market value of the property as determined by the Chairman.

m. ADMINISTRATIVE CONTROLS

The Chairman shall prepare administrative directives and controls sufficient to carry out the intent of these regulations.

n. COLLUSION WITH BIDDER EFFECT ON OFFICER

Any officer of the Authority, or of any member thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to those called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind or material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office, and be forever ineligible to hold any office or employment in or under the City or County.

o. UNAUTHORIZED PURCHASES; EXCEPTIONS

It shall be unlawful for any officer or employee to purchase or contract for supplies or services for the Authority other than as hereinafter prescribed, excepting purchases made from petty cash, emergency purchases or other purchases made in conformance with control procedures established by the Chairman. Any purchases, contracts or obligations to pay made contrary to the provisions of these By-laws, Rules and Regulations shall be null and void.

p. EXPENDITURES FROM RESTRICTED GIFT PROCEEDS

Notwithstanding any other provision of these By-laws, Rules and Regulations, the Chairman is hereby authorized to expend monies derived from gifts and donations to the Authority in accordance with any special conditions of the donor attached to said gifts and donations when the gift with the special conditions has been approved and accepted by the Board by resolution.

9. AFFIRMATIVE ACTION PROGRAM FOR SUPPLIES,
MATERIALS, COMMODITIES AND EQUIPMENT

The Chairman will establish a goal in the purchase of supplies and commodities which reflects the minority composition of the Standard Metropolitan Statistical Area (SMSA).

ARTICLE VI - AMENDMENTS

Section 6.1. Amendments to By-Laws, Rules and Regulations. These By-laws, Rules and Regulations may be amended by the Board at any regular or special meeting by majority vote, provided that a description of the proposed amendment to any particular section is included in the notice of such meeting.