

COUNTY OF SACRAMENTO
CALIFORNIA

APPROVED
BY RESOLUTION # 2007-0255
BOARD OF SUPERVISORS

FEB 27 2007

For the Agenda of:
February 27, 2007

By Cindy H. Turner
Clerk of the Board

To: Board of Supervisors

From: Department of Water Resources

Subject: Resolution Authorizing The Director Of The Department Of Water Resources To Sign The Staff Support Agreement Between The County Of Sacramento And The Sacramento Central Groundwater Authority

Contact: Darrell Eck, Senior Civil Engineer, 874-5039

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Overview

Execution of this agreement will provide reimbursement of costs for County of Sacramento staff acting in the capacity of Sacramento Central Groundwater Authority (Authority) staff in performing the various tasks necessary to implement the Authority's Central Sacramento County Groundwater Management Plan.

Recommendations

1. Approve the staffing agreement with the Sacramento Central Groundwater Authority.
2. Adopt the resolution authorizing the Director of the Department of Water Resources to sign the agreement with the Authority.

Measures/Evaluation

Measures/Evaluation are not applicable to this agenda item.

Fiscal Impact

Adoption of the resolution and execution of the agreement will have no financial impact on County funds. Funding for the Authority is through the signatories to the Joint Powers Authority Between the County of Sacramento and the Cities of Elk Grove, Folsom, Rancho Cordova, and Sacramento, retail water purveyors located in the Central Sacramento Groundwater Basin and the Sacramento County Water Agency.

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BACKGROUND:

On August 8, 2006 the Board of Supervisors (Board) adopted Resolution 2006-0957 approving a Joint Powers Agreement between the City of Elk Grove, the City of Folsom, the City of Rancho Cordova, the City of Sacramento and the County of Sacramento creating the Sacramento Central Groundwater Authority (JPA Agreement). The purpose of the Authority is to maintain the long-term sustainable yield of the Central Basin; ensure implementation of the Basin Management Objectives prescribed in the Groundwater Management Plan; oversee the operation of a Well Protection Program; manage the use of groundwater in the Central Basin and facilitate implementation of an appropriate conjunctive use program by water purveyors; coordinate efforts among those entities represented on the Board of Directors of the Authority to devise and implement strategies to safeguard groundwater quality; and to work collaboratively with other entities in order to promote coordination of water policies and activities throughout the region.

On August 29, 2006 the JPA Agreement became effective and the Authority held its first Board of Directors meeting on September 20, 2006. Subsequent meetings have been held to establish and adopt Rules of Procedure Governing the Sacramento Central Groundwater Authority (November 8, 2006), hold public hearings and adopt the Groundwater Management Plan (October 11, 2006 and November 8, 2006) and develop and adopt a budget (November 8, 2006.)

DISCUSSION:

In order to fulfill the purposes of the Authority the Board of Directors needs to appoint, commission, employ, contract with, or retain contractors to carry out the administration, planning and management of the Authority together with implementation of its various technical programs.

The JPA Agreement provides the Board with authority to appoint an Executive Director, a clerk and legal counsel. The Agreement also names the County of Sacramento's Director of Finance as the treasurer and controller for the Authority. These staff members are responsible for the administration and management of the Authority. Additional staff will be required to implement the Authority's technical programs.

The JPA Agreement also makes provision for additional staff by authorizing the Authority to "make contracts, employ labor and do all acts necessary for the full exercise of the Authority's power." The Authority can also "act jointly, or cooperate, with... any county or agency thereof, or any political subdivision or district therein... so that the powers of the Authority may be fully and economically exercised."

In order to acknowledge that staff of the County of Sacramento (County) and the Cities of Elk Grove, Folsom, Rancho Cordova and Sacramento could function as staff of the Authority, on December 13, 2006, the Board added section 4.04(a) to the Authority's Rules of Procedure Governing the Sacramento Central Groundwater Authority. Section 4.04(a) states that, "The Signatory Parties may assign employees to perform services for the Authority at their exclusive discretion in which case the services of such assigned employees shall be at the expense of the respective Signatory Party with any reimbursement for the value of the services provided by such

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assigned employee to be subject to an agreement between the contributing Signatory Party and the Board.”

As many of the programs contemplated by the Authority are an extension of work already undertaken by County staff it was agreed by the various stakeholders in the Central Basin that County staff would function as staff to the Authority. The Authority desires to reimburse the County for the expense of its staff while working on the Authority’s behalf. In order to reimburse the County for staff time spent on Authority programs it is necessary for the County and the Authority to enter into a reimbursement agreement. Under the terms of the Agreement the County will provide staff time to the Authority to carry out tasks and programs identified in the Authority’s budget. According to the Authority’s 2006-2007 budget, staffing requirements are approximately 1.2 FTE (full time equivalents.)

On January 10, 2007 the Board of Directors of the Authority adopted a resolution authorizing the Chair of the Authority to sign the attached agreement with the County.

Respectfully submitted,

APPROVED:
TERRY SCHUTTEN
County Executive

KEITH DEVORE, Director
Department of Water Resources

By: _____
ROBERT F. SHANKS
Interim Administrator
Municipal Services Agency

Attachments:
Resolution
Agreement

cc: Darrell Eck, Susan Purdin, Ted Thatcher, DWR
Scott Fort, SCGA

RESOLUTION AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO SIGN THE AGREEMENT FOR ADMINISTRATION AND MANAGEMENT OF THE SACRAMENTO CENTRAL GROUNDWATER AUTHORITY AND IMPLEMENTATION OF TECHNICAL PROGRAMS WITH THE SACRAMENTO CENTRAL GROUNDWATER AUTHORITY

WHEREAS, on August 8, 2006 the Board of Supervisors ("BOARD") adopted Resolution 2006-0957 approving a Joint Powers Agreement Between the City of Elk Grove, the City of Folsom, the City of Rancho Cordova, the City of Sacramento and the County of Sacramento Creating the Sacramento Central Groundwater Authority; and

WHEREAS, the purpose of the Sacramento Central Groundwater Authority ("AUTHORITY") is to maintain the long-term sustainable yield of the Central Basin; ensure implementation of the Basin Management Objectives prescribed in the Groundwater Management Plan; oversee the operation of a Well Protection Program; manage the use of groundwater in the Central Basin and facilitate implementation of an appropriate conjunctive use program by water purveyors; coordinate efforts among those entities represented on the governing body of the AUTHORITY to devise and implement strategies to safeguard groundwater quality; and to work collaboratively with other entities in order to promote coordination of groundwater policies and activities throughout the region; and

WHEREAS, the JPA makes provision for staff by authorizing the AUTHORITY to, "make contracts, employ labor and do all acts necessary for the full exercise of the AUTHORITY's power." The AUTHORITY can also, "act jointly, or cooperate, with... any county or agency thereof, or any political subdivision or district therein... so that the powers of the AUTHORITY may be fully and economically exercised;" and

WHEREAS, on December 13, 2006, the Board of the AUTHORITY approved section 4.04(a) of the Rules of Procedure Governing the Sacramento Central Groundwater Authority. Section 4.04(a) states that, "The Signatory Parties [i.e., the Cities of Elk Grove, Folsom, Rancho Cordova and Sacramento and the County of Sacramento] may assign employees to perform services for the AUTHORITY at their exclusive discretion in which case the services of such assigned employees shall be at the expense of the respective Signatory Party with any reimbursement for the value of the services provided by such assigned employee to be subject to an agreement between the contributing Signatory Party and the Board [of the AUTHORITY];" and

WHEREAS, as most of the programs to be implemented by the AUTHORITY are an extension of work already undertaken by County of Sacramento ("COUNTY") staff, it was

agreed by the AUTHORITY that COUNTY staff would function as staff to the AUTHORITY, and that the AUTHORITY desires to reimburse the County of Sacramento for the expense of such assigned employees.

NOW, THEREFORE, be it resolved by the BOARD as follows:

1. That the Director of the Department of Water Resources be and is hereby authorized and directed to execute an *Agreement For Administration And Management Of The Sacramento Central Groundwater Authority And Implementation Of Technical Programs* in the form substantially similar to that which is hereto attached, on behalf of the COUNTY OF SACRAMENTO with the SACRAMENTO CENTRAL GROUNDWATER AUTHORITY, a joint powers authority, and
2. The BOARD finds and determines that the Director of the Department of Water Resources is hereby authorized to do and perform everything reasonable, convenient and necessary to carry out the purpose and intent of this Resolution.

ON A MOTION by Supervisor Yee, seconded by Supervisor Nottoli, the foregoing resolution was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 27th, day of February, 2007 with the following vote, to wit:

AYES: Supervisors, Dickinson, MacGlashan, Peters, Yee, Nottoli

NOES: Supervisors, None

ABSENT: Supervisors, None

ABSTAIN: Supervisors, None



In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on 2/27/07

By V. Rodery
Deputy Clerk, Board of Supervisors

ATTEST: Cindy H. Turner
Clerk, Board of Supervisors

Don Nottoli
Chair of the Board of Supervisors
Of Sacramento County, California

FILED

FEB 27 2007

BOARD OF SUPERVISORS
BY Cindy H. Turner
CLERK OF THE BOARD

**AGREEMENT FOR ADMINISTRATION AND MANAGEMENT OF
THE SACRAMENTO CENTRAL GROUNDWATER AUTHORITY AND
IMPLEMENTATION OF TECHNICAL PROGRAMS**

This Agreement dated for reference purposes as of February 21, 2007, is entered into by and between the Sacramento Central Groundwater Authority and the County of Sacramento with reference to the following facts:

RECITALS

A. On August 29, 2006 the Sacramento Central Groundwater Authority (Authority) was formed through a Joint Powers Agreement (JPA Agreement) among the City of Elk Grove, the City of Folsom, the City of Rancho Cordova, the City of Sacramento and the County of Sacramento (referred to herein collectively as the "Members" and individually as a "Member"). The purpose of the Authority is to maintain the long-term sustainable yield of the Central Basin; ensure implementation of the Basin Management Objectives prescribed in the Groundwater Management Plan; oversee the operation of a Well Protection Program; manage the use of groundwater in the Central Basin and facilitate implementation of an appropriate conjunctive use program by water purveyors; coordinate efforts among those entities represented on the governing body of the Authority to devise and implement strategies to safeguard groundwater quality; and to work collaboratively with other entities in order to promote coordination of water policies and activities throughout the region.

B. The JPA Agreement provides the Authority's Board of Directors (herein referred to as the "Authority's Board" or "Board") with the authority to appoint an Executive Director, clerk and legal counsel. The JPA Agreement also names the County of Sacramento's (County's) Director of Finance as the treasurer and controller for the Authority. These staff are responsible for the administration and management of the Authority. Work provided from additional staff will be required to implement the Authority's technical programs.

C. The JPA Agreement makes provision for adding additional staff by authorizing the Authority to, "make contracts, employ labor and do all acts necessary for the full exercise of the Authority's power." The Authority can also, "act jointly, or cooperate, with... any county or agency thereof, or any political subdivision or district therein... so that the powers of the Authority may be fully and economically exercised."

D. On December 13, 2006 the Board of the Authority approved section 4.04(a) of the Rules of Procedure Governing the Sacramento Central Groundwater Authority. This section states that, "The Signatory Parties [Members] may assign employees to perform services for the Authority at their exclusive discretion in which case the services of such assigned employees shall be at the expense of the respective Signatory Party [Member] with any reimbursement for the value of the services provided by such assigned employee to be subject to an agreement between the contributing Signatory Party and the Board [of the Authority]."

E. As many of the programs that will be implemented by the Authority are an extension of work already undertaken by County staff, the Authority desires that County staff function as staff to the Authority and further desires to reimburse the County for such staff work.

F. The County is willing to devote a portion of its staff to perform Authority work provided the Authority reimburse the County the cost of providing such work.

G. The purpose of this Agreement is to provide a means for the Authority to reimburse the County for County staff time spent working on Authority programs.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, representations and agreements contained herein, the Parties agree as follows:

1. RECITALS. The foregoing recitals are true and are hereby incorporated by reference.

2. DEFINITIONS.

When used herein, the term:

A. "Authority" means the Sacramento Central Groundwater Authority, a joint exercise of powers authority formed under a joint powers agreement among its members.

B. "Party" means one of the parties to this Agreement.

C. "Parties" means all of the parties to this Agreement.

D. "Rules of Procedure" means rules and regulations adopted by the Authority under Section 24 of the JPA Agreement.

2. TERM OF AGREEMENT.

This Agreement shall remain in effect until terminated by one of the Parties hereto pursuant to this section. This Agreement may be terminated by any of the Parties hereto at any time and for any reason by providing ninety (90) days written notice of termination to the other Party.

3. EFFECTIVE DATE.

This Agreement will become effective on the date that both the Authority and the County approve this Agreement.

4. ADMINISTRATION AND MANAGEMENT OF THE AUTHORITY AND IMPLEMENTATION OF TECHNICAL PROGRAMS.

A. The Authority shall reimburse the County of Sacramento for the costs of the services provided by the County of Sacramento Director of Finance pursuant to section 13 of the JPA Agreement.

B. The Authority shall reimburse the County of Sacramento for the costs of the services provided by the County of Sacramento for the clerk pursuant to this subsection and section 13 of the JPA Agreement.

C. Unless a different legal counsel is required as a result of disqualification or conflict, Legal Counsel for the Authority shall be the County Counsel of Sacramento County, upon recommendation of the staff member who shall perform services in that capacity; and who shall serve at the pleasure of the Board. The Authority shall reimburse the County of Sacramento for the costs of the legal services provided.

D. The Authority shall reimburse the County of Sacramento for the costs of the services provided by the County of Sacramento for the Executive Director pursuant to section 14 of the JPA Agreement if so appointed by the Authority.

E. The Authority shall reimburse the County of Sacramento for the costs of the staff services provided to implement the technical programs of the Authority as described in the Central Sacramento County Groundwater Management Plan.

5. MUTUAL INDEMNIFICATION.

A. To the extent permitted by law, the Authority will indemnify, defend and hold the County of Sacramento and its officers, agents and employees safe and harmless from any and all claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees and any other professional fees) that arise from or are related in any way to the Authority's activities under this Agreement.

B. To the extent permitted by law, the County of Sacramento will indemnify, defend and hold the Authority and its officers, agents and employees safe and

harmless from any and all claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees and any other professional fees) that arise from or are related in any way to the County of Sacramento's activities under this Agreement.

C. It is the intention of Authority and County that the provisions of this paragraph be interpreted to impose on each party responsibility to the other for the acts and omissions of their respective officers, agents, and employees. It is also the intention of Authority and County that, where fault is determined to have been contributory, principles of comparative fault will be followed and each party shall bear the proportionate cost of any damage attributable to the fault of that party, its officers, agents, and employees.

6. REMEDIES AND DISPUTE RESOLUTION.

A. Should any material disputes arise concerning any provision of this Agreement, or the rights and obligations of the Parties thereunder, including those involving possible termination or those that might cause the initiation of any administrative or judicial proceeding to enforce or interpret this Agreement, the Parties, at the lowest level of subordinate responsibility reasonably possible under the circumstances, shall attempt, in good faith, to promptly resolve the dispute mutually between themselves.

B. If the process described in the preceding subsection fails to resolve the dispute within thirty days, the Parties will submit the dispute to the County's Director of Water Resources, who will act in good faith to promptly resolve the dispute. Initiation of this process will be through written notice by one Party to the other Party.

C. If dispute resolution process described herein above fails to resolve the dispute, the Parties may exercise their termination rights as described in Section 2 of this Agreement.

7. GENERAL CONTRACTING PRINCIPLES.

A. Notices.

The time for providing any notices specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement. All notices and other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (a) served personally on the Party to

whom notice is to be given; (b) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (c) on the third day after mailing, if mailed to the Party to whom notice is to be given by first-class mail, postage prepaid, and properly addressed to the designated representatives of the Parties set forth below. A Party may notify the other Parties in writing of a change in its designated representatives, without requiring an amendment to this Agreement.

TO AUTHORITY:

Executive Director
Sacramento Central Groundwater Authority
c/o Sacramento County Water Agency
827 Seventh Street, Room 301
Sacramento, CA 95814
eckd@saccounty.net

TO COUNTY:

Herb Niederberger, Division Chief
Department of Water Resources
827 Seventh Street, Room 301
Sacramento, CA 95814
niederbergerh@saccounty.net

B. Signatories' Authority.

The signatories to this Agreement represent that they have authority to execute this Agreement and to bind the Party on whose behalf they execute this Agreement.

C. Counterparts of this Agreement.

This Agreement may be signed in any number of counterparts by the Parties, each of which will be deemed to be an original, and all of which together will be deemed to one and the same instrument. This Agreement, if executed in counterparts, will be valid and binding on a party as if fully executed all in one copy.

D. Binding on Successors/Assignment.

This Agreement will be binding on the successors and assigns of the Parties. The services called for herein are deemed unique, and the Parties will not assign, transfer or otherwise substitute their interest in this Agreement or any of its obligations hereunder without the prior written consent of the other Party.

E. No Third-Party Beneficiaries.

This Agreement will not be construed to create any third-party beneficiary. This Agreement is for the sole benefit of the Parties, their respective successors and permitted transferees and assigns, and no other person or entity will be entitled to rely on or receive any benefit from this Agreement or any of its terms.

F. Amendments.

This Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

G. Opinions and Determinations.

Where the terms of this Agreement provide for action to be based upon the opinion, determination, approval or review of either Party, such terms are not intended to be, and will not be construed as permitting such actions to be arbitrary, capricious or unreasonable. Any opinion, determination, approval or review required of a Party under this Agreement will be provided in a timely manner.

H. Reasonable Cooperation.

The Parties will reasonably cooperate with each other, as required to perform the obligations under this Agreement and to carry out the purpose and intent of this Agreement.

I. Construction and Interpretation.

This Agreement is entered into freely and voluntarily. This Agreement has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

J. Complete Contract.

This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this Agreement among the Parties concerning the subject matter, and supersedes all prior negotiations, representations or agreement, either oral or written, that may be related to the subject matter of this Agreement, except as to those other agreements that are expressly referred to in this Agreement.

K. Determination of Unenforceable Provisions.

If any term or provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, the Agreement shall not terminate, and the Parties will meet and attempt to address this situation pursuant to the provisions of Section 9 (“Remedies and Dispute Resolution”) of this Agreement.

L. Waiver.

The waiver at any time by a Party of its rights with respect to a default or other matter arising in connection with this Agreement will not be deemed a waiver with respect to any other default or matter.

M. Time.

Time is of the essence in this Agreement. Any date specified in this Agreement may be changed with the written consent of the Parties.

N. Applicable Law.

This Agreement will be construed under and will be deemed to be governed by the laws of the State of California.

O. Venue.

Sacramento County will be venue for any litigation concerning the enforcement or interpretation of this Agreement.

P. Remedies Not Exclusive.

The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by the Party of any remedy under this Agreement will be without prejudice to the enforcement of any other remedy.

The foregoing is hereby agreed to by the Parties.

_____, 2007 SACRAMENTO CENTRAL GROUNDWATER AUTHORITY

By: Scott Fort
Scott Fort, Chair
Board of Directors

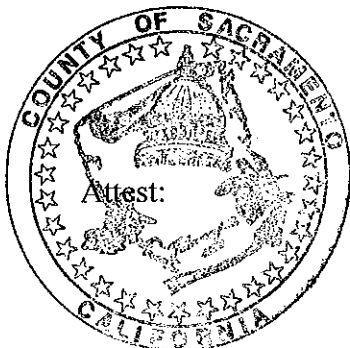


By: Michelle S. Fiorino
Secretary of SCGA

Approved as to form: By: Roy C. Lyon
Attorney for SCGA

_____, 2007 COUNTY OF SACRAMENTO

By: Keith DeVore
Keith DeVore, Director
Department of Water Resources
Signing under authority of Resolution 2007-0255
Of the Sacramento County Board of Supervisors



By: Ceddy H. Turner
Clerk of the Board of Supervisors

Approved as to form: By: John F. ZMA
Assistant County Counsel