



## City Council Report

915 I Street, 1<sup>st</sup> Floor

Sacramento, CA 95814

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**File #:** 2016-01015

September 20, 2016

**Consent Item 18**

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**Title: Agreement: Addendum No. 1 to Joint Defense and Cost-Sharing Agreement To Preserve and Protect American River Water Supplies**

**Recommendation:** Pass a Motion authorizing the City Manager or the City Manager's designee to sign Addendum No. 1 to the Joint Defense and Cost-Sharing Agreement with the cities of Folsom and Roseville, the Placer County Water Agency, Sacramento County Water Agency, Sacramento Suburban Water District, and the San Juan Water District, dated August 1, 2015, to increase the cap on each party's cost-share amount from \$50,000 to \$150,000.

**Location:** Citywide

**Contact:** Jim Peifer, Principal Engineer, (916) 808-1416, Department of Utilities

**Presenter:** None

**Department:** Utilities

**Attachments:**

1-Description Analysis

2-Agreement

## Description/Analysis

**Issue Detail:** In August, 2015, the City entered into a Joint Defense and Cost-Sharing Agreement with Folsom, Roseville, Placer County Water Agency, Sacramento County Water Agency, Sacramento Suburban Water District, and San Juan Water District, to cost-share in consulting services to assist the participating agencies in State regulatory proceedings that may affect their water rights and water supplies, including the California WaterFix project and the Bay Delta Water Quality Control Plan.

The cost-share maximum approved by the Director of Utilities was set initially at \$50,000 per agency. The initial funding is exhausted and additional funding is required to continue with this regional cooperative effort. Staff for the respective agencies recommends increasing the cost-share maximum by an additional \$100,000 per agency.

**Policy Considerations:** City Council approval is required to increase the City's cost-share obligation above \$100,000. Participation in this Joint Defense and Cost-Sharing Agreement provides the City with a very cost-effective means of obtaining professional consultant services needed to protect the City's interests in these regulatory proceedings.

**Economic Impacts:** None

**Environmental Considerations:** Approval of the proposed addendum is an ongoing administrative and fiscal activity that is not a "project" requiring environmental review under the California Environmental Quality Act (CEQA). [CEQA Guidelines section 15378(b).]

**Sustainability:** Not Applicable

**Commission/Committee Action:** Not Applicable

**Rationale for Recommendation:** The Agreement allows the participating agencies to pay for consultant services that support regional efforts to preserve and protect local surface water supplies.

**Financial Considerations:** The addendum to the agreement raises the total not to exceed amount from \$50,000 to \$150,000. There are currently sufficient resources in the FY2016/17 Department of Utilities Operating Budget (Fund 6005, Water Fund) to support the project through June 30, 2017.

**Local Business Enterprise (LBE):** Not applicable, as the consultants are not retained by the City.

**Background:** Over the past 14 months, the seven agencies that make up the American River joint defense group have collaborated closely to finalize a new operating plan for the American River (referred to as the Modified Flow Management Standard, or MFMS), in preparation for several regulatory proceedings at the California State Water Resources Control Board. The first of these proceedings, the California WaterFix petition submitted by the state and federal water projects, is underway. The second proceeding, the update of the Bay Delta Water Quality Control Plan, may proceed later this year.

Approximately \$350,000 has been expended in the past 14 months to define and test the details of the MFMS through extensive hydrologic and water temperature modeling efforts. This work has been directed by the senior management of the participating agencies, in cooperation with the Water Forum staff, and has been carried out by a local consulting team that is extensively, and to some extent uniquely, familiar with the issues facing the lower American River.

Additional funding is needed for preparation of the necessary testimony and participation in the WaterFix hearing process. Staff's recommendation is that each participating agency will continue to fund its own legal costs and staff participation in this collaborative effort, and the participating agencies will each contribute up to an additional \$100,000 to fund preparation of the technical experts' testimony in Phases 1 and 2 of the WaterFix proceeding, as well as anticipated additional work for the Bay Delta Water Quality Control Plan proceeding. These cost-share funds would be collected from participating agencies as needed to fulfill invoices from the Placer County Water Agency, which will continue to administer the contracts with the technical consultants.

**ADDENDUM No. 1**  
**Joint Defense and Cost-Sharing Agreement**  
**To Preserve and Protect American River Water Supplies**

The Cities of Folsom, Roseville and Sacramento, the Placer County Water Agency, Sacramento County Water Agency, Sacramento Suburban Water District, and the San Juan Water District entered into a Joint Defense and Cost-Sharing Agreement To Preserve and Protect American River Water Supplies, dated August 1, 2015. Paragraph 1 provides, among other things, that “[n]o Party’s total obligation to fund any portion of the consultants’ work on matters contemplated by this Agreement shall exceed \$50,000 without a further approval by that Party’s governing body or an employee with authority to approve a proposed additional expenditure.”

Through this Addendum No. 1, the undersigned Parties (all Parties to the Joint Defense and Cost-Sharing Agreement To Preserve and Protect American River Water Supplies) agree to modify Paragraph 1 to increase the \$50,000 cap to \$150,000.

All other provisions of the Joint Defense and Cost-Sharing Agreement To Preserve and Protect American River Water Supplies remain unchanged.

This Addendum No. 1 may be signed in counterparts, each of which shall be deemed an original irrespective of the date of the execution, and said executed counterparts shall together constitute one and the same Addendum No. 1. Further, facsimile or .PDF copies of signatures shall be as effective as original signatures for evidencing execution of this Addendum No. 1.

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Defense and Cost-Sharing Agreement to Preserve and Protect American River Water Supplies.

CITY OF ROSEVILLE

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

CITY OF SACRAMENTO

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

PLACER COUNTY WATER AGENCY

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

SACRAMENTO COUNTY WATER AGENCY

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

SACRAMENTO SUBURBAN WATER DISTRICT

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

SAN JUAN WATER DISTRICT

By: \_\_\_\_\_  
[Name]  
[Title]  
[Notice information]

**Approved As To Form:**

CITY OF SACRAMENTO  
James C. Sanchez, City Attorney

By: \_\_\_\_\_  
Joe Robinson

SOMACH SIMMONS & DUNN  
A Professional Corporation

By: \_\_\_\_\_  
Aaron Ferguson  
Attorneys for Sacramento County Water Agency

BARTKIEWICZ KRONICK & SHANAHAN

By: \_\_\_\_\_  
Ryan S. Bezerra  
Attorneys for City of Folsom, City of Roseville,  
Sacramento Suburban Water District, and San Juan Water District

PLACER COUNTY WATER AGENCY

By: \_\_\_\_\_  
Daniel Kelly  
Staff Counsel, Placer County Water Agency

[INSERT CITY OF FOLSOM SIGNATURE APPROVAL FORMAT HERE]