



State of California
 March Hong Fu
 Secretary of State

FILE NO. _____

NOTICE OF A JOINT POWERS AGREEMENT
 (Government Code Section 6503.5 or 6503.7)

Instructions:

1. Complete and mail to: Secretary of State, P.O. Box 944205, Sacramento, CA 94244-2250 (916) 324-6778
2. Include filing fee of \$5.00.
3. Do not include attachments, unless otherwise specified.

(Office Use Only)

The name of the agency or entity created under the agreement and responsible for the administration of the agreement is: _____

National City Joint Powers Financing Authority

Mailing address: 1243 National City Boulevard, National City, CA 91950

Provide a short title of the agreement if applicable: Joint Exercise of Powers Agreement

By and Between the City of National City and the Community Development

Commission of the City of National City (Amendment to Agreement)

The public agencies party to the agreement are:

- (1) City of National City
- (2) Community Development Commission of the City of National City
- (3) _____

if more space is needed, continue on a separate sheet and attach it to this form.

The effective date of the agreement is: Amendment to Agreement effective April 21, 1992

Provide a condensed statement of the agreement's purpose or the powers to be exercised: To provide

for the financing of public capital improvements for the member

public agencies through the issuance of bonds and the leasing of public capital improvements to the members

Date: June 11, 1992

Signature

George H. Eiser, III, Legal Advisor

Typed Name and Title

COPY

**JOINT EXERCISE OF POWERS AGREEMENT
BY AND BETWEEN THE
CITY OF NATIONAL CITY
AND THE
COMMUNITY DEVELOPMENT COMMISSION OF
THE CITY OF NATIONAL CITY**

RESOLUTION 91-65

JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated as of April 1, 1991, by and between the CITY OF NATIONAL CITY, a municipal corporation duly organized and existing under the laws of the State of California (herein called the "City"), and the COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY, a public body, corporate and politic, duly organized and existing under the laws of the State of California (herein called "CDC").

WITNESSETH:

WHEREAS, Articles 1 and 2 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorize the City and CDC to create a joint exercise of powers entity (herein called the "National City Joint Powers Financing Authority" or the "Authority") which has the power to jointly exercise any powers common to the City and CDC;

WHEREAS, the City and CDC are each empowered by law to undertake certain projects and programs;

WHEREAS, the City is authorized to enter into leases for certain public purposes pursuant to the Government Code of the State of California;

WHEREAS, CDC is authorized to enter into leases for any of its corporate purposes pursuant to the provisions of the Community Redevelopment Law;

WHEREAS, the City and CDC have decided to jointly finance a new police facility for use by the City; and

WHEREAS, the Marks-Roos Local Bond Pooling Act of 1985 (hereinafter defined as the "Bond Law") authorizes agencies formed under the Joint Exercise of Powers Law (hereinafter defined as the "Act") to issue bonds for the purpose of acquiring and constructing Public Capital Improvements (as that term is defined in the Act) and to lease those Public Capital Improvements to local agencies;

WHEREAS, by this Agreement, the City and CDC desire to create and establish the National City Joint Powers Financing Authority for the purposes set forth herein and to exercise the powers described herein;

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

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the words and terms defined in this Article shall, for the purpose hereof, have the meanings herein specified.

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

"Agreement" means this Agreement.

"Auditor and Treasurer" means the Finance Director of the City, designated as Auditor and Treasurer of the Authority in Section 3.02.

"Authority" means the National City Joint Powers Financing Authority created pursuant to this Agreement.

"Bond Law" means the Marks-Roos Local Bond Pooling Act of 1985, being Article 4 of the Act (commencing with Section 6584), as now or hereafter amended, or any other law hereafter legally available for use by the Authority in the authorization and issuance of Bonds to finance the acquisition of Obligations and/or Public Capital Improvements.

"Bonds" means bonds of the Authority issued pursuant to Section 6590 or 6591 of the Bond Law.

"Chairman" means the chairman of the Authority.

"Commission" means the Commission referred to in Section 2.03, which shall be the governing body of the Authority.

"Commissioners" means the representatives of the Members appointed to the Commission pursuant to Section 2.03.

"Fiscal Year" means the period from July 1 to and including the following June 30.

"Members and Member" means each of the parties to this Agreement and "Member" means any such party.

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

"Public Capital Improvement" has the meaning given to such term in Section 6585(g) of the Act, as in effect on the date hereof, and as hereinafter amended.

"Secretary" means the secretary of the Authority.

"State" means the State of California.

"Vice Chairman" means the vice chairman of the Authority.

ARTICLE II

GENERAL PROVISIONS

Section 2.01. Purpose. This Agreement is made pursuant to the Act providing for the joint exercise of powers common to the Members. The purpose of this Agreement is to provide for the financing of Public Capital Improvements for the Members through the issuance of Bonds by the Authority and the leasing of the Public Capital Improvements to the Members.

Section 2.02. Creation of Authority. Pursuant to the Act, there is hereby created a public entity to be known as the "National City Joint Powers Financing Authority". The Authority shall be a public entity separate and apart from the Members, and shall administer this Agreement.

Section 2.03. Commission. The Authority shall be administered by a Commission consisting of five (5) Commissioners. The Mayor, Vice-Mayor, and members of the City Council of the City and the Chairman, Vice-Chairman, and Members of the governing body of the CDC *ex officio* shall constitute the Chairman, Vice-Chairman, and Commissioners of the Authority, respectively. The number of Commissioners may be changed by amendment of this Agreement. The Commission shall be called the "Commission of the National City Joint Powers Financing Authority". All voting power of the Authority shall reside in the Commission.

Section 2.04. Meetings of the Commission. (a) **Regular Meetings.** The Commission shall provide for its regular meetings; provided, however, that at least one regular meeting shall be held each year. The date, hour and place of the holding of regular meetings shall be fixed by resolution of the Commission and a copy of such resolution shall be filed with each of the Members.

(b) **Special Meetings.** Special meetings of the Commission may be called in accordance with the provisions of Section 54956 of the Government Code of the State.

(c) **Call, Notice and Conduct of Meetings.** All meetings of the Commission, including without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of Sections 54950 et seq. of the Government Code of the State.

Section 2.05. Minutes. The Secretary shall cause to be kept minutes of the meetings of the Commission and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Commissioner and to each of the Members.

Section 2.06. Voting. Each Commissioner shall have one vote.

Section 2.07. Quorum; Required Votes; Approvals. Commissioners holding a majority of the votes shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. The affirmative votes of at least a majority of the Commissioners shall be required to take any action by the Commission.

Section 2.08. 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.

ARTICLE III

OFFICERS AND EMPLOYEES

Section 3.01. Chairman, and Vice-Chairman The officers shall perform the duties normal to said offices; and

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

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

Section 3.02. Secretary. The City Manager of the City is hereby designated as the Secretary of the Authority. The Secretary shall countersign all contracts signed by the Chairman or Vice Chairman on behalf of the Authority, perform such other duties as may be imposed by the Commission and cause the Secretary of State's standard form

relating to joint exercise of powers agreements to be filed with the California Secretary of State pursuant to the Act.

Section 3.03. Auditor and Treasurer. Pursuant to Section 6505.6 of the Act, the Finance Director of the City is hereby designated as the Auditor and Treasurer of the Authority. The Auditor and Treasurer shall be the depository, shall have custody of all of the accounts, funds and money of the Authority from whatever source, shall have the duties and obligations 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.

Section 3.04. Officers in Charge of Records, Funds and Accounts. Pursuant to Section 6505.1 of the Act, the Auditor and Treasurer shall have charge of, handle and have access to all accounts, funds and money of the Authority and all records of the Authority relating thereto; and the Secretary shall have charge of, handle and have access to all other records of the Authority.

Section 3.05. Bonding Persons Having Access to Public Capital Improvements. From time to time, the Commission may designate persons, in addition to the Secretary and the Auditor and Treasurer, having charge of, handling or having access to any records, funds or accounts or other Public Capital Improvements of the Authority, and the respective amounts of the official bonds of the Secretary and the Auditor and Treasurer and such other persons pursuant to Section 6505.1 of the Act.

Section 3.06. Legal Advisor. The City Attorney of the City is hereby designated as the Legal Advisor of the Authority. The Legal Advisor shall perform such duties as may be prescribed by the Commission.

Section 3.07. Other Employees. The Commission shall have the power to appoint and employ such other consultants and independent contractors as may be necessary for the purposes of this Agreement.

All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activities of officers, agents, or employees of a Public Agency 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 under this Agreement.

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

Section 3.08. Assistant Officers. 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.

ARTICLE IV

POWERS

Section 4.01. General Powers. The Authority shall exercise in the manner herein provided the powers common to each of the Members and necessary to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in

Section 4.04, including but not limited to the common power of eminent domain with respect to Public Capital Improvements.

As provided in the Act, the Authority shall be a public entity separate from the Members. The Authority shall have the power to finance the acquisition of Public Capital Improvements necessary or convenient for the operation of the Members, and to acquire Obligations of the Members.

Section 4.02. Power to Issue Bonds. The Authority shall have all of the powers provided in Article 4 of the Act (commencing with Section 6584), including the power to issue Bonds under the Bond Law.

Section 4.03. Specific Powers. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing powers, including but not limited to, any or all of the following:

- (a) to make and enter into contracts;**
- (b) to employ agents or employees;**
- (c) to acquire, construct, manage, maintain or operate any buildings, works or improvements;**
- (d) to acquire, construct, hold and dispose of Public Capital Improvements in accordance with Rules and Regulations of the Authority, including the leasing of such Public Capital Improvements to the members;**
- (e) to sue and be sued in its own name;**
- (f) to incur debts, liabilities or obligations, provided that no debt, liability or obligation shall constitute a debt, liability or obligation of any of the Members;**
- (g) to apply for, accept, receive and disburse grants, loans and other aids from any agency of the United States of America or of the State;**
- (h) to invest any money in the treasury pursuant to Section 6505.5 of the Act that is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the Government Code of the State;**
- (i) to apply for letters of credit or other form of credit enhancement in order to secure the repayment of its Bonds and enter into agreements in connection therewith;**
- (j) to carry out and enforce all the provisions of this Agreement;**
- (k) to make and enter into Bond Purchase Agreements;**
- (l) to purchase Obligations issued by any Member; and**
- (m) to exercise any and all other powers as may be provided in the Bond Law.**

Section 4.04. Restrictions on Exercise of Certain Powers. The powers of the Authority shall be exercised in the manner provided in the Act and in the Bond Law, and, except for those powers set forth in the Bond Law, shall be subject (in accordance

with Section 6509 of the Act) to the restrictions upon the manner of exercising such powers that are imposed upon the City in the exercise of similar powers.

Section 4.05. Obligations of Authority. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of any of the Members.

ARTICLE V

METHODS OF PROCEDURE; CREDIT TO MEMBERS

Section 5.01. Assumption of Responsibilities By the Authority. As soon as practicable after the date of execution of this Agreement, the Commissioners shall give notice (in the manner required by Section 2.04) of the organizational meeting of the Commission. At said meeting the Commission shall provide for its regular meetings as required by Section 2.04.

Section 5.02. Delegation of Powers. Each of the Members hereby delegates to the Authority the power and duty to acquire, by lease, lease-purchase, installment sale agreements, or otherwise, such Public Capital Improvement necessary or convenient for the operation of the Members.

Section 5.03. Credit to Members. All accounts or funds created and established pursuant to any trust agreement or indenture to which the Authority is a party, and any interest earned or accrued thereon, shall inure to the benefit of the respective Members for which such funds or accounts were created.

ARTICLE VI

CONTRIBUTION; ACCOUNTS AND REPORTS; FUNDS

Section 6.01. Contributions. The Members may in the appropriate circumstance when required hereunder: (a) make contributions from their treasuries for the purposes set forth herein, (b) make payments of public funds to defray the cost of such purposes, (c) make advances of public funds for such purposes, such advances to be repaid as provided herein, or (d) use its personnel, equipment or property in lieu of other contributions or advances. The provisions of Government Code 6513 are hereby incorporated into this Agreement.

Section 6.02. Accounts and Reports. To the extent not covered by the duties assigned to a trustee chosen by the Authority, the Auditor and Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any trust agreement or indenture entered into with respect to the proceeds of any Bonds issued by the Authority. The books and records of the Authority in the hands of a trustee or the Auditor and Treasurer shall be open to inspection at all reasonable times by representatives of the Members. The Auditor and Treasurer of the Authority, within 180 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members to the extent such activities are not covered by the report of such trustee. The trustee appointed under any trust agreement or indenture shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of said trust agreement or indenture. Said trustee may be given such duties in said trust agreement or indenture as may be desirable to carry out this Agreement.

Section 6.03. Funds. Subject to the applicable provisions of any trust agreement or indenture which the Authority may enter into, which may provide for a trustee to receive,

have custody of and disburse Authority funds, the Auditor and Treasurer of the Authority shall receive, have the custody of and disburse Authority funds as nearly as possible in accordance with generally accepted accounting practices, shall make the disbursements required by this Agreement or to carry out any of the provisions or purposes of this Agreement.

Section 6.04. Administrative Expenses. The Members shall pay their proportionate share (determined on the basis of a Member's percentage share of any financings completed by the Authority) of administrative expenses.

ARTICLE VII

TERM; DISPOSITION OF ASSETS

Section 7.01. Term. This Agreement shall become effective as of the date of execution hereof by the parties hereto, and shall continue in full force and effect so long as bonds of the Authority are outstanding or any lease agreements are outstanding between the Authority and a Member or Members (or between Members).

Section 7.02. Disposition of Assets. 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.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.01. Notices. Notices hereunder shall be in writing and shall be sufficient if delivered to:

City of National City
City Hall
1243 National City Boulevard
National City, California 92050
Attn: City Clerk

Section 8.02. Section Headings. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the section referred to or to define or limit the scope of any provision of this Agreement.

Section 8.03. Consent. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

Section 8.04. Law Governing. This Agreement is made in the State under the constitution and laws of the State and is to be so construed.

Section 8.05. Amendments. This Agreement may be amended at any time, or from time to time, except as limited by contract with the holders of Bonds issued by the Authority or certificates of participation in payments to be made by the Authority or the Members or by applicable regulations or laws of any jurisdiction having authority, by one or more supplemental agreements executed by all of the parties to this Agreement either as required in order to carry out any of the provisions of this Agreement or for any other purpose, including without limitation addition of new parties (including any legal

entities or taxing areas heretofore or hereafter created) in pursuance of the purposes of this Agreement.

Section 8.06. Enforcement by Authority. The Authority is hereby authorized to take any or all legal or equitable actions, including but not limited to injunction and specific performance, necessary or permitted by law to enforce this Agreement.

Section 8.07. Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Section 8.08. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Members. Neither of the Members may assign any right or obligation hereunder without the written consent of the other Member.

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 NATIONAL CITY



By: George H. White
Mayor

Geri Anne Peoples
City Clerk

COMMUNITY DEVELOPMENT
COMMISSION OF THE CITY OF
NATIONAL CITY

By: George H. White
Chairman

[SEAL]

ATTEST:

Arnold A. Peterson
Secretary

COPY

AMENDMENT TO AGREEMENT

This Amendment to Agreement is made and entered into this 21~~st~~ day of April, 1992, by and between the City of National City, hereinafter referred to as "City," and the Community Development Commission of the City of National City, hereinafter referred to as "CDC."

This Amendment to Agreement is made with reference to the following recitals:

A. On or about April 1, 1991, City and CDC entered into an agreement entitled "Joint Exercise of Powers Agreement between the City of National City and the Community Development Commission of the City of National City." hereinafter referred to as "the Agreement."

B. It is now desirable for the parties to amend the Agreement to add additional provisions thereto.

NOW, THEREFORE, City and CDC, for and in consideration of the mutual promises and agreements herein contained, do agree that the Agreement is amended as follows:

1. The following paragraph is added after the sixth paragraph of recitals:

WHEREAS, the Bond Law also authorizes and empowers the Authority to issue bonds and to purchase bonds issued by the CDC whenever there are significant public benefits to CDC, as determined by the Authority, and authorizes and empowers the Authority to sell bonds so purchased to public or private purchasers at public or negotiated sale; and

2. The following paragraph is added after the sixth paragraph of Article I, Section 1.01:

"Bond Purchase Agreement" means an agreement of the Authority to purchase CDC Bonds solely from funds received (i) from the Authority's simultaneous sale of such bonds to the purchaser or purchasers named therein, on the terms and conditions set forth therein, or (ii) from the proceeds of Bonds issued by the Authority.

3. The following paragraph is added after the tenth paragraph of Article I, Section 1.01:

"CDC Bonds" shall mean bonds of the CDC.

4. Article II, Section 2.01 is amended to read as follows:

Section 2.01. Purpose. This Agreement is made pursuant to the Act providing for the joint exercise of powers common to the Members. The purpose of this Agreement is to provide for the financing of Public Capital Improvements for the Members through the issuance of Bonds by the Authority and the leasing of the Public Capital Improvements to the Members, and the assisting of the CDC in its redevelopment activities by the Authority exercising the powers referred to in the recitals hereof and described in Section 4.02 herein.

5. Article IV, Section 4.02 is amended to read as follows:

Section 4.02. Power to Issue Bonds and Purchase CDC Bonds. The Authority shall have all of the powers provided in Article 4 of the Act (commencing with Section 6584), including the power to issue bonds under the Bond Law, and the power to purchase, pursuant to a Bond Purchase Agreement, CDC Bonds issued by the CDC at public or negotiated sale, for the purposes set forth in Section 2.01 hereof, all in accordance with the Bond Law, which such Bonds so purchased may be held by the Authority or sold to public or private purchasers at public or negotiated sale, in whole or in part, under and pursuant to any terms or conditions set by the Authority in connection with any purchase or sale contemplated herein as the Authority deems to be necessary, appropriate and in the public interest, in furtherance of the Bond Law.

With the above exceptions, each and every provision of the Agreement entered into on or about April 1, 1991 shall remain in full force and effect.

City of National City

Community Development Commission
of the City of National City

By George H. Waters
George H. Waters
Mayor

By George H. Waters
George H. Waters
Chairman