



# Sutter Butte Flood Control Agency

Board of Directors Agenda - Regular Meeting, October 12, 2022, 1 p.m.

## MODIFIED BROWN ACT REQUIREMENTS IN LIGHT OF COVID-19

In Compliance with CA Executive Orders AB361 members of the Board of Directors and members of the public will participate in this meeting in person and by teleconference. The call in information for the Board of Directors and the public is as follows:

**Meeting URL:** [https://us06web.zoom.us/webinar/register/WN\\_3wvgU4cOQ76uExKZ29yzAA](https://us06web.zoom.us/webinar/register/WN_3wvgU4cOQ76uExKZ29yzAA)

Any member of the public participating by teleconference may email public comments to [admin@sutterbutteflood.org](mailto:admin@sutterbutteflood.org) and comments will be read from each member of the public. During this period of modified Brown Act Requirements, Sutter Butte Flood Control Agency will use best efforts to swiftly resolve requests for reasonable modifications or accommodations with individuals with disabilities, consistent with the Americans with Disabilities Act, and resolving any doubt whatsoever in favor of accessibility.

### County of Sutter

Mat Conant  
Mike Ziegenmeyer  
Alt. Karm Bains  
Alt. Nicholas Micheli

### County of Butte

Bill Connelly  
Tod Kimmelshue

### City of Yuba City

Shon Harris  
Wade Kirchner  
Alt. Dave Shaw  
Alt. Marc Boomgaarden

### City of Live Oak

Lakhvir Ghag  
Alt. Jeramy Chapdelaine

### City of Gridley

Bruce Johnson

### City of Biggs

Bo Sheppard  
Alt. Chuck Nuchols

### Levee District 1

Charlie Hoppin  
Al Montna  
Alt. Gary Marler  
Alt. Drew Stresser

### Levee District 9

Mike Morris  
Chris Schmidl

## AGENDA SUMMARY

### **REGULAR MEETING/CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **PUBLIC COMMENT**

Members of the public will be allowed to address the Sutter Butte Flood Control Agency's Board of Directors on items of interest to the public that are within the subject matter jurisdiction of the Board. Any member of the audience who may wish to bring a matter before the Board that has not been placed on the agenda may do so at this time; however, State law provides that no action may be taken on any item not appearing on the posted Agenda.

## **CONSENT CALENDAR**

The Consent Calendar groups together those items which are considered noncontroversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chair will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

1. Approval of the Minutes for the September 14, 2022 Regular Board Meeting
2. Continuing Brown Act Resolution 2022-15
3. Approval of an agreement with Triangle Properties to Transplant Two Elderberry Bushes as part of the Federal Sutter Basin Flood Risk Management Project (Cypress Avenue to Tudor Road)
4. Authorization of the Executive Director to Execute Amendment No. 1 to the Funding and Services Agreement with the Feather River West Levee Financing Authority

## **INFORMATIONAL AND POSSIBLE APPROVAL ITEMS**

5. Presentation and File Monthly Financial Report
6. Presentation and File Program/Project Update

## **ADJOURNMENT**

The next regularly scheduled Board of Directors meeting will be held on Wednesday, November 9, 2022 at 1 p.m.



# Sutter Butte Flood Control Agency

Board of Directors Regular Meeting Minutes, September 14, 2022, 1 p.m.

## MODIFIED BROWN ACT REQUIREMENTS IN LIGHT OF COVID-19

The Sutter Butte Flood Control Agency (Agency) Board of Directors (Board), State of California, met on the above date at 1 p.m. in Compliance with CA Executive Orders AB361 members of the Board of Directors and members of the public participated in this meeting by teleconference.

These minutes do not represent a transcript of the meeting and are intended to be a summary of the most important points. For a complete record, please refer to the video recording of the meeting, which is posted on SBFCA's website: <http://sutterbutteflood.org/board/meetings-agendas/>

### MEMBERS PRESENT

County of Butte:	Bill Connelly, Tod Kimmelshue
City of Biggs:	Bo Sheppard
City of Gridley:	Bruce Johnson
City of Live Oak:	Lakhvir Ghag
City of Yuba City:	Wade Kirchner
Levee District 9:	Mike Morris, Chris Schimdl
Levee District 1:	Charlie Hoppin, Drew Stresser

**MEMBERS ABSENT:** Shon Harris, Al Montna, Mike Ziegenmeyer, Mat Conant

**STAFF PRESENT:** Michael Bessette, Executive Director; Chris Fritz, Director of Engineering, Agency Counsel; Andrea Clark; Seth Wurzel, Budget Manager; Kim Floyd, Public Outreach Manager; and Terra Yaney, Board Clerk

### MEETING/CALL TO ORDER

At 1:00 p.m., Director Wade Kirchner opened the meeting and led the group in the pledge of allegiance.

### CONSENT CALENDAR

1. Approval of the Minutes for the July 13, 2022 Regular Board Meeting
2. Approval of Plans and Specifications and Consideration of Award of the Second Street Vegetation Removal and Fence Installation Project Construction Contract (Contract No. 02-2022-ER) to Escherman Construction Company
3. Augmentation to the Feather River West Levee Financing Authority services budget and Delegation of authority to the Executive Director to Execute a Task Order 2 Amendment 2 with HDR for Benefit Assessment District Formation Services
4. Approval of Resolution No. 2022-13, Delegating Authority to Executive Director for FRWLP Project Closeout Actions
5. Approval of Amendment 7 to the Contract with RiverSmith Engineering for Independent Panel of Experts Services
6. Native American Burial and Participation Cost Policy
7. Approve the form of funding agreement with the California Department of Water Resources for the Sutter Bypass East Levee Project and delegate authority to the Executive Director to execute the Final Agreement upon review and approval by General Counsel
8. Approval of Amendment No. 5 to Professional Services Agreement with Sacramento Valley Conservancy related to the Star Bend Setback and Mathews Mitigation Areas
9. Receive and File Update on Transfer of Federal Credit

## **10. Continuing Brown Act Resolution 2022-14**

A motion to approve the Consent Calendar was made by Director Tod Kimmelsue and seconded by Director Mike Morris. The motion passed with no objection. The Consent Calendar was approved as follows:

- |                        |                       |
|------------------------|-----------------------|
| • Bill Connelly - yes  | • Wade Kirchner- yes  |
| • Lakhvir Ghag– yes    | • Mike Morris– yes    |
| • Charlie Hoppin - yes | • Chris Schmidl - yes |
| • Bruce Johnson- Yes   | • Bo Sheppard- yes    |
| • Tod Kimmelshue- yes  | • Drew Stresser - yes |

### **No public Comment**

The entire discussion and presentation is available on the SBFCA website at:  
<http://sutterbutterflood.org/board/meetings-agendas/>

## **INFORMATIONAL AND POSSIBLE APPROVAL ITEMS**

### **11. Presentation and File Monthly Financial Report**

Budget Manager Seth Wurzel presented the monthly financial reports for July and answered questions regarding operating revenue of advanced funding. The entire report, along with a PowerPoint presentation is available on the SBFCA website at: <http://sutterbutterflood.org/board/meetings-agendas/>

### **12. Presentation and File Program/Project Update**

Executive Director Michael Bessette gave a presentation outlining the recent and ongoing activities of the agency. He reported that the design team completed their work on the documents for the Second Street vegetation removal and fence installation project and put the job out to bid. It is anticipated that construction will begin later this month and will be completed in November.

He provided an update on the Feather River Regional Flood Management Planning (RFMP). He reported that the team recently submitted the next funding request (\$260K) for phase 4 planning effort to DWR. SBFCA will be the lead agency for this next phase of work. SBFCA's primary interests in the regional planning effort is to advance OMRR&R for Cherokee Canal, OWA Robinson's Riffle project, advance critical repairs along the Sutter Bypass east levee and explore opportunities to fund construction of the Tudor Flood Risk Reduction and the Yuba City Sediment Removal Projects

Mr. Bessette went on to report that staff continues work with Sacramento Valley Conservancy (SVC) on the Star Bend and Mathews mitigation sites.

He went onto report that staff continues to coordinate funding through DWR for Sutter Bypass Critical Repairs. A draft scope of work was sent to DWR for their review. We received a draft Funding Agreement to initiate design and permitting work, which was presented to the Board for approval today. Staff is currently developing a Request for Proposals (RFP) to bring on an engineering design team for the project.

The entire report is available on the SBFCA website at: <http://sutterbutterflood.org/board/meetings-agendas/>

## **PUBLIC COMMENT**

None

## **ADJOURNMENT**

With no further business coming before the Board, the meeting was adjourned at 1:36 p.m.

**ATTEST BY:** \_\_\_\_\_

**Terra Yaney, Board Clerk**

\_\_\_\_\_  
**Board Chair**

**Sutter Butte Flood Control Agency**

**RESOLUTION NO. 2022-15**

**AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF SUTTER BUTTE  
FLOOD CONTROL AGENCY PURSUANT TO THE BROWN ACT**

WHEREAS, Sutter Butte Flood Control Agency (“Agency”) is committed to preserving public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the Agency are open and public, as required by the Ralph M. Brown Act (Gov. Code, §§ 54950 – 54963) (“Brown Act”), so that any member of the public may attend, participate, and watch the Agency’s legislative body conduct its business; and

WHEREAS, Assembly Bill 361 added Government Code section 54953(e) to make provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, as a condition of extending the use of the provisions found in Section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District; and

WHEREAS, such conditions persist in the District, specifically, the March 4, 2020 State of Emergency Proclamation remains active in California due to the continued threat of COVID-19; and

WHEREAS, the Board of Directors does hereby find that meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, the Board of Directors does hereby find that the Agency shall conduct its meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the Board shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, all meeting agendas, meeting dates, times, and manner in which the public may participate in the public meetings of the Agency and offer public comment by telephone or internet-based service options including video conference are posted on the Agency website and physically outside of the Agency office.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF SUTTER BUTTE FLOOD CONTROL AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Risks to Health and Safety of Attendees. The Board hereby determines that meeting in person would present imminent risks to the health or safety of attendees.

Section 3. Remote Teleconference Meetings. Agency staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) September 14, 2022, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Agency may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of Sutter Butte Flood Control Agency, this 12<sup>th</sup> day of October, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Chair



# Sutter Butte Flood Control Agency

*A Partnership for Flood Safety*

October 12, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette - Executive Director

**SUBJECT:** Approval of an agreement with Triangle Properties to Transplant Two Elderberry Bushes as part of the Federal Sutter Basin Flood Risk Management Project (Cypress Avenue to Tudor Road)

---

## **Recommendation:**

Staff recommends that the Board authorize the Executive Director to execute a contract with Triangle Properties in the amount of \$17,640 to excavate and transplant two elderberry bushes within the Cypress to Tudor project to the Star Bend mitigation site just north of the federal project and for three years of maintenance/irrigation, and five years of monitoring and regulatory reporting.

## **Background**

The Sutter Basin Feasibility Study was authorized by the Water Resources Reform and Development Act (WRRDA) of 2014 and reauthorized in the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016. The study recommended a plan to improve the Feather River West Levee from Thermalito Afterbay to 2,200 feet south of Laurel Avenue (SBFCA levee station 180+00), the Sutter Basin Flood Risk Management Project (Project). The Sutter Butte Flood Control Agency (SBFCA), in partnership with the California Department of Water Resources (DWR), has completed most of the improvements that comprise the Project. However, a five-mile reach remains between the Star Bend setback levee and the Laurel Avenue FSRP project.

SBFCA and USACE entered into a Design Agreement on August 2, 2016, and as amended on April 12, 2018, to advance the required pre-construction engineering, design, and permitting activities necessary to construct the remaining five-mile reach of authorized levee improvements. During this time, the USACE, DWR, and SBFCA have partnered to advance the design, secure the necessary environmental and cultural clearances, acquire the required real estate, prepare construction bid documents, award a construction contract, and begin construction.

With the appropriation of federal Construction General (CG) funds and selection of the Sutter Basin Project for a construction new start in the Fiscal Year 2018 (FY18) USACE Work Plan, the project was approved to advance from the design to the construction phase. The construction phase included a requirement to execute a Project Partnership Agreement (PPA) which establishes the terms and conditions under which USACE agrees to construct the remainder of the project. USACE required that the PPA be fully executed in the same FY in which the construction new start was granted, in this case by September 30, 2018.

The PPA was prepared through coordination with USACE and DWR and established a total cost of \$77,000,000 to complete the remaining five miles of levee improvements. This total cost is generally shared as follows: 65% Federal (\$50,050,000), 24.5% DWR (\$18,865,000), and 10.5% SBFCA (\$8,085,000). However, since SBFCA served as the only non-Federal sponsor with USACE during the design phase, DWR has agreed to "true-up" these design phase costs during the construction phase through the negotiation and execution of a Local Project Partnership Agreement (LPPA). This true-up will include credit for SBFCA expenses toward services including design work completed by HDR, environmental review and permitting services provided by ECORP, value engineering studies completed by SVS, project management services being provided by LWA, and other related professional services that have been previously authorized by the SBFCA Board.



There exist two elderberry bushes within the levee project area that must be relocated within the month of November. In order to meet this schedule USACE requested that SBFCA provide the contractual services to perform this work and keep the project on schedule. Triangle Properties, Inc. has provided these services to SBFCA in the past and continues to provide environmental mitigation services to SBFCA at the Star Bend and Mathews mitigation areas. Triangle Properties has submitted a proposal for this work and it has been negotiated with the Executive Director.

**Fiscal Impact**

With execution of the PPA, SBFCA is responsible for funding a portion of the Non-Federal Share of the Agreement. When combined with an LPPA with DWR and the CVFPB as described above, SBFCA's total share of the financial obligation of this agreement is up to \$8,085,000. As further described above, SBFCA's share of the Non-Federal Share is expected to be reduced by the State's share of creditable activities that have already taken place. After this crediting, the remaining cost to SBFCA is expected to be approximately \$6,724,000. SBFCA's Final Amended 2020 through 2024 Budget includes approximately \$161,000 (SBFCA Expenditure Accounts 731-94-1064-65635 / 65648) of additional budget that remains available for creditable costs toward the Federal Project. To date, there remains sufficient budget to cover the costs associated with the recommended action (up to \$17,640). As a result, there is no net budgetary impact as a result of the Board's approval of the recommended action.

**Attachment:**

1. Agreement for Professional Services

## **AGREEMENT FOR ELDERBERRY BUSH RELOCATION, MAINTENANCE AND MONITORING SERVICES**

THIS AGREEMENT FOR ELDERBERRY BUSH RELOCATION, MAINTENANCE AND MONITORING SERVICES ("Agreement") is made and entered into this 12th day of October, 2022, by and between Sutter-Butte Flood Control Agency ("SBFCA"), and Triangle Properties, Inc. ("Contractor") (each a "party" and collectively "the parties").

### **RECITALS:**

A. The Sutter Basin Feasibility Study was authorized by the Water Resources Reform and Development Act (WRRDA) of 2014 and reauthorized in the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016; and

B. SBFCA and the United States Army Corps of Engineers (USACE) entered into a Design Agreement on August 2, 2016, and as amended on April 12, 2018, to advance the required pre-construction engineering, design, and permitting activities necessary to construct the remaining five-mile reach of authorized levee improvements; and

C. SBFCA, USACE, and the California Department of Water Resources entered into a Project Partnership Agreement (PPA) which established a total project cost of \$77,000,000 to complete the remaining five miles of levee improvements, which is generally cost shared as follows: 65% Federal (\$50,050,000), 24.5% DWR (\$18,865,000), and 10.5% SBFCA (\$8,085,000); and

D. SBFCA will be credited for the costs associated with this agreement as part of SBFCA's cost share for the project; and

E. Contractor represents that it possesses the qualifications, experience, and facilities necessary to perform the services contemplated herein and has proposed to provide those services; and

F. SBFCA desires to retain Contractor to perform the proposed services.

### **AGREEMENT:**

SBFCA and Contractor agree as follows:

1. Scope of Services. Contractor shall provide the services as described in Exhibit 'A', during the term described in Section 2, and for the compensation described in Section 3.

2. Term of Agreement. Contractor shall begin performance of its services as of the date of execution of this Agreement and shall continue until the project is completed as agreed or the Agreement is terminated pursuant to the provisions of Section 17, below.

3. Compensation.

A. The compensation to be paid by SBFCA to Contractor for services shall be as described in Exhibit 'A', but not to exceed \$17,640. Contractor shall provide SBFCA with an itemized statement of expenses by category of expense as part of each monthly billing statement.

B. SBFCA shall make no payment to Contractor 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 21 of this Agreement.

C. Contractor agrees to testify at SBFCA's request if litigation is brought against SBFCA in connection with Contractor's work. Unless the action is brought by Contractor or is based upon Contractor's negligence or intentional tortious conduct, SBFCA will compensate Contractor for the testimony at Contractor's hourly rate as provided in Exhibit 'A'.

4. Invoice, Payments, Notices. Contractor shall submit monthly invoices for services rendered during the preceding month and expenses incurred. SBFCA shall pay invoices that are undisputed within thirty (30) days of receipt and approval. The parties agree to exercise good faith and diligence in the resolution of any disputed invoice amounts.

All invoices, notices, or other documents concerning this Agreement shall be served as follows:

**If to SBFCA:**

Sutter Butte Flood Control Agency  
Michael Bessette, Executive Director  
Post Office Box M  
Yuba City, CA 95992

**If to Contractor:**

Triangle Properties, Inc.  
Barry Baba  
Post Office Box 15002  
Sacramento, CA 95851

5. Independent Contractor.

A. Contractor (including Contractor's employees) is an independent contractor and no relationship of employer-employee exists between the parties. SBFCA is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Agreement, and as an independent contractor, Contractor indemnifies and holds SBFCA harmless

from any and all claims that may be made against SBFCA based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.

B. Contractor, in the performance of its obligation hereunder, is subject to the control or direction of SBFCA as to the designation of tasks to be performed and the results to be accomplished but not as to the means and methods used by Contractor for accomplishing the results.

C. If, in the performance of this Agreement, any third persons are employed by Contractor, such person shall be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of employment or requirements of law, shall be determined by Contractor.

D. As an independent contractor and not an employee of SBFCA, Contractor shall have no right to act on behalf of SBFCA as its agent or have the authority to bind SBFCA to any obligation.

6. Authority of Contractor. It is understood that Contractor is to provide information, research, advice, recommendations, and consultation services to SBFCA. Contractor shall possess no authority with respect to any SBFCA decision. SBFCA is responsible for and shall make all governmental decisions related to work of Contractor.

7. Subcontracting and Assignment. Contractor shall not subcontract or assign any portion of the work to be performed under this agreement without the prior written consent of SBFCA.

8. Ownership of Work Product. All technical data, evaluations, plans, specifications, reports, documents, or other work products of Contractor shall become the property of SBFCA and shall be delivered to SBFCA upon completion of services. Contractor may retain copies for its files and internal use, however, Contractor shall not disclose any of the work product of this Agreement to any third party, person, or entity, without prior written consent of SBFCA. Upon reasonable notice, SBFCA representatives shall have access to the work for purposes of inspecting same and determining that the work is being performed in accordance with the terms of the Agreement. Contractor may not publish information obtained in connection with services rendered under this Agreement.

9. Indemnification. Contractor shall indemnify, defend, and hold harmless SBFCA, its officers, employees, and agents from and against any and all claims, loss, costs, expenses (including, but not limited to, attorney's fees and costs incurred by SBFCA), injury, or damage arising out of the negligence, recklessness, or willful misconduct of Contractor, its employees, officers, or agents, or any of its contractors or subcontractors used in performance of this Agreement.

10. Insurance. Without limiting Contractor's indemnification of SBFCA, Contractor shall provide and maintain at its own expense during the term of this Agreement the following insurance coverages and provisions:

A. Prior to commencement of this Agreement, Contractor shall provide certificates of insurance certifying that all coverage as required herein has been obtained and remains in force for the period required by this Agreement. Any required endorsement shall be attached to the Certificate or certified as issued on the Certificate. All Certificates of Insurance shall be sent to the following address:

Sutter Butte Flood Control Agency  
Terra Yaney, Administrative Analyst  
Post Office Box M  
Yuba City, CA 95992

Contractor shall not proceed with the work under this Agreement until it has obtained all insurance required and Certificates of Insurance have been provided to SBFCA. All Certificates of Insurance shall provide that SBFCA shall receive thirty (30) days advance written notice of cancellation or major modification before the expiration date.

B. Should, consistent with the terms of this Agreement, any of the work under this Agreement be subcontracted, Contractor shall require each of its subcontractors to provide the insurance required herein, or Contractor may name the subcontractors as additional insureds under its own policies.

C. Insurance Required:

(i) Comprehensive General Liability Insurance or Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of not less than one million dollars (\$1,000,000) each occurrence and written on an occurrence basis. If the insurance has a General Aggregate it must be no less than two million dollars (\$2,000,000). Each type of insurance shall include coverage for premises/operations, products/completed operations, contractual liability, broad form property damage, and personal injury.

For either type of general liability insurance, coverage shall include the following endorsements:

a. Additional Insured Endorsement: Insurance afforded by this policy shall also apply to SBFCA, and members of the Board of Directors of SBFCA, the officers, agents and employees of SBFCA, individually and collectively, as additional insureds.

b. Primary Insurance Endorsement: Insurance afforded by the Additional Insured Endorsement shall apply as primary insurance, and other insurance maintained by SBFCA, its officers, agents and employees shall be excess only and not contributing with insurance provided under this policy.

c. Notice of Cancellation or Change of Coverage Endorsement:

Insurance provided by this policy shall not be cancelled or changed so as to no longer meet the specified SBFCA insurance requirements without thirty (30) days prior written notice of such cancellation or change being delivered to SBFCA at the address as specified above.

d. Severability of Interest Endorsement: Insurance provided by this policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit brought, except with respect to the policy's limits of liability.

(ii) Automobile Liability Insurance for bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned, and hired vehicles.

(iii) Workers' Compensation and Employer's Liability Insurance with statutory California Workers' Compensation coverage and Employer's Liability coverage of not less than one million dollars (\$1,000,000) per occurrence for all employees engaged in services or operations under this Agreement. Coverage shall include an endorsement whereby the insurer agrees to waive all rights of subrogation against SBFCA, Board of Directors, and officers, officials, employees and volunteers of SBFCA for losses arising from work performed by the Contractor under this Agreement.

(iv) Professional Errors and Omissions Liability Insurance in an amount not less than one million dollars (\$1,000,000) and written on an occurrence basis. If coverage is written on a claims made basis, such policy shall provide that:

a. The policy retroactive date coincides with or precedes Contractor's start of work (including subsequent policies purchased as renewals or replacements).

b. If the policy is terminated for any reason during the term of this Agreement, Contractor shall either purchase a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy, or shall purchase an extended reporting provision of at least two years to report claims arising from work performed in connection with this Agreement and a replacement policy with a retroactive date coinciding with or preceding the expiration date of the terminating policy.

c. If this Agreement is terminated or not renewed, Contractor shall maintain the policy in effect on the date of termination or non-renewal for a period of not less than two years therefrom. If that policy is terminated for any reason during the two year period, Contractor shall purchase an extended reporting provision at least covering the balance of the two year period to report claims arising from work performed in connection with this Agreement or a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy.

11. Professional Services: The work shall be performed and completed in a professional manner. All services shall be performed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Contractor and any subcontractors are engaged.

12. Responsibility of Contractor.

A. Contractor shall be solely responsible for the quality and accuracy of its work and the work of its Contractors performed in connection with this Agreement. Any review, approval, or concurrence therewith by SBFCA shall not be deemed to constitute acceptance or waiver by SBFCA of any error or omission as to such work.

B. Contractor shall coordinate the activities of all sub-Contractors and is responsible to ensure that all work products are consistent with one another to produce a unified, workable, and acceptable whole functional product.

C. SBFCA shall promptly notify Contractor of any defect in Contractor's performance.

13. Audit. The following audit requirements apply from the effective date of this Agreement until three years after SBFCA's final payment:

A. Contractor shall allow SBFCA's authorized representatives' reasonable access during normal business hours to inspect, audit, and copy Contractor's records as needed to evaluate and verify any invoices, payments, and claims that Contractor submits to SBFCA or that any payee of Contractor submits to Contractor in connection with this Agreement. 'Records' includes, but is not limited to, correspondence, accounting records, sub-Contractor files, change order files, and any other supporting evidence relevant to the invoices, payments, or claims.

B. SBFCA and Contractor shall be subject to the examination and audit of the State Auditor, at the request of SBFCA or as part of any audit of SBFCA. Such examinations and audits shall be confined to matters connected with the performance of this Agreement including but not limited to administration costs.

C. The provisions of Section 13 shall survive the expiration or termination of this Agreement.

14. Publication of Documents and Data. Contractor shall not publish or disclose to any third party documents or data without the prior written consent of SBFCA. However, submission or distribution to meet official regulatory requirements, or for other purposes authorized by this agreement, shall not be construed as publication in derogation of the rights of either SBFCA or Contractor.

15. Interest of Contractor. Contractor covenants that it has, at the time of the execution of this Agreement, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner with the performance of services required to be performed

pursuant to this Agreement. Contractor further covenants that in the performance of this work, no person having any such interest shall be employed.

16. Employment Practices. Contractor, by execution of this Agreement, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability, or marital status in its employment practices.

17. Termination. Either party shall have the right to terminate this Agreement at any time by serving upon the other party 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 in the United States mail, postage prepaid and addressed to SBFCA or Contractor at the address indicated in Section 4. In the event of termination:

A. Contractor shall immediately cease rendering services pursuant to this Agreement.

B. Contractor shall deliver to SBFCA copies of all writings prepared pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, drawings, blueprints, printing, photostating, photographing, electronic messages or other documents and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof. All materials provided to SBFCA upon termination become the property of SBFCA.

C. Contractor shall be paid for any required services satisfactorily completed prior to the date of termination less compensation, if any, to SBFCA for damages suffered as a result of Contractor's failure to comply with the terms of this agreement.

18. Jurisdiction. This agreement shall be administered and interpreted under the laws of the State of California.

19. Conflict with Laws or Regulations/Severability. This agreement is subject to all applicable laws and regulations. If any provision of this agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the agreement to either party is lost, the agreement may be terminated at the option of the affected party. In all other cases, the remainder of the agreement shall continue in full force and effect.

20. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.



21. Amendments. Any amendment to this Agreement must be in writing and executed by both parties.

22. Entire Agreement. This Agreement, all exhibits attached hereto, all other terms or provisions incorporated herein by reference, and any notice to proceed issued in accordance with the terms hereof constitute the entire Agreement and understanding between SBFCA and Contractor as to the subject matter hereof and supersedes all prior oral and written agreements.

23. Successors and Assigns. This agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

24. Construction. This agreement reflects the contributions of both parties and accordingly the provisions of California Civil Code section 1654 shall not apply in interpreting this Agreement.

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

SUTTER BUTTE FLOOD CONTROL AGENCY

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Executive Director

Contractor

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

SBFCA General Counsel



## **TRIANGLE PROPERTIES, INC.**

*License No. 1019754*

### **Scope and Cost Estimate**

#### **Sutter Butte Flood Control Agency**

#### **2022 Elderberry Transplant - STA 417 and STA 418**

This scope of work and cost estimate is prepared by Triangle Properties, Inc. (Triangle) for the Sutter Butte Flood Control Agency (SBFCA) and removal/transplanting, maintenance, and monitoring of two (2) elderberry shrubs located along the west levee of the Feather River at STA 417 and STA 418. Transplanting shall occur during the dormant season for elderberry shrubs – between 15 November and 15 December 2022. Both shrubs shall be planted at a predetermined area with the Star Bend VELB Mitigation Site. Proposed transplanting work includes pruning shrubs, excavating root ball, wrapping root ball in burlap, relocating and planting shrubs at Star Bend, and backfilling previously excavated shrub locations. Maintenance of shrubs will be performed between April and October 2023 to 2025 and include weed maintenance around transplanted shrubs and providing supplemental irrigation during the first 3 years. Monitoring shall be performed annually for 5 years and include an assessment of each transplanted shrub, including survival, overall health, and VELB use (exit holes). A summary report for each shrub shall be prepared annually by December 31st of each monitoring year.

#### **Assumptions**

- Access to elderberry shrubs will be available via levee road and/or agricultural field road.
- Triangle will check to ensure no underground utilities are present prior to excavation (USA North 811).
- Triangle will provide a qualified biologist to oversee all pruning and transplanting.
- Elderberries to be transplanted shall be pruned approximately 5 to 6 feet tall, or half its height, whichever is greater.
- This scope does not provide any guarantees to the success of the transplanted shrub.
- Maintenance and watering of transplanted shrubs will be performed for 3 years (between 2023 and 2025). Supplemental irrigation shall be scheduled to occur once weekly between April and October in 2023, twice monthly in 2024, and once monthly in 2025. Additional irrigation may be applied during winter months should winter drought conditions persist. The source of irrigation will utilize the existing well owned and maintained by Levee District One near the center of the site.
- All irrigation materials will be removed at the end of the proposed 3-year maintenance period.

---

#### **Task 1 Site Preparation & Pruning**

**\$810.00**

(1) Identify 2 suitable transplant location sites at Star Bend; (2) Coordinate excavation sites with USA North 811; and (3) Prune elderberry shrubs to be relocated.

**Task 2**      **Elderberry Shrub Relocation - 2 Shrubs**      **\$7,890.00**

(1) Pre-water elderberry shrubs immediately prior to excavation; (2) Transport excavated material and stockpile adjacent to elderberries to be relocated; (3) Excavate root ball of shrubs and wrap in burlap; (4) Transplant shrubs to Star Bend; (5) Backfill fill around shrubs and water thoroughly; and (6) Backfill previously excavated shrub locations.

**Task 3**      **General Maintenance & Watering (3 Years)**      **\$6,310.00**

(1) Extend/reconfigure irrigation to transplanted shrubs; (2) Operate irrigation system and water transplants once weekly in Year 1, twice monthly in Year 2, and once monthly in Year 3; (3) Check emitters to ensure proper operation during watering events; and (4) Hand-pull weeds around individual plantings.

Year 1 Irrigation & Maintenance	\$2,760.00
Year 2 Irrigation & Maintenance	\$2,080.00
Year 3 Irrigation & Maintenance	\$1,470.00

**Task 4**      **Annual Monitoring & Reporting (5 Years)**      **\$2,630.00**

(1) Collect field monitoring data for plant survival/vigor, vegetative cover, invasive weed presence, and species richness; (2) Prepare draft annual monitoring report and submit to

Year 1 Annual Monitoring & Reporting	\$500.00
Year 2 Annual Monitoring & Reporting	\$510.00
Year 3 Annual Monitoring & Reporting	\$520.00
Year 4 Annual Monitoring & Reporting	\$540.00
Year 5 Annual Monitoring & Reporting	\$560.00

---

**TOTAL**

<b><u>\$17,640.00</u></b>
---------------------------



# Sutter Butte Flood Control Agency

*A Partnership for Flood Safety*

October 12, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette, Executive Director  
Seth Wurzel, Budget Manager

**SUBJECT:** Authorization of the Executive Director to Execute Amendment No. 1 to the Funding and Services Agreement with the Feather River West Levee Financing Authority

---

## Recommendation

The Board of Directors review, approve and delegate Authority to the Executive Director to execute Amendment No. 1 to the Funding and Services Agreement (FSA) with Feather River West Levee Financing Authority (FRWLFA) to incorporate a limit to the funding amount provided by SBFCA and formalize the terms for the repayment of funds back to SBFCA by FRWLFA for services provided under the agreement.

## Discussion

In July 2020, the SBFCA Board approved the FSA with FRWLFA for the provision of administrative and assessment district formation services. The FSA provided that SBFCA would directly contract for and fund all costs associated with an agreed upon scope of work related to the administration of FRWLFA and the formation of an assessment district to fund levee operations and maintenance services. Further, the agreement provided that if the formation of the assessment district was successful, FRWLFA would reimburse SBFCA for the cost of services provided under the agreement over time. However, the structure and terms of the reimbursement was not specified in the FSA because it was recognized that the financial impacts of repayment would be a function of the amount of the assessment subject to approval by property owners. Now that the FRWLFA Operations and Maintenance Assessment District has been formed, it is appropriate for SBFCA and FRWLFA to address the terms of the reimbursement through a proposed amendment to the FSA.

However, the approach for the implementation of FRWLFA's assessment calls for a delay in the first year's levy of the assessment while LD 1 addresses the annexation and assumption of responsibility for the MA 3 levee which includes an associated LAFCO annexation process. As a result, FRWLFA still needs support and funding from SBFCA to administer the agency and the assessment district including the preparation of the first year's assessment roll and submission to Sutter County. The proposed amendment to the FSA addresses the need for additional service to FRWLFA as well as the terms for reimbursement to SBFCA.

At its August 2022 Board meeting, the FRWLFA Board of Directors discussed and approved the attached Amendment No. 1 to the FSA. Amendment No. 1 addresses the above outlined items through:

1. the incorporation of an updated limit to the total costs of the service to be provided by SBFCA to FRWLFA and to provide for an additional year of administrative services and funding; and,
2. the incorporation of terms for repayment of the cost of services back to SBFCA.

The attached Amendment No. 1 to the agreement sets a limit of \$750,000 for services to FRWLFA and incorporates a provision for equal annual payments back to SBFCA over 15 years starting in June 2024. If the total cost of the services reaches the limit, then the cost to FRWLFA starting in 2024 would be \$50,000 per year. The annual budget for FRWLFA's Assessment District included a provision for payments to SBFCA of

approximately \$65,000 per year. Amendment No. 1 is consistent and well within this budget assumption providing FRWLFA with some flexibility and contingency for the repayment.

A total limit of \$750,000, when taking into consideration of the expended budget to date (approximately \$650,000), provides sufficient additional budget to allow SBFCA to continue to provide services at its current level to FRWLFA through June 2024. By June 2024, under the current schedule for the MA 3 annexation process and the commencement of the levy of the assessment, FRWLFA would have received one year of funding. The goal of SBFCA's support between now and June 2024 is to facilitate the establishment of regular processes and procedures that can be replicated and leveraged into the future on an annual recurring basis with minimal effort and burden to FRWLFA.

### **Fiscal Impact Analysis**

The current total approved budget associated with FRWLFA services to be provided by SBFCA reflected within the Board Approved Fiscal Year 2020-24 Budget and subsequent authorizations is approximately \$660,000. To provide for the full obligation of funding for services provided to FRWLFA of \$750,000 through June 2024, the Board approved budget for services would need to be increased by \$140,000. As such, staff recommends that as part of the Board's action approving Amendment No. 1 to the FSA, that the total budgeted expenditures for accounts 731-99-7020-67600 through 67604 be increased by \$140,000 to a total \$750,000 through June 2024. Sufficient fund balance exists within fund 731 to fund these additional costs.

There continues to be opportunities to utilize grant funding under DWR's Regional Flood Management Planning program which offer the opportunity to further defray and reduce the actual expenses under the 731-99- 7020 FRWLFA program. Finally, because the FSA provides for repayment of all costs over time back to SBFCA, the fiscal impact to SBFCA is not permanent.

The Board's approval of the recommended action would result in a temporary negative fiscal impact to SBFCA of \$140,000. However, because SBFCA would ultimately be repaid over time for all FRWLFA related service costs, including the repayment of the previously budgeted \$660,000, the ultimately net Fiscal Impact to the Agency would be \$0 and further, relative to the current approved budget, positive by \$660,000.

### **Attachments**

1. AMENDMENT NO. 1 TO THE FUNDING AND SERVICES AGREEMENT BETWEEN THE FEATHER RIVER WEST LEVEE FINANCING AUTHORITY AND SUTTER BUTTE FLOOD CONTROL AGENCY

**AMENDMENT NO. 1 TO THE  
FUNDING AND SERVICES AGREEMENT  
BETWEEN THE FEATHER RIVER WEST LEVEE FINANCING AUTHORITY AND  
SUTTER BUTTE FLOOD CONTROL AGENCY**

This Amendment No. 1 (“**Amendment**”) to the Funding and Services Agreement between the Feather River West Levee Financing Authority (“**FRWLFA**”) and Sutter Butte Flood Control Agency (“**SBFCA**”) effective July 8, 2020 (“**Agreement**”) is entered into effective as of October 12, 2022 (the “**Effective Date**”).

1. Recitals. The following recitals are true and correct and shall be viewed as the context for this Amendment:

a. FRWLFA and SBFCA has been working together to advance the formation of a new benefit assessment district to fund the ongoing operations and maintenance of the Levee District 1 and Levee District 9 levees.

b. FRWLFA was successful in forming the contemplated assessment district in July 2022.

c. Section 3 of the Agreement states that upon successful formation of the assessment district, FRWLFA and the SBFCA will enter into a new agreement specifying the schedule and final amount of reimbursement for the services provided by SBFCA to FRWLFA

d. Section 5 of the Agreement states that any modification of the Agreement will be effective only if in writing and signed by the Party to be bound; and

- e. The Parties wish to enter into an amendment to the Agreement for the purpose of:
- i. Specifying a limit to the final amount of costs to be reimbursed to SBFCA for the services provided; and,
  - ii. Specifying the schedule for the repayment to SBFCA for the costs of services provided.

In consideration of the mutual promises, covenants, and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

2. Limit to Cost of Services and Final Amount. The total limit to the costs to be provided by SBFCA to FRWLFA for the Services as described Exhibit 1 to the Agreement is to be \$750,000. The final amount of costs will be determined by SBFCA and provided in writing to FRWLFA within 45 days after FRWLFA’s written notice to SBFCA to cease providing services under this Agreement (“Final Amount”). Both parties expect, at the time of execution of this amendment, that FRWLFA will provide its written notice to SBFCA to cease providing services sometime in June 2024.

3. Reimbursement. FRWLFA agrees to reimburse SBFCA for the Final Amount of cost for the Services provided to FRWLFA in 15 equal annual payments once per year. The first payment will commence 30 days after SBFCA's written notice of the Final Amount is provided pursuant to Section 2 above. The 14 remaining annual payments will occur annually each June thereafter.

4. All Other Terms. All other terms and conditions contained in the Agreement shall remain in full force and effect.

**Feather River West Levee Financing Authority**

---

Charlie Hoppin, Board President

**Sutter Butte Flood Control Agency**

---

Michael Bessette, Executive Director



# Sutter Butte Flood Control Agency

*A Partnership for Flood Safety*

October 12, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette, Executive Director  
Seth Wurzel, Budget Manager

**SUBJECT:** Receive and File Monthly Financial Reports (August 2022)

---

## **Recommendation**

Staff recommends that the Board receive and file the August 2022 Financial Reports and receive staff's monthly financial report update.

## **Background**

Staff will provide a brief presentation of SBFCA's current financial position and financial activities at the Board meeting and will be prepared to answer any questions. For this report, staff is presenting financial information for August 2022. Staff's oral presentation will cover the financial activities of the Agency through August 2022.

The monthly financial reports include the following information:

- Current Working Capital Position: The reports provide an update as to the liquidity of the Agency and ability to cover current obligations. This information is presented within the monthly financial reports prepared in coordination with Yuba City finance staff. The current and past months' financial reports reflects the financial information as of August 2022. The information presented is compared to the Final Amended Final Budget for 2021/22 and 2022/23.

## **Fiscal Impact**

This is an informational item with no fiscal impact.

## **Attachments**

*(Note – The Monthly Financial Report is not available prior to the finalization of the Agenda Packet – the Monthly Financial Report will be provided and made available prior to the start of the Board Meeting)*

Yuba City Finance Department Memorandum, October 12, 2022 re: Monthly Financial Report: August 2022





# Sutter Butte Flood Control Agency

*A Partnership for Flood Safety*

October 12, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette – Executive Director

**SUBJECT:** Receive and File Program/Project Update Report

---

## Recommendation

Receive and file the October 2022 Program/Project update report and receive staff's monthly Program/Project presentation.

## Background

The purpose of this report is to provide a regular, monthly update on SBFCA program and project activities:

### *Feather River Regional Flood Management Planning*

The RFMP team is coordinating with DWR on the next funding request for the Phase 4 planning effort. SBFCA will be the lead agency for the DWR funding agreement for this next phase of work. SBFCA's primary interests in the regional planning effort are; advance OMRR&R activities for Cherokee Canal, advance the multi-benefit OWA Robinson's Riffle project, advance critical repairs along the Sutter Bypass east levee, explore opportunities to fund construction of the Tudor Flood Risk Reduction and the Yuba City Sediment Removal Projects, participate in FEMA National Flood Insurance Program reform, initiate the LAFCO process to facilitate the annexation of MA3 by LD1, and identify and implement other regional flood risk reduction projects. Staff has also been actively participating in the Oroville Dam Citizens Advisory Commission meetings for discussing issues and sharing information related to the Oroville Dam facilities and potential downstream impacts. A meeting with DWR to discuss inundation mapping was held on September 29 at SBFCA's office.

### *Oroville Wildlife Area (OWA) Flood Stage Reduction Project*

SBFCA received notice from DWR that its grant proposal was accepted and the agency will be awarded a \$1.1M planning grant from DWR's Floodplain Management, Protection, and Risk Awareness Grant Program. We anticipate receiving the funding agreement in the next several months and we will soon initiate the second phase of the Oroville Wildlife Area Flood Stage Reduction and Ecosystem Restoration program. On other related funding pursuits, SBFCA staff is coordinating with the Wildlife Conservation Board (WCB) to fund the proposed improvements at the Thermalito Afterbay boat ramp and campground. A second grant opportunity, also with the WCB, will be submitted in the next month to fund the design and permitting of the second phase of OWA program. SBFCA staff also held a meeting on September 29 with the Deputy Secretary of the California Natural Resources Agency to provide a briefing on the OWA project and to get insight on potential funding opportunities.

The project team continues to coordinate closely with CDFW and WCB on the documentation for closing out the Unit D project, including work on post-construction monitoring activities. Closeout for both remaining WCB grants will be completed soon. SBFCA staff also continues to coordinate with River Partners regarding their ongoing work on the invasive species removal and the new vegetation planting efforts, which is scheduled to be complete in spring of 2023.

### *Sutter Bypass Critical Repairs*

Staff continues to coordinate funding through DWR for Sutter Bypass Critical Repairs. We received a draft Funding Agreement to initiate design and permitting work, which was presented to the Board last month for approval.

Once the final funding agreement is received the Executive Director will sign it and the project will begin. In addition, staff is currently developing a Request for Proposals (RFP) to bring on an engineering design team for the project. At the same time, we are utilizing the approved contract amendments to the Tudor Small Community Study and the Sutter Small Community study to advance our levee investigations (both geotechnical and environmental). Through these contract amendments staff is advancing the work needed to conduct additional geotechnical soil borings which we hope to complete this year pending Section 408 approval by the US Army Corps of Engineers.

#### *Tudor Flood Risk Reduction Project (lower Feather River West Levee)*

SBFCA's design and environmental teams continue their work on the levee repair project. A team meeting has been scheduled in October to review the initial draft design plans, and a pre-application meeting with the Central Valley Flood Protection Board and USACE will be scheduled for this winter when a 35% design level package can be presented. It is anticipated that the design and permitting effort will take approximately 2 years to complete with construction scheduled to begin in 2025.

#### *Proposition 68 Sediment Management Project*

Staff is pursuing additional funding opportunities in order to remove additional sediment from the confluence of the Feather and Yuba Rivers (Phase 2 work). The grant application submitted to CDFW last March was not approved for funding. Staff has also coordinated with Senator Nielson and Assemblyman Gallagher to identify and secure \$10 million in directed state General Fund funding for the project. This effort has not yet been successful but we continue to pursue this line of funding. Staff also submitted a pre-application to the Wildlife Conservation Board (WCB) in June and has been invited to submit a full application, which staff is currently preparing. In addition, a meeting with the Natural Resources Agency was held on September 29<sup>th</sup> to discuss possible funding opportunities. Existing environmental permits acquired for the phase 1 work would cover this additional Phase 2 work and are valid through 2026. SBFCA staff also continues to coordinate with Yuba County staff to remove sediment at the Star Bend boat ramp on the east side of the Feather River.

#### *Sutter Basin Flood Risk Management Project (federal project)*

On September 28<sup>th</sup> SBFCA's Executive Director met with the new USACE Sacramento District Commander Colonel Chad Caldwell. In addition to the standard meet and greet, important topics such as the closeout of the Sutter Basin Flood Risk Management Project and upcoming 408 regulatory reviews for levee repair projects were discussed. In addition to the Colonel, key USACE division chiefs and key staff members were present in the meeting and provided helpful information. SBFCA staff continues to participate in frequent USACE project management team and construction coordination meetings in order to close out the project and is working with USACE on project crediting reports and other remaining project closeout items. The crediting reports are needed to perfect the credit established by SBFCA by advancing the levee improvements before the federal government appropriated funds for the project. SBFCA's Executive Director will meet with the Executive Director of the San Joaquin Area Flood Control Agency (SJAFC) on October 12 to advance discussions regarding the potential purchase (by SJAFC) of excess credits that SBFCA currently holds.

#### *Engineering Design*

The design team completed their work on the documents for the Second Street vegetation removal and fence installation project and put the job out to bid. Bids were opened on August 25 and the Board awarded the construction contract on September 14<sup>th</sup>. The project will begin construction on October 3<sup>rd</sup> and will take approximately 6 weeks to complete. The design team continues to process the encroachment permits for facilities (pipes, electrical, levee ramps, etc.) modified by the Feather River West Levee Project (FRWLP). Those permits are processed through the Central Valley Flood Protection Board after approval by the Corps of Engineers. SBFCA has been coordinating with USACE and CVFPB regarding the USACE's latest levee inspection which they completed last year. It is anticipated that the draft inspection results will be available this fall. Lastly, the design team has successfully completed the USACE review and approval of the Operation and Maintenance manuals for the FRWLP levee improvements (3 separate manuals). These manuals were accepted by the Central Valley Flood Protection Board (CVFPB) at their board meeting last month and will be transferred the respective Local Levee Maintaining Agencies (Levee Districts 1&9, and State Maintenance Areas 7&16) for maintenance responsibility for the completed levee improvements.

### *Environmental Documentation/Permitting/Monitoring/Mitigation*

Work on the Star Bend and Mathews Property environmental mitigation sites continues. SBFCA staff and the Sacramento Valley Conservancy team continue to work on completing all the associated land transfers, easement establishments, regulatory reviews, and other associated activities required to establish and manage the mitigation sites in perpetuity. The revised draft management plan and associated easement documents were sent to California Department of Fish and Wildlife (CDFW) and the US Fish & Wildlife Service for their respective reviews and staff continues to coordinate toward final approval. Coordination calls have been held with the agencies to help closeout this process. Staff continues to coordinate with Levee District 1 on the required land transfer and ongoing maintenance cost reimbursement at Star Bend.

### *Right of Way*

The Right of Way team updated the closeout schedule for right of way transfer to the State. Coordination with PG&E on the easements SBFCA was required to acquire for their relocated facilities is also taking place. DWR will cost share in these property easement acquisitions through SBFCA's UFRF Funding Agreement. The SBFCA right-of-way team and DWR (real estate branch and geodetics group) continue to conduct monthly coordination meetings to streamline the real estate acquisition reimbursement process and ultimate transfer of property to the State by the end of this year. DWR is making good progress on reviewing and approving the Final Accounting Packages, which allow SBFCA to be reimbursed by DWR for land acquisitions.

### *Regional Development Impact Fee*

At SBFCA's August 2021 Board meeting the board unanimously approved the development of a Regional Development Impact Fee (DIF) Program to help fund implementation of the SBFCA Strategic Plan and directed staff to proceed on completing an AB1600 compliant Nexus Study. The DIF would be imposed on new development within the Sutter-Butte Basin, collected by the land-use agency members and the funds would be remitted to SBFCA to construct flood risk reduction projects. Staff prepared drafts of the Nexus Study and Collection Agreement and is coordinating review of the draft documents with member agency staff prior to presentation to SBFCA and the land-use agencies' Councils/Boards for approval. Coordination meetings with staff from Butte County, Biggs, Gridley, Yuba City, and Sutter County have recently been held.

### *Feather River West Levee Financing Authority (FRWLFA)*

The Feather River West Levee Financing Authority (FRWLFA) recently announced that property owners in Live Oak, Yuba City, and unincorporated Sutter County approved an annual levee operations and maintenance assessment. The assessment will bridge the revenue shortfall necessary to operate and maintain 27 miles of west Feather River levee in Sutter County. The new assessment will appear on property tax bills in the fall 2023 after Levee District 1 annexes State Maintenance Area 3. At that time, the assessment will replace existing Levee District 1 and Maintenance Area 3 assessments for those property owners who pay them. The FRWLFA Board will consider several items at its meeting this month including an amendment to extend the services agreement with SBFCA in order to provide administrative services an additional 18 months (until FRWLFA is expected to receive assessment revenues in January 2024) and to formalize the time frame for repayment of funded services. It is expected that this amendment will come before the SBFCA Board in October 2022.

### *Sutter County FEMA Accreditation*

SBFCA has finished with incorporating the updates to the post-FRWLP 100-year floodplain maps and continues to coordinate with City and County staff on the upcoming FEMA accreditation package submittal. SBFCA's design team has prepared an initial draft of the FEMA accreditation package and SBFCA's Independent Panel of Experts (IPE) just provided comments on the draft package. The project team is currently reviewing and addressing the IPE's comments. It is anticipated that SBFCA, in coordination with Sutter County and Yuba City, will submit the 100-year accreditation package for the southern Feather River west levee reaches to FEMA in late 2022 following the closeout of the Federal project. Following submittal, it is anticipated that the review and processing period with FEMA will take approximately 3 to 5 years before the proposed mapping changes become effective. SBFCA staff has also been in contact with Yuba County staff and their consultants to help coordinate the ongoing hydraulic modeling efforts and to maintain consistency with recent levee work performed by both SBFCA and Three Rivers Levee Improvement Authority.

## State & Local Funding and Coordination

### EIP / UFRR Agreement

SBFCA staff continues to work with DWR to process additional payments and reimbursement requests for various items of work. The last payment received and reported to the Board was in the amount of \$2,060,217 on June 18, 2022 for costs incurred during the 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup> Quarters. SBFCA has since received \$2,499,794 for the Emergency Work Retention Release. SBFCA is currently requesting four payments totaling \$3,911,240 from DWR including FAPS payments for ROW and reimbursements of costs incurred during the 31<sup>st</sup> Quarter of the Project. Additional Requests for a Partial Closeout Retention Release and 33<sup>rd</sup> through 35<sup>th</sup> (covering costs accrued through June 2022) Quarter Reimbursement Requests are forthcoming. Additional final closeout work is also underway for a January 2023 closeout deadline.

The table below presents the funding status of the Agency's UFRR Grant.

### FRWLP DWR EIP/UFRR Funding

	<u>Agreement</u>		
	<u>Design</u>	<u>Construction</u>	<u>Total</u>
Agreement No.	#4600009480	#4600010296	
Capital Outlay Amount	\$9,000,000	\$56,780,000	\$65,780,000
Amendment 1	\$0 [1]	\$0 [2]	\$0
Amendment 2	\$14,869,280 [3]	\$57,803,791 [4]	\$72,673,071
Amendment 3	\$0	\$43,861,587	\$43,861,587
Amendment 4	\$0	\$40,828,931	\$40,828,931
Amendment 5	-\$2,529,451 [5]	\$31,730,451 [5]	\$29,201,000
Amendment 6	\$0	\$0 [1]	\$0
Amendment 7	\$0	\$3,744,017 [6]	\$3,744,017
<b>TOTAL FUNDING</b>	<b>\$21,339,829</b>	<b>\$234,748,777</b>	<b>\$252,344,589</b>
Receipts			
Payments to Date	\$21,339,829	\$224,307,701	\$247,079,499
Pending	\$0	\$3,911,240	\$3,911,240
<b>TOTAL PAYMENTS</b>	<b>\$21,339,829</b>	<b>\$224,307,701</b>	<b>\$247,079,499</b>
<b>GRANT BALANCE</b>	<b>\$0</b>	<b>\$5,097,867</b>	<b>\$5,097,867</b>

- [1] Amendment 1 to the Design Agreement and Amendment 6 to the Construction Agreement amended the terms of the agreements (time extensions only).
- [2] Amendment 1 to the Construction Agreement amended the scope agreement to include the closure of gaps (at reaches 13 and 24) in Area C.
- [3] Amendment 2 to the Design Agreement increased the cost share from 50% to 76% State Cost Share and increased the State funding limit.
- [4] Amendment 2 to the Construction Agreement increased the scope to include Areas B & D2A and increased the State funding limit. It also incorporated many of the guideline provisions of the UFRR Program.
- [5] Reflects pending transfer of remaining design funding to the CFA and additional funding from DWR for emergency work (\$25,000,000 for R 14 – 16 and \$4,201,000 for emergency storm response).
- [6] Additional funding for other scope items (OWA) included in Amendment 7 are included in the above analysis.

### OWA (CDFW & WCB) Grant Agreements

SBFCA staff is working with the WCB and CDFW to process payments for the ongoing OWA work. Recent payments were received for all of the WCB grants in the amount of \$7,358,542 to date and for the CDFW Berm, Canal & Bridges grant in the amount of \$5,453,161 through the 9<sup>th</sup> Quarter, with \$54,444 for the 10<sup>th</sup> Quarters submitted and pending payment. Payments on the CDFW Veg Planting grant for the first through fifth quarters were received in the sum amount of \$756,367 with \$301,805 currently pending for the 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> Quarters. A 9<sup>th</sup> Quarter package is currently being formulated with submittal this coming month. SBFCA also presently has \$0 in pending

payments due from all additional WCB packages that were recently resubmitted with modifications and updates at WCB's request.

The tables below present the funding status of the Agency's WCB Grants and CDFW Grants, respectively.

**OWA WCB Funding**

	<b><u>Agreement</u></b>				<b><u>Total</u></b>
Grant Agreement No.	WC-1736BC	WC-1842AP	WC-1729SS	WC-1554MM	
Grant Amount	\$5,070,900	\$1,542,100	\$484,000	\$792,522	\$7,889,522
<b>TOTAL FUNDING</b>	<b>\$5,070,900</b>	<b>\$1,542,100</b>	<b>\$484,000</b>	<b>\$792,522</b>	<b>\$7,889,522</b>
<i>Payment Received</i>					
PMT 1	\$768,688	\$1,011,120	\$484,000		\$2,263,808
PMT 2	\$1,593,679				\$1,593,679
PMT 3	\$17,073				\$17,073
PMT 4	\$53,946				\$53,946
PMT 5	\$1,558,060				\$1,558,060
PMT 6	\$139,225				\$139,225
PMT 7	\$12,169				\$12,169
PMT 8	\$9,228				\$9,228
PMT 9	\$23,227				\$23,227
PMT 10	\$23,143				\$23,143
PMT 11	\$10,840			\$101,525	\$112,365
PMT 12	\$354,531				
Retention Release	\$507,090				
Previous Amounts Sum [1]				\$690,997	\$690,997
<b>TOTAL PAYMENTS</b>	<b>\$5,070,900</b>	<b>\$1,011,120</b>	<b>\$484,000</b>	<b>\$792,522</b>	<b>\$7,358,542</b>
<b>GRANT BALANCE</b>	<b>\$0</b>	<b>\$530,980</b>	<b>\$0</b>	<b>\$0</b>	<b>\$530,980</b>

[1] Amount includes payments 1 thru 10 for WC-1554MM grant.

**OWA CDFW Funding**

	<b><u>Agreement</u></b>		<b><u>Total</u></b>
Grant Agreement No.	P1796010	Q1996015	
Grant Amount	\$5,648,836	\$1,716,847	\$7,365,683
<b>TOTAL FUNDING</b>	<b>\$5,648,836</b>	<b>\$1,716,847</b>	<b>\$7,365,683</b>
<i>Receipts</i>			
<i>Received</i>			
PMT 1	\$22,457	\$404,324	\$426,781
PMT 2	\$29,825	\$113,379	\$143,205
PMT 3a	\$3,253,250	\$56,180	\$3,309,430
PMT 3b	\$1,458,029		\$1,458,029
PMT 4	\$303,191	\$42,759	\$345,950
PMT 5	\$164,122	\$139,725	\$303,847
PMT 6	\$114,971		\$114,971
PMT 7	\$27,302		\$27,302
PMT 8	\$13,837		\$13,837
PMT 9	\$66,177		\$66,177

Pending			
PMT 6		\$102,987	\$102,987
PMT 7		\$112,641	\$112,641
PMT 8		\$86,177	\$86,177
PMT 10	\$54,444		\$54,444
<b>TOTAL PAYMENTS</b>	<b>\$5,507,606</b>	<b>\$1,058,172</b>	<b>\$6,565,778</b>
<b>GRANT BALANCE</b>	<b>\$141,230</b>	<b>\$658,675</b>	<b>\$799,905</b>

*CNRA Proposition 68 Sediment Management Project*

SBFCA staff finalized a grant with California Natural Resources Agency (CNRA) for Sediment Management along the Feather River in February 2020 for \$5,000,000. The first four invoice packages cover costs through March 31, 2021. All five packages have been submitted to CNRA for payment, with the first quarter through fourth quarter payments of \$658,922 received and the remaining three package for the 5<sup>th</sup> Quarter pending. Sixth, seventh and eighth invoice packages are being formulated and will be submitted in near time. Additional invoices for subsequent quarters will proceed in coming months. SBFCA has been in close contact with CNRA to process payments.

**CNR Sediment Removal Funding**

	<u>Agreement</u>	<u>Total</u>
Grant Agreement No.	R31866-0	
Grant Amount	\$5,000,000	\$5,000,000
<b>TOTAL FUNDING</b>	<b>\$5,000,000</b>	<b>\$5,000,000</b>
Receipts		
Received		
PMT 1	\$15,477	\$15,477
PMT 2	\$233,338	\$233,338
PMT 3	\$151,111	\$151,111
PMT 4	\$258,997	\$258,997
Pending		
PMT 5	\$114,351	\$114,351
<b>TOTAL PAYMENTS</b>	<b>\$773,273</b>	<b>\$773,273</b>
<b>GRANT BALANCE</b>	<b>\$4,226,727</b>	<b>\$4,226,727</b>

**Fiscal Impact:** This is an informational item only with no fiscal impact to SBFCA.