

## RESOLUTION NO. 2010-515

Adopted by the Sacramento City Council

August 31, 2010

### AMENDMENT TO SACRAMENTO AREA FLOOD CONTROL AGENCY JOINT EXERCISE OF POWERS AGREEMENT

#### BACKGROUND

- A. The City of Sacramento is a member agency of the Sacramento Area Flood Control Agency (SAFCA).
- B. SAFCA is required to obtain permits from the Central Valley Flood Protection Board (CVFPB) to construct, operate, and maintain flood control improvements. As a condition of receiving such permits, SAFCA must agree to operate and maintain the improvements and/or indemnify the State for liabilities arising from SAFCA's design, construction, operation, or maintenance of the improvements (collectively referred to as "project commitments").
- C. The CVFPB recently adopted a policy to require assurances from joint powers agencies, such as SAFCA, that these obligations will be met, even if the joint powers agency were to be dissolved. To address this new CVFPB requirement, SAFCA has requested that its member agencies approve an amendment to the SAFCA Joint Exercise of Powers Agreement.
- D. The proposed amendment provides that the Joint Exercise of Powers Agreement cannot be terminated, nor may a member agency withdraw, so long as there are outstanding project commitments, unless the relevant member or members provide reasonable written assurances to the CVFPB regarding the outstanding project commitments.
- E. Approval of the proposed amendment is intended to satisfy the provisions of the CVFPB policy, so that SAFCA is able to obtain the CVFPB approvals needed for continued implementation of SAFCA's Natomas Levee Improvement Program.

#### BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to execute the attached First Amendment to Joint Exercise of Powers Agreement for the Sacramento Area Flood Control Agency.
- Section 2. Exhibit A is part of this Resolution.

**Table of Contents:**

Exhibit A: First Amendment to Joint Exercise of Powers Agreement

Adopted by the City of Sacramento City Council on August 31, 2010 by the following vote:

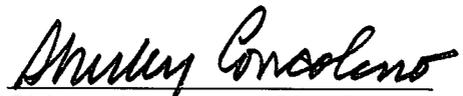
Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

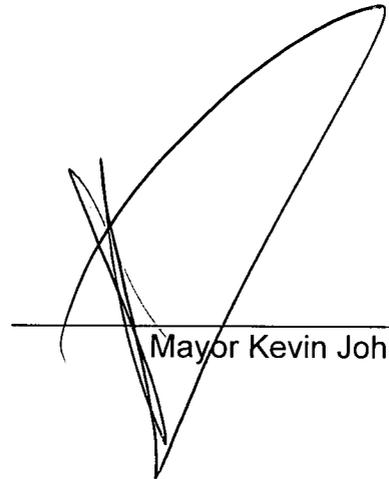
Noes: None.

Abstain: None.

Absent: None.

Attest:

  
Shirley Concolino, City Clerk

  
\_\_\_\_\_  
Mayor Kevin Johnson

# SACRAMENTO AREA FLOOD CONTROL AGENCY

## FIRST AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT

This First Amendment to Agreement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2010, by and between the following agencies:

- a. City of Sacramento hereinafter referred to as "City";
- b. County of Sacramento hereinafter referred to as "County";
- c. Reclamation District 1000 hereinafter referred to as "RD 1000";
- d. American River Flood Control District hereinafter referred to as "ARFCD";
- e. County of Sutter hereinafter referred to as "Sutter";
- f. Sacramento County Water Agency hereinafter referred to as "SCWA"; and
- g. Sutter County Water Agency hereinafter referred to as "Sutter Water Agency".

### RECITALS

WHEREAS, the Parties to this First Amendment entered into a Joint Exercise of Powers Agreement dated January 17, 1991, hereinafter referred to as "Agreement", which created the Sacramento Area Flood Control Agency, hereinafter referred to as "the Agency", for the coordinated planning and for coordinated and regional efforts to finance, provide and maintain Facilities and Works for the control of waters within or flowing into the boundaries of the Parties and for the protection of public and private property within said boundaries; and

WHEREAS, the construction of said Facilities and Works requires permitting by the Central Valley Flood Protection Board, hereinafter referred to as "CVFPB", a board of the State of California; and

WHEREAS, the CVFPB is requiring that the Agency will not be dissolved so long as the Agency has made outstanding commitments to the CVFPB for operations and maintenance and operations and maintenance indemnification of Facilities and Works.

NOW, THEREFORE, the Parties agree as follows:

1. Section 47 shall be added to the Agreement to read as follows:

"Section 47. Project Commitments made to State of California. (a) For purposes of this Section, "Project Commitments" shall mean agreements between the Agency and the Central Valley Flood Protection Board or any successor entity (collectively "CVFPB") to: (i) operate and maintain flood control works within the boundaries of the Agency, (ii) indemnify the State of California for liabilities arising out of such operation and maintenance or the failure to conduct same; and/or (iii) indemnify the State of California for design or construction of flood control improvements designed or constructed by the Agency.

(b) Notwithstanding the provisions of Section 40, this Agreement may not be rescinded or terminated or the Agency formed hereby dissolved so long as the Agency has outstanding Project Commitments unless the relevant member or members of the Agency first provide such reasonable written assurances regarding the Project Commitments as the CVFPB may request.

(c) Notwithstanding the provisions of Section 42, no Party to this Agreement may withdraw from the Agreement so long as the Agency has outstanding Project Commitments, unless such withdrawing party first provides such reasonable written assurances regarding the Project Commitments as the CVFPB may request."

2. All other provisions of the Agreement shall remain in full force and effect.

3. Capitalized terms in this First Amendment shall have the definitions as set forth in the Agreement.

4. This First Amendment may be executed in duplicate counterparts. The First Amendment shall be deemed executed when it has been signed by all of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed on the day and year first above written.

CITY OF SACRAMENTO

By: \_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

RECLAMATION DISTRICT 1000

By: \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Secretary

Approved as to form:

\_\_\_\_\_  
District Counsel

COUNTY OF SACRAMENTO

By: \_\_\_\_\_  
Chair of the Board

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
County Counsel

SACRAMENTO COUNTY WATER AGENCY

By: \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Clerk of the Agency

Approved as to form:

\_\_\_\_\_  
Agency Counsel

AMERICAN RIVER FLOOD CONTROL DISTRICT

By: \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Secretary

Approved as to form:

\_\_\_\_\_  
District Counsel

SUTTER COUNTY WATER AGENCY

By: \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Clerk of the Agency

Approved as to form:

\_\_\_\_\_  
Agency Counsel

SUTTER COUNTY

By: \_\_\_\_\_  
Chair of the Board

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
County Counsel

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