RESOLUTION NO. 2005-726

Adopted by the Sacramento City Council

October 11, 2005

AUTHORIZING THE CITY MANAGER TO EXECUTE A REVISED OPTION AGREEMENT FOR ACQUISITION OF CITY PROPERTY FOR FREEPORT REGIONAL WATER AUTHORITY INTAKE FACILITY AND COUNTY PROPERTY FOR CITY WATER SUPPLY PROJECT

BACKGROUND

A. On May 18, 2004, the City Council adopted Resolution No. 2004-374, that adopted Findings of Fact and a Statement of Overriding Considerations and conditionally authorized the City Manager to execute an agreement entitled "Option Agreement For Acquisition Of City Property For Freeport Regional Water Authority Intake Facility And County Property For City Water Supply Project" (the "Proposed Option Agreement"), between the City, the Sacramento County Water Agency, the East Bay Municipal Utility District, Sacramento County and the Freeport Regional Water Authority ("FRWA").

B. Resolution No. 2004-374 authorized and directed the City Manager to execute the Proposed Option Agreement, on the condition that the City Manager would not be authorized to do so unless and until the Proposed Option Agreement had first been approved and executed by all the other agencies party to the agreement. The Proposed Option Agreement was never approved and executed by Sacramento County, and, in accordance with the direction set forth in Resolution No. 2004-374, has not been executed on behalf of the City by the City Manager.

C. The Proposed Option Agreement provided options to FRWA and the City, respectively, for FRWA's acquisition of City property to construct water intake facilities, and for the City's acquisition of Sacramento County property to construct water intake and water treatment facilities. The Proposed Option Agreement included as exhibits two Sales and Purchase Agreements that established the terms and conditions for these two property acquisitions.

D. At the time Resolution No. 2004-374 was adopted, the City Council also approved the inclusion of language in the Sales and Purchase Agreement for FRWA's acquisition of City property that required FRWA staff to evaluate the relocation of FRWA's proposed water intake structure downstream to increase the distance between the proposed intake facilities and adjacent residents.

E. Since that time, FRWA staff, in consultation with State and Federal regulatory agencies, City representatives and others, have determined that it is feasible to move FRWA's facilities closer to the levee (away from adjacent homes) and move the water intake approximately 180 feet downstream from the location planned when Resolution No. 2004-374 was approved, and have prepared a revised site design plan (the "Revised Site Plan") that incorporates these changes. The Revised Site Plan results in a reduction of the size of the City property to be acquired by FRWA, from approximately 8 acres to approximately 7 acres, which results in a corresponding pro-rata reduction in the purchase price to be paid by FRWA.

F. City and FRWA staff have drafted revisions to applicable provisions of the Proposed Option Agreement and the Sales and Purchase Agreement for FRWA's acquisition of City property, to formalize FRWA's obligation to construct its water intake facility farther downstream as shown on the Revised Site Plan and to change the property description and purchase price for the City property to be conveyed to FRWA to reflect the Revised Site Plan.

G. These revisions are incorporated in the revised Option Agreement entitled "Option Agreement For Acquisition Of City Property For Freeport Regional Water Authority Intake Facility And County Property For City Water Supply Project," that includes the revised Sales and Purchase Agreement for FRWA's acquisition of City property and the Sales and Purchase Agreement for the City's acquisition of Sacramento County property attached thereto as exhibits. This revised Option Agreement is on file in the Office of the City Clerk.

H. This revised Option Agreement was approved by the Board of Directors for the Sacramento County Water Agency and the Sacramento County Board of Supervisors on September 20, 2005, the Board of Directors for the East Bay Municipal Utility District on September 27, 2005, and is scheduled to be considered for approval by the FRWA Board of Directors at its next public meeting on October 13, 2005.

I. FRWA is the lead agency, under the California Environmental Quality Act ("CEQA"), for the Freeport Regional Water Project that includes the construction of FRWA's water intake facilities on the City property to be conveyed to FRWA. The FRWA Board of Directors certified the Final Environmental Impact Report ("FEIR") and adopted its Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for this Project on April 15, 2004.

J. The City, acting as a responsible agency under CEQA with respect to the Freeport Regional Water Project, considered the FEIR certified by the FRWA Board of Directors, and considered the environmental effects of this Project as shown in the FEIR, when the City Council adopted Resolution No. 2004-374. At that time, the City Council also adopted the Findings of Fact and Statement of Overriding Considerations required of a responsible agency under applicable provisions of the CEQA Guidelines.

K. FRWA has prepared an Addendum to the FEIR determining that no additional environmental review is required for construction of FRWA's water intake facilities in accordance with the Revised Site Plan, because this will not result in any new or increased significant environmental effects that were not already analyzed in the FEIR and addressed by the Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program that already have been adopted. The City, acting as a responsible agency under CEQA, has considered this Addendum and the determination made therein.

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

Section 1. The City Council finds and determines that the recitals set forth above are true.

Section 2. The City Council rescinds its authorization and direction, set forth in Section 4 of Resolution No. 2004-374, for the City Manager to execute the Proposed Option Agreement in the form that was on file with the Office of the City Clerk when Resolution No. 2004-374 was adopted. The remaining provisions of Resolution No. 2004-374 shall remain in effect.

Section 3. The City Manager is authorized and directed to execute the revised "Option Agreement For Acquisition Of City Property For Freeport Regional Water Authority Intake Facility And County Property For City Water Supply Project" in the form presently on file in the Office of the City Clerk, on the condition that this authorization shall not be effective and the City Manager shall not execute this agreement unless and until the agreement has first been approved and executed by the Sacramento County Water Agency, the East Bay Municipal Utility District, Sacramento County and FRWA.

Section 4. The FY2005-06 Capital Improvement Program Revenue and Expenditure budgets are hereby amended in the amount of $775,000 to add the Facility Relocation – Meadowview Project (414-XI66).

Adopted by the City of Sacramento City Council on October 11, 2005 by the following vote:

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

Noes: None

Abstain: None

Absent: None

Heather Fargo
Mayor Heather Fargo

Attest:

Shirley Concolino
Shirley Concolino, City Clerk