RESOLUTION NO. 29-2013
Adopted June 18, 2013

AUTHORIZING THE OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE TO BECOME A MEMBER OF THE EMPLOYMENT RISK MANAGEMENT AUTHORITY AND A MEMBER OF THE BAY CITIES JOINT POWERS INSURANCE AUTHORITY AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE JOINT POWERS AGREEMENTS WITH EACH AUTHORITY TO OBTAIN INSURANCE COVERAGE FOR THE OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

WHEREAS, Prior to its dissolution, the Redevelopment Agency of the City and County of San Francisco ("Redevelopment Agency"), as a local governmental entity separate from the City and County of San Francisco ("City"), obtained employment practices liability coverage from the Employment Risk Management Authority (ERMA) and other insurance coverage from the Bay Cities Joint Powers Insurance Authority (BCJPIA), see e.g. Redevelopment Agency Resolution No. 44-1996 (April 2, 1996) (approving amendments to the joint powers agreement with the BCJPIA); and,

WHEREAS, ERMA is a self-insured joint powers authority that provides employment practices liability coverage to public entities against claims of potentially unlawful employment practices and discrimination claims and associated claims adjusting, risk management, litigation management actuarial services and other related services; and,

WHEREAS, BCJPIA provides risk-sharing, pooled liability, workers' compensation, property; and automobile physical damage coverage to its public entity members as well as other ancillary coverage and services; and,

WHEREAS, ERMA and BCJPIA are fully accredited by the California Association of Joint Powers Authorities (CAJPA), successfully passing reviews by independent consultants in the areas of accounting, claims adjusting, and actuarial analysis; and,

WHEREAS, Former redevelopment agencies were dissolved by Assembly Bill No. x1 26 (2011) ("AB 26") (as upheld by the State Supreme Court in California Redevelopment Assoc. v. Matosantos, No. S194861 (Dec. 29, 2011)) on February 1, 2012. AB 26 established that the cities, counties, or cities and counties that originally created redevelopment agencies were successor agencies. By law, the City became the successor agency to the former Redevelopment Agency of the City and County of San Francisco (the"Redevelopment Agency"). As a result, ERMA and BCJPIA decided that coverage for the Redevelopment Agency terminated as of February 1,
2012 because the City was not a member of their respective risk pools; and,

WHEREAS, Because ERMA and BCJPIA had terminated its membership, the Office of Community Investment and Infrastructure (OCII), as successor agency to the former redevelopment agency, obtained property insurance and sought other insurance for Fiscal Year 2012-2013 using the services of the San Francisco City Administrator’s Office of Risk Management; and,

WHEREAS, In June 2012, the state adopted Assembly Bill No. 1484 ("AB 1484"), which established among other things, that successor agencies are separate entities from their sponsoring entities and the two entities shall not merge, and that neither the assets nor liabilities of the former redevelopment agencies shall transfer to sponsoring cities and counties. Cal. Health & Safety Code § 34173 (g). Because the law now declares OCII to be a separate legal entity from the City, both ERMA and BCJPIA are prepared to approve OCII as a member; and,

WHEREAS, ERMA’s Underwriting Committee gave approval at its meeting of May 20, 2013 for OCII to join its risk pool, contingent upon BCJPIA Board’s concurrence, and the BJCPHA Board at its June 6, 2013 meeting, directed BCJPIA staff to work with OCII on special provisions to address the potential for eventual dissolution of successor agencies, with OCII’s membership in the pool to be considered at a future special Board meeting after terms had been provisionally agreed to; and,

WHEREAS, BCJPIA property insurance premiums are competitive with those obtained through the City and the BCJPIA and ERMA liability insurance quotes are significantly less than preliminary quotes obtained through the City; and,

WHEREAS, ERMA and BCJPIA require the OCII’s governing board to adopt a resolution expressing the desire and commitment for OCII to participate in ERMA and BCJPIA for at least a three year participation period and to abide by the provisions of the ERMA and BCJPIA Joint Powers Agreements included as Attachments A and B; and,

WHEREAS, Redevelopment Dissolution Law (AB 26 and AB 1484, as amended), Cal. Health & Safety Code § 34177.3 (b), authorizes successor agencies to create enforceable obligations for winding down of the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance. Enforceable obligations are defined to include “contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements concerning litigation expenses related to assets or obligations, settlements and judgments, and the costs of maintaining assets prior to disposition, and agreements to purchase or rent office space, equipment and supplies,
and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134;” Cal. Health & Safety Code § 34171 (d)(1)(F); and,

WHEREAS, Ordinance No.215-12 (Oct. 4, 2012), adopted by the City’s Board of Supervisors in its capacity as governing body of the OCII, created and delegated to the Successor Agency Commission (CCII) the authority to “take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency and any other action that the Commission deems appropriate consistent with the Redevelopment Dissolution Law to comply with such obligations,” Section 6 (a) of Ordinance No. 215-12; now, therefore, be it

RESOLVED, That OCII is authorized to become a member of ERMA for at least a three year period for the purpose of obtaining insurance coverage, and the Executive Director is authorized to take any actions necessary that the Executive Director determines is in the best interest of OCII to accomplish that purpose, including executing the ERMA Joint Powers Agreements, substantially in the form of the agreement attached to this Resolution as Attachments A, and making any modification to the agreement that is consistent with the Fiscal Year 2013-2014 budget approved by this Commission and do not materially increase the obligations or liability of OCII; and be it further

RESOLVED, That OCII is authorized to become a member of BCJPIA for at least a three year period for the purpose of obtaining insurance coverage, and the Executive Director is authorized to take any actions necessary that the Executive Director determines is in the best interest of OCII to accomplish that purpose, including executing the BCJPIA Joint Powers Agreements, substantially in the form of the agreement attached to this Resolution as Attachments B, and making any modification to the agreement that is consistent with the Fiscal Year 2013-2014 budget approved by this Commission and do not materially increase the obligations or liability of OCII.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of June 18, 2013.

[Signature]
Commission Secretary

Attachment A: Joint Powers Agreement Creating ERMA
Attachment B: Joint Powers Agreement Creating BCJPIA