

## RESOLUTION NO. 2006-109

Adopted by the Sacramento City Council

February 14, 2006

### AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT WITH THE SACRAMENTO AREA FLOOD CONTROL AGENCY (SAFCA) FOR PLANNING AND NATURAL RESOURCE MANAGEMENT SERVICES UNTIL MARCH, 2009

#### BACKGROUND:

- A. The City and SAFCA have had two previous three-year agreements, which the Council approved on June 13, 2000 (City Agreement 2000-079) and February 28, 2003 (City Agreement 2003-029).
- B. The current agreement between the City and SAFCA for Planning and Natural Resource Management Services will expire February 28, 2006.

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

- Section 1. Authorizes the City Manager to execute a reimbursement agreement with SAFCA for Planning and Natural Resource Management Services through March, 2009, not to exceed \$88,000 per year or \$264,000 over the life of the agreement.

**Table of Contents:** Exhibit A – Agreement between the City of Sacramento and SAFCA for Planning and Natural Resource Management Services.

Adopted by the City of Sacramento City Council on February 14, 2006 by the following vote:

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

Noes: None.

Abstain: None.

Absent: Waters.

Heather Fargo  
Mayor Heather Fargo

Attest:

Shirley Concolino  
Shirley Concolino, City Clerk

**AGREEMENT BETWEEN  
THE CITY OF SACRAMENTO  
AND  
THE SACRAMENTO AREA FLOOD CONTROL AGENCY  
FOR  
NATURAL RESOURCE MANAGEMENT SERVICES**

THIS AGREEMENT is made and entered into this 31<sup>st</sup> day of January, 2006, in the City of Sacramento, California, by and between the SACRAMENTO AREA FLOOD CONTROL AGENCY, a joint exercise of powers agency of the State of California, hereinafter referred to as "SAFCA", and the CITY OF SACRAMENTO, a character municipal corporation, hereinafter referred to as "CITY".

**RECITALS**

WHEREAS, SAFCA and CITY have determined that it is desirable to cooperate in securing the services of a Natural Resource Specialist to assist in developing and implementing open space management plans for the floodways affected by SAFCA's regional flood control efforts, including the North Area Local Project; and

WHEREAS, SAFCA Resolution 02-087 authorized the Executive Director of SAFCA to enter into an agreement with CITY to provide the desired services from 15<sup>th</sup> of February, 2003, through 16<sup>th</sup> of February, 2006.

WHEREAS, SAFCA Resolution 06-004 re-authorizes the Executive Director of SAFCA to enter into an agreement with CITY to provide the desired services.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, SAFCA and CITY agree as follows:

**AGREEMENT**

**1. SCOPE OF SERVICES**

In cooperation with SAFCA, CITY shall retain one Natural Resource Specialist and shall provide such office facilities and supervision as may be necessary for the performance of the services detailed in Exhibit "A" attached hereto and by this reference incorporated herein.

**2. TERM OF AGREEMENT**

Unless amended pursuant to Section 13 or terminated pursuant to Section 12 herein, this Agreement shall be in effect from 31st of January, 2006, and remain in effect until the 31<sup>st</sup> day of January, 2009.

**3. COMPENSATION**

The compensation to be paid by SAFCA to CITY for the services rendered hereunder shall not exceed \$88,000 per year. SAFCA shall make no payment to CITY in any greater amount for any extra, further or additional services unless such services and payment therefore have been mutually agreed to and this Agreement has been formally amended in accordance with Section 13.

**4. SCHEDULE FOR PERFORMANCE**

CITY shall ensure that the services identified in Exhibit "A" are performed as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work.

**5. INVOICING AND PAYMENT**

CITY shall submit periodic invoices, not more frequently than monthly, for the services rendered during the preceding period. CITY shall use the format, content and support documentation for invoices specified by SAFCA to identify the actual level of the work effort, including the hours worked on tasks and subtasks and/or project status with respect to any work product, milestone, or other events required by this Agreement. The detail in the monthly invoice shall inform SAFCA of both the nature and progress of work.

**6. NOTICES**

Any notices or other communications to be given to either party pursuant to this Agreement shall be given by delivering the same in writing to the parties at the addresses set forth below:

SAFCA: SACRAMENTO AREA FLOOD CONTROL AGENCY  
1007 - 7<sup>TH</sup> Street, Fifth Floor  
Sacramento, CA 95814-3407  
ATTENTION: Julie Lienert, Director of Administration

CITY: CITY OF SACRAMENTO, Department of Parks & Recreation  
Park Planning, Design & Development Division  
915 I Street, 5<sup>th</sup> floor  
Sacramento, CA 95814  
ATTENTION: Janet Baker, Park Development Manager

Such notice shall be deemed given when deposited in the United States mail, postage prepaid, addressed to the parties at the address above. Nothing shall preclude the giving of personal notice or notice by facsimile machine provided, however, that notice by facsimile machine shall be followed by notice deposited in the United States mail as described above.

By giving prior written notice, either party may change the address to which subsequent notice and/or other communications may be sent, designating a change of address to the other party.

## **7. INDEPENDENT CONTRACTOR**

1. It is understood and agreed by the parties hereto that CITY in the performance of its obligation hereunder is subject to the direction of SAFCA as to the designation of tasks to be performed, and the results to be accomplished but not the means, methods or sequence used by CITY for accomplishing the results.
2. If, in the performance of this Agreement, any third persons are employed by CITY, or City's Employee, such persons shall be entirely and exclusively under the direction, supervision and control of CITY. All terms of employment shall be determined by CITY, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of employment or requirements of law.
3. It is further understood and agreed that neither CITY nor City's assigned personnel shall have any entitlement as a SAFCA employee, or any right to act on behalf of SAFCA in any capacity whatsoever as agent, or to bind SAFCA to any obligation whatsoever.

## **8. EMPLOYMENT STATUS**

1. It is understood and agreed that CITY, including the Natural Resource Specialist to be employed by CITY in accordance with Section 1, is a CITY employee and that no relationship of employer-employee exists with SAFCA. Neither the Natural Resource Specialist nor any person employed by CITY shall be entitled to any benefits payable to employees

of SAFCA. SAFCA is not required to make any deductions or withholdings from the compensation payable to CITY under the provisions of this Agreement; and CITY hereby indemnifies and holds SAFCA harmless from any and all claims that may be made against SAFCA based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**9. INDEMNIFICATION AND INSURANCE**

CITY, by execution of this Agreement, specifically agrees to hold harmless, defend and indemnify SAFCA, its officers, agents and employees from and against any and all actions, claims, loss, liability, damage and expense (but only to the extent) caused by any negligent or willful act or omission of CITY, City's employees engaged by CITY in connection with the work of CITY pursuant to the terms of this Agreement.

**10. PROFESSIONAL SERVICES**

1. CITY agrees that the work hereunder shall be performed and completed in a professional manner. SAFCA representatives shall, with reasonable notice, have access to the work for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement.

**11. NON-DISCRIMINATION IN EMPLOYMENT**

1. CITY shall not discriminate against any employee, applicant for employment or volunteer because of race, color, creed, religion, national origin, sex, age, sexual orientation or physical or mental disability. CITY shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, national origin, age, sexual orientation or physical or mental disability. Such action shall include, but not limited to the following: employment, promotion, demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; or selection for training, including apprenticeship. CITY agrees to post in conspicuous places, available to employees and applicants for employment, notices that CITY shall provide an atmosphere free of sexual harassment for employees, clients and volunteers.
2. CITY shall, in all solicitations or advertisements for employees placed by or on behalf of CITY, state that all qualified applicants will receive consideration for employment without regard to race, color, creed,

religion, sex, national origin, ancestry, age, sexual orientation or physical or mental disability.

**12. FINANCIAL RECORDS**

CITY shall retain all financial records, including, but not limited to, documents, reports, books, and accounting records which pertain to any work or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement, or until audited. SAFCA or any duly authorized representative of SAFCA shall, with reasonable notice, have access to and the right to examine, audit and copy such records.

**13. TERMINATION**

SAFCA shall have the right to terminate this Agreement at any time by serving upon CITY thirty (30) days advance written notice of termination. The notice shall be deemed served and effective for all purposes on the date it is deposited into the United States mail, postage prepaid and addressed to CITY at the address indicated in Section 6. Upon the effective date of such termination:

3. CITY shall cease rendering services as of the effective date of the termination pursuant to this Agreement.
4. SAFCA shall pay CITY for work performed until the effective date of termination, subject to the limitations prescribed by Sections 3 and 5 of this Agreement.

Notwithstanding the thirty-day notice provision contained in this section, it is hereby agreed that SAFCA may terminate this Agreement or amend this Agreement immediately upon written notice served upon the CITY that funds are not available from external sources for this Agreement or for any portion thereof; or that SAFCA has not budgeted sufficient funds for this Agreement in SAFCA's final budget for applicable fiscal year(s). In this event, CITY shall cease rendering services immediately upon being served with the above notice.

**14. AMENDMENTS**

Modifications or amendments to the terms of this Agreement shall be in writing and executed by both parties.

**15. SUCCESSORS AND WAIVERS**

This Agreement shall bind the successors of SAFCA and CITY in the same manner as if they were expressly named. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

**16. ASSIGNMENT**

CITY shall not assign or transfer its duties, responsibilities or interests pursuant to this Agreement without the express written consent of SAFCA.

**17. INTERPRETATION AND ENFORCEMENT**

Interpretation and enforcement of this Agreement shall be governed by the laws of the State of California.

**18. PARTIES TO AGREEMENT**

CITY and SAFCA are the only parties to this Agreement. The member entities making up SAFCA are not parties and are not liable for any SAFCA obligation set forth herein.

**19. ENTIRE AGREEMENT**

This instrument and Exhibit "A" attached hereto constitute the entire Agreement between SAFCA and CITY concerning the subject matter hereof.

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

***[Signatures to commence on the following page]***

**SACRAMENTO AREA FLOOD CONTROL AGENCY**  
A joint exercise of powers agency

**CITY OF SACRAMENTO**

By Stein M. Buer  
STEIN BUER  
Executive Director

By Robert G. Overstreet II  
ROBERT G. OVERSTREET II  
Director of Parks and Recreation

By Mat A.  
RAY KERRIDGE  
Interim City Manager

APPROVED AS TO FORM:

By Timothy N. Washburn  
TIMOTHY N. WASHBURN  
Agency Counsel

By Michael Sparks  
MICHAEL SPARKS  
Sacramento Sr. Deputy City Attorney

Distribution:  
Auditor-Controller  
Consultant  
Consultant File

By Dawn Bullwinkel  
SHIRLEY CONCOLINO  
City Clerk

CITY AGREEMENT NO. 2006-0162