

**Meeting Date:** 7/26/2016

**Report Type:** Consent

**Report ID:** 2016-00669

**Title: Agreement Amendment: Sacramento Area Flood Control Agency (SAFCA) Cost Sharing for Florin Creek Detention Basin Project (Published for 10-Day Review 07/14/2016)**

**Location:** District 8

**Recommendation:** Pass a Motion authorizing the City Manager or the City Manager's designee to sign an amendment to the Cost Share Agreement with SAFCA for the Florin Creek Detention Basin Project, increasing the City's maximum cost share from \$1,000,000 to \$2,000,000.

**Contact:** Dan Sherry, Engineering & Water Resources Manager, (916) 808-1419; Tony Bertrand, Supervising Engineer, (916) 808-1461; Connie Perkins, Project Manager, (916) 808-1914, Department of Utilities

**Presenter:** None

**Department:** Department Of Utilities

**Division:** Development Services

**Dept ID:** 14001341

**Attachments:**

- 1-Description/Analysis
- 2-Background
- 3-Agreement

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**City Attorney Review**

Approved as to Form  
Joe Robinson  
7/7/2016 10:09:09 AM

**Approvals/Acknowledgements**

Department Director or Designee: Dan Sherry - 6/28/2016 3:01:44 PM

## Description/Analysis

**Issue Detail:** Staff recommends Council approve an amendment to the cost share agreement approved by Council on August 19, 2014 and entered into with the Sacramento Area Flood Control Agency (SAFCA) in September 2014 (C2014-0943) for the design and construction of a multi-use detention basin adjacent to Florin Creek, to provide additional payment to SAFCA for the City's share of increased project costs.

**Policy Considerations:** The amendment is consistent with the City's General Plan goals of improving and expanding public safety and achieving sustainability and livability. SAFCA's Board, on February 18, 2016, authorized its Executive Director to execute an amendment to the cost sharing agreement.

**Economic Impacts:** None

**Environmental Considerations:** SAFCA, as lead agency under the California Environmental Quality Act (CEQA), prepared and adopted a mitigated negative declaration and mitigation reporting program for the project. The City, as a responsible agency under CEQA Guidelines Section 15096, reviewed the mitigated negative declaration prepared by SAFCA and considered the environmental effects of the project prior to approving the cost share agreement (Resolution No. 2014-0311). The amendment to the agreement does not change the conclusions of the analysis and no further environmental review is required.

**Sustainability:** SAFCA's project is consistent with the Sustainability Master Plan goal to improve flood protection in the region.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** The detention basin, coupled with improvements to the Florin Creek channel, will provide increased flood protection to City residents in the south area by removing properties from the current AH flood zone designation. Since 2014, the Florin Creek Detention Basin Project incurred cost increases in two areas. One was caused by a significant change to the design related to the slope required for the playing fields within the multi-use detention basin. The other element was the initial engineer's estimate which was significantly below the bids received to complete the project. An increased construction cost of approximately \$2,000,000 for the detention basin makes it necessary to increase the cost sharing amount of the agreement. Execution of this amendment will fund the City's share of the increased project cost.

**Financial Considerations:** The agreement provides for the City to reimburse SAFCA for 50% of the costs incurred by SAFCA for design and construction of the basin. This is the first amendment to agreement No. 2014-0943 with SAFCA for the Florin Creek Detention Basin Project (W14130400). The original agreement had a not-to-exceed amount of \$1,000,000, which required four annual payments of \$250,000, with the last payment

scheduled to be made in FY2016/17. Sufficient funds are available to cover the last payment (FY2016/17) for the original agreement. The proposed amendment will increase the not-to-exceed amount for the City's cost share to a maximum of \$2,000,000 and will require four additional annual payments of \$250,000 starting in FY2017/18. Annual payments will be appropriated from available Storm Drainage Fund (Fund 6011) balance to the Florin Creek Detention Basin Project. The proposed amendment provides that no direct or indirect funding or payment obligation is imposed on the City's General Fund.

**Local Business Enterprise (LBE):** The City's LBE program requirements do not apply to this cost share agreement.

## Background

From 2005 through 2013, the U.S. Army Corps of Engineers (USACE) constructed portions of the federally authorized South Sacramento County Streams Project (the project), including Florin Creek channel improvements downstream of Franklin Boulevard. This year, the USACE is constructing improvements to Florin Creek upstream from Franklin Boulevard to US Highway 99, but this will still leave some 450 City and County of Sacramento residential properties within the Federal Emergency Management Agency (FEMA) 100-year floodplain. Adding a detention basin adjacent to Florin Creek, although not part of the federally authorized South Sacramento County Streams Project, removes over one hundred City residential properties from the floodplain. In 2014, the City entered into a cost sharing agreement with Sacramento Area Flood Control Agency (SAFCA) to participate in the multi-use detention basin design and construction costs.

The cost share agreement (C2014-0943) between the City and SAFCA was to construct the Florin Creek Detention Basin Project to provide a minimum 100-year flood protection to additional properties along Florin Creek.

The original detention basin construction cost estimate was approximately \$3,900,000, of which approximately \$1,900,000 was to be from a grant obtained by SAFCA, and City agreed to fund up to \$1,000,000 via the cost sharing agreement. On February 4, 2016, SAFCA received competitive bids for basin construction that were higher than anticipated, which increased the total estimated cost by approximately \$2,000,000, to \$5,860,000.

The Florin Creek Detention Basin Project incurred cost increases in two main areas. The first was caused by a significant change to the design related to the change in the adequate slope required for the playing fields within the multi-use detention basin. The second element was the initial engineer's estimate which was significantly below the bids received to complete the project.

Per the proposed amendment, the City will now fund up to a maximum of \$2,000,000 for the detention basin construction, consisting of eight annual Two Hundred Fifty Thousand Dollars (\$250,000) payments to SAFCA ending on June 1, 2021. This is half of the non-grant funded project cost, with SAFCA responsible for payment of the other half. If the actual overall cost of the SAFCA Basin Improvements is less than \$6,000,000, then the City's outer year payments will be reduced accordingly. Per the original agreement, a very small portion of the improvements affect the County of Sacramento and the County may choose to participate. If the County of Sacramento contributes funds toward the SAFCA Basin Improvements, the amount funded by the County will be applied as an offset against the required City cost share.

This amendment will not impact the 2016/17 budget. Funds will be budgeted annually through the Capital Improvement Project, Florin Creek Detention Basin Project (W14130400), as needed for the annual payments



**AMENDMENT No 1 TO AGREEMENT FOR COST-SHARING  
ON THE FLORIN CREEK MULTI-USE BASIN PROJECT**

THIS AMENDMENT No. 1 is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2016, by and between the SACRAMENTO AREA FLOOD CONTROL AGENCY, a joint powers authority ("SAFCA"), and the CITY OF SACRAMENTO, a charter city ("CITY").

**RECITALS**

WHEREAS, SAFCA and CITY have previously entered into an agreement on September 24, 2014, designated as City Agreement No. 2014-0943 for cost-sharing of the design and construction of the Florin Creek Multi-Use Basin Project ("Project") to provide a minimum of 100-year flood protection to the areas of the City and County of Sacramento along both banks of Florin Creek (hereinafter the "Agreement"); and

WHEREAS in September 2014 the total estimated cost of the Project was Three Million Eight Hundred Twenty Thousand Dollars (\$3,820,000); and

WHEREAS, on February 4, 2016, SAFCA received competitive bids for construction of the Project pursuant to the California Public Contract Code and the lowest responsive bid from a responsible bidder was in the amount of Three Million Six Hundred Sixty Thousand Dollars (\$3,660,000), which increases the total estimated cost of the Project by approximately \$2 million, to Five Million Eight Hundred and Sixty Thousand Dollars (\$5,860,000); and

WHEREAS, SAFCA and CITY desire to amend the Agreement to reflect the increased total cost of the Project.

NOW, THEREFORE, the parties agree as follows:

- I. Section 1.A.(ii) of the Agreement is amended to read as follows:

"(ii) Put the SAFCA Basin Improvements out for public bidding, consistent with the Public Contract Code, award a public works construction contract or contracts for the SAFCA Basin Improvements to the lowest responsible bidder, and manage the construction of the SAFCA Basin Improvements to completion in accordance with the plans and specifications. If the contract amount causes the total estimated cost of the SAFCA Basin Improvements to exceed \$5.86 million, City approval of the contract amount, and the parties' written agreement for the allocation of such excess costs, shall be required prior to SAFCA's award of the construction contract or contracts. SAFCA shall not put the SAFCA Basin Improvements out for bid until SAFCA provides to City written confirmation from the California Department of Water Resources that SAFCA has

received the Grant described in Section 3, below. After the contract is awarded, any change order that increases the contract amount by more than \$25,000 shall be provided to the City Director of Utilities for review and comment prior to SAFCA approval. If the amount of construction change orders approved by SAFCA increases the total project cost, City and SAFCA shall split the balance of this amount equally, provided that the maximum City Funding Amount specified in Section 2(A), below, shall not be increased unless the City and SAFCA agree to amend this Agreement to reflect the increased cost and cost-sharing. City shall pay its portion of this amount with its last scheduled payment.”

II. Section 2.A of the Agreement is amended to read as follows:

“2. City’s Obligations.

A. Subject to SAFCA’s performance of the obligations above, City agrees to fund up to Two Million Dollars (\$2,000,000) for the costs of implementing the SAFCA Basin Improvements, currently estimated to be \$5.86 million, as set forth below:

(i) City shall provide to SAFCA funds in an amount of (1) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2014, (2) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2015, (3) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2016, (4) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2017, (5) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2018, (6) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2019, (7) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2020, and (8) Two Hundred Fifty Thousand Dollars (\$250,000) on or before June 1, 2021. If the overall cost of the SAFCA Basin Improvements is less than Six Million Dollars (\$6.00 million) then the FY 2020/21 payment shall be reduced to make the overall cumulative City contribution equal One Million Dollars (\$1.00 million) plus one-half of Project costs over Four Million Dollars. If the County of Sacramento contributes funds toward the SAFCA Basin Improvements, the required City funding shall be further reduced in an amount equal to the amount of the County funding. The required City funding of \$2 million or \$1 million plus one-half of Project costs over Four Million Dollars, whichever is less, less the amount of the County funding, if any, is referred to hereafter as the “City Funding Amount”. The City is allowed to accelerate payments if the City desires to make payments ahead of the scheduled listed above. The City funding described above will be provided from the City’s drainage enterprise fund, and the parties acknowledge and agree that this Agreement does not require the City to use any other funds for this purpose and does not impose any direct or indirect funding or payment obligation on the City’s general fund.

(ii) At any time after the SAFCA Basin Improvements are accepted as complete by SAFCA, the City, and Southgate Recreation and Park District, if the City has contributed funds greater than the City Funding Amount, SAFCA shall return any City funding in excess of the City Funding Amount to City.”

III. Section 3.B of the Agreement is amended to read as follows:

“B. All Grant funds received by SAFCA shall be used toward the cost of implementing the SAFCA Basin Improvements.”

IV. REAFFIRMATION

In all other respects, the Agreement, as amended herein, remains in full force and effect.

V. ENTIRE AGREEMENT

This Agreement, as amended herein, and any attachments hereto, constitute the entire understanding between the SAFCA and CITY concerning the subject matter contained herein.

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VI. EFFECTIVE DATE

This Amendment shall be deemed effective as of the date first written above.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be duly executed as of the day and year first written above.

**“SAFCA”**

**SACRAMENTO AREA FLOOD CONTROL AGENCY,**  
a joint powers agency

By   
RICHARD M. JOHNSON,  
Executive Director

**“CITY”**

**CITY OF SACRAMENTO,** a charter city

By: \_\_\_\_\_  
WILLIAM O. BUSATH  
Director of Utilities

Attest:

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

APPROVED AS TO FORM:

By   
M. HOLLY GILCHRIST  
Agency Counsel

By: \_\_\_\_\_  
JOE ROBINSON  
Senior Deputy City Attorney