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OFFICE OF THE CITY CLERK
OAKLAND

**REDEVELOPMENT AGENCY OF THE
CITY OF OAKLAND
AGENDA REPORT**

2010 JUN 30 PM 5:45

TO: Office of the Agency Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: July 13, 2010

RE: An Agency Resolution Authorizing a First Amendment to Joint Exercise of Powers Agreement between the Redevelopment Agency and the State of California to Facilitate the Possible Sale of the Elihu M. Harris State Building

SUMMARY

In June of 2009, Governor Schwarzenegger and the California Legislature authorized the sale of 11 state office properties located in Los Angeles, Oakland, Sacramento, San Francisco and Santa Rosa to cover current deficits in the State of California's General Fund. In order to facilitate the proposed sale of the Elihu Harris Oakland State Building (State Building) located at 1515 Clay Street in downtown Oakland, the Redevelopment Agency (Agency) and the State of California through its General Services Department (State) must execute a first amendment (First Amendment) to a Joint Exercise of Powers Agreement (JPA) dated May 19, 1994. Staff recommends that the Agency approve a First Amendment to the JPA.

The JPA was established for the purpose of creating an entity, the Oakland State Building Authority (Authority), to finance the acquisition of land, and the design and construction of the State Building. It also called for the issuance of revenue bonds for development and construction of the State Building, and execution of a Lease-Purchase Agreement between the Authority and the State for the State Building. The proposed First Amendment would require the Authority to immediately transfer title to the land and all of the improvements and personal property constituting the State Building in the event that the State Building is sold or leased by the State, and all outstanding bonds or other obligations issued to finance or refinance the State Building are defeased or redeemed simultaneous with the sale or lease.

It is not clear whether the State could sell the State Building without the Agency's approval of the First Amendment, but the State's title company and bond counsel involved in the potential transaction have requested the First Amendment to facilitate the sale.

FISCAL IMPACT

If the State Building were to be sold to a private entity, the property would become subject to property taxation and the City and Agency would receive annual property tax revenues. If the State Building were to be sold to a public entity, it would continue to be exempt from property taxation. The State has not disclosed whether the State Building will be sold to a private or a

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public entity, or what the sales price will be. However, offers on the building have been received and the State should release all relevant information soon.

BACKGROUND

On May 19, 1994, per Council Resolution No. 70928 C.M.S. and Agency Resolution No. 94-16 C.M.S., both approved on April 19, 1994, the Agency entered into the JPA to create the Authority. The purpose of the Authority was to acquire land, finance, construct, maintain, operate and lease the State Building. The State Building was expected to provide employment for approximately 1,800 people and provide numerous other economic benefits to the Central District and the entire City. The JPA provided that the Authority would be administered by a governing board of three members, two appointed by the State and one by the Agency. The by-laws of the Authority provide for a quorum of two members to conduct business, so the Authority can operate without the Agency's participation. To facilitate the construction of the State Building, the Agency assembled the land for it and entered into an exchange agreement with the Authority in June 1995. The exchange agreement provided for the Agency to grant the land for the State Building to the Authority and receive title to the State's office building located at 1111 Jackson. The Agency declined to accept title to 1111 Jackson because the cost to remove asbestos contamination and demolish the building exceeded the estimated fair market value of the land under it.

As authorized by the JPA, the Authority issued revenue bonds to finance the development and construction of the State Building. The State, as agent for the Authority, was authorized to take all steps necessary to ensure the timely planning, design, development and construction of the State Building. On March 1, 1998, the State also entered into a 25-year Lease-Purchase Agreement for the State Building with the Authority. Rent payments were set at an amount sufficient to cover debt service on the bonds which the Authority issued, as well as all other operating expenses of the Authority. The Lease-Purchase Agreement provided for an extension of up to 5 years, if necessary, to retire the development bonds. Upon expiration of the term of the Lease-Purchase Agreement, or the State's payment of all obligations under the bonds, then title to the State Building would vest in the State.

The JPA currently provides that upon its termination and upon repayment of the obligations incurred in connection with financing for the State Building, any surplus funds of the Authority shall be returned to the State and the Agency in proportion to the contributions, if any, made by each to the Authority. The JPA further provides that any funds or other assets of the Authority, including the State Building, remaining after the return of such funds shall vest in the State.

KEY ISSUES AND IMPACTS

The JPA currently provides for the disposition of the State Building and any surplus funds of the Authority upon termination of the JPA and repayment of the bonds. The proposed First Amendment would add language to the JPA that would provide for the disposition of the State Building upon its sale. Specifically the First Amendment would require the Authority to

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immediately transfer title to the land and all of the improvements and personal property constituting the State Building in the event that the State Building is sold or leased by the State, and all outstanding bonds or other obligations issued to finance or refinance the State Building are defeased or redeemed simultaneous with the sale or lease.

Staff has reviewed the JPA, Lease Purchase Agreement, and other available documents related to the State Building development, and cannot find any evidence that the Agency contributed any surplus funds to the Authority that it would be entitled to receive back per the provisions for termination of the JPA described above.

The Agency and the City, however, could financially benefit from the sale of the State Building, but only if the sale is to a private entity. In that case, the Agency and City would receive portions of annual property tax. The State has not disclosed whether the sale will be made to a private entity. The State Building is one of 11 properties that the State is considering for sale throughout California, including buildings in San Francisco and Los Angeles.

SUSTAINABLE OPPORTUNITIES

Economic: Sale of the State Building that would be facilitated by the Agency's approval and execution of the First Amendment to the JPA would result in the receipt of annual property tax by the City and Agency, but only if the sale were made to a private entity.

Environmental: None. The State Building is LEED-certified.

Social Equity: The proposed First Amendment will not provide any sustainable opportunities in this category.

DISABILITY AND SENIOR CITIZEN ACCESS

The First Amendment will have no effect on disability and senior citizen access

RECOMMENDATION(S) AND RATIONALE

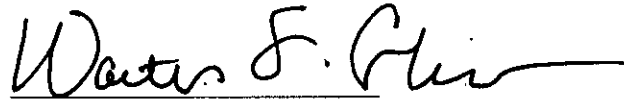
It is recommended that the Redevelopment Agency Board authorize the First Amendment to the JPA as outlined in this report and related resolution. Execution of the First Amendment will facilitate sale of the State Building which might result in annual property tax to the City and Agency.

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ACTION REQUESTED OF THE AGENCY

The Redevelopment Agency Board is requested to approve the attached resolution authorizing the First Amendment to Joint Exercise of Powers Agreement between the Agency and the State of California for the Oakland State Building.

Respectfully submitted,



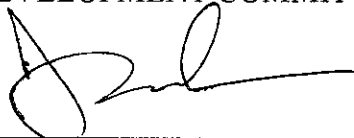
Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:
Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Jens Hillmer
Urban Economic Coordinator

Prepared by:
John Quintal
Urban Economic Analyst

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:



Office of the Agency Administrator

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APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

AN AGENCY RESOLUTION AUTHORIZING A FIRST AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND THE STATE OF CALIFORNIA TO FACILITATE THE POSSIBLE SALE OF THE ELIHU M. HARRIS OAKLAND STATE BUILDING

WHEREAS, the Redevelopment Agency ("Agency") entered into a joint exercise of powers agreement ("JPA") as of May 19, 1994 with the State of California ("State"), through its Department of General Services, establishing the Oakland State Building Authority ("Authority"); and

WHEREAS, the Authority was created to finance and develop the Elihu M. Harris Oakland State Building ("State Building") located at 1515 Clay Street in the Central District; and

WHEREAS, the Authority issued lease revenue bonds ("Lease Revenue Bonds") for the development and construction of the State Building, and entered into a lease purchase agreement ("Lease Purchase Agreement") with the State for the State Building with annual rent set at an amount sufficient to pay interest and principal on the revenue bonds; and

WHEREAS, the Lease Purchase Agreement provides that title to the State Building shall vest in the State upon the end of the term of the lease or repayment of the revenue; and

WHEREAS, the Legislature of the State of California has, by California Government Code Section 14670.13, authorized the Department of General Services to sell or lease the State Building; and

WHEREAS, current provisions of the JPA do not specifically address the disposition of the State Building or the lease under the Lease and Purchase Agreement in the event the State Building is sold; and

WHEREAS, State and Agency have determined that it is in the best interests of the public to amend the JPA to provide for the efficient redemption and/or defeasance of all Lease Revenue Bonds and to allow for the transfer of title to the State Building, associated improvements and personal property to the State or its designated purchaser; now, therefore, be it

RESOLVED: That the Agency hereby authorizes the Agency Administrator to execute a First Amendment to the JPA that will delete Section 11 of the JPA in its entirety and substitute language substantially in the form of the following language in its place:

Section 11. Disposition of Assets

Upon termination of this Agreement pursuant to Section 2 or otherwise, and upon payment of all charges and obligations of the Authority, including charges pursuant to Section 3(D)(6) and all obligations in connection with the financing for the State Building, any surplus funds of the Authority shall be returned to the State and to the Agency in proportion to the contributions, if any, made by each to the Authority. Any funds or other assets of the Authority, including the State Building and parking facilities, remaining after return of such funds shall vest in the State.

Notwithstanding the foregoing, in the event that the State Building is sold or leased by the State and all outstanding bonds or other obligations issued to finance or refinance the State Building are to be defeased or redeemed simultaneous with such sale or lease, then upon deposit of sufficient funds into escrow to defease or redeem such bonds or other obligations, the Authority shall immediately transfer by grant deed or bill of sale, as appropriate, through escrow with appropriate escrow instructions, to the State, or the purchaser or purchasers of such State Building designated by the State, title to the land and all of the improvements and personal property constituting such State Building, along with written termination of any leases involving such State Building between the State and the Authority.

and be it,

FURTHER RESOLVED: That the First Amendment to the JPA authorized hereunder shall be approved as to form and legality by Agency Counsel and filed with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency Administrator is hereby authorized to take any action related to the JPA amendment and the sale of the State Building, consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID AND CHAIRPERSON
BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland

