

# FEATHER RIVER WEST LEVEE FINANCING AUTHORITY

## Feather River West Levee Financing Authority

### Preliminary Engineer's Report Formation of:

### FRWLFA Operations and Maintenance Assessment District

Commencing Fiscal Year 2022/2023

Intent Meeting: April 20, 2022

Public Hearing: June 22, 2022

APRIL 20, 2022  
PREPARED BY  
WILLDAN FINANCIAL SERVICES

**ENGINEER'S REPORT AFFIDAVIT**  
**Feather River West Levee Financing Authority**  
**Formation of the**  
**FRWLFA Operations and Maintenance Assessment District**  
**Fiscal Year 2022/2023**  
**County of Sutter, State of California**

This Engineer's Report ("Report") and the enclosed descriptions and diagrams outline the Feather River West Levee Financing Authority ("FRWLFA" or "Agency") proposed formation and establishment of annual assessments for the FRWLFA Operations and Maintenance Assessment District (hereinafter referred to as "District") commencing with fiscal year 2022/2023. Said District incorporates each lot, parcel, and subdivision of land within Sutter County that receives special benefit from the operation and maintenance of levee improvements and flood control facilities associated with the locally maintained portions of the Feather River West Levee system within the boundaries of said District as defined by the District Diagram contained herein as Part IV and adopted at the time of the passage of the Resolution of Intention. Reference is hereby made to the Sutter County Assessor's maps for a detailed description of the lines and dimensions of each lot, parcel, and subdivision of land within said territory and District. The undersigned respectfully submits the enclosed Report that includes a general description of the plans and specifications, method of apportionment, budgets and proposed special benefit assessments associated therewith as directed by the FRWLFA Board of Directors ("Board") and pursuant to the provisions of the Benefit Assessment Act of 1982, being Chapter 6.4 of the California Government Code, commencing with Section 54703.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Willdan Financial Services  
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On Behalf of Feather River West Levee Financing Authority

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## Introduction

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### Background

The Yuba City Basin (the Sutter County portion of the Sutter Butte Basin) is an area subject to inundation from flood flows in the Sutter Bypass and Feather River. The first organized responses to seasonal floods were simple non-engineered levees, generally built by farmers to protect their crops and farm properties. The early settlers' levees were often no more than berms of loose local soils, often built over pervious and/or unstable foundations. After major floods in the early part of the 20<sup>th</sup> century, the United States Army Corps of Engineers ("USACE") constructed or authorized a comprehensive and connected set of levees and bypasses (or overflow channels) to contain the river runoff. Eventually, dams were also built that function as shock absorbers, storing storm water and snow melt surges to help prevent overwhelming levees. Despite these initial efforts to prevent flooding, levee breaches still occurred in 1917, 1955, 1986 and 1997, resulting in major flooding that affected the region both in property damages and lives lost.

California weather is changing as a result of climate change. More precipitation is falling in the mountains as rain, resulting in less snowpack, and it is likely this change will continue to increase the stress on the region's flood control system. Consequently, the State of California's agency that looks at flood protection, the Department of Water Resources ("DWR"), in 2006 conducted extensive exploration, testing and analyses of the levees that surround the Yuba City Basin. These studies identified numerous deficiencies in the region's levee system.

To address the basin's levee system deficiencies and to protect public safety against the ongoing threat of flooding from Sierra Nevada storms that run off into the region's rivers systems, the Sutter Butte Flood Control Agency ("SBFCA") was established in September 2007. SBFCA was formed to plan, finance, and construct a flood control program, and to coordinate regional flood control improvements in order to protect lives and property in the Yuba City Basin. SBFCA independently reviewed the DWR data and determined that the entire levee along the west side of the Feather River required rehabilitation.

In 2010, SBFCA in partnership with the State began the design, construction, and rehabilitation of approximately 37 miles of the west Feather River levee from Thermalito Afterbay in Butte County, south to Star Bend and at Laurel Avenue, known as the Feather River West Levee Project (FRWLP). The USACE, in partnership with SBFCA and the State, repaired another 5.5 miles from Star Bend south to the Highway 99 crossing (excluding the levee at Laurel Avenue) for a total of 42.5 miles of repaired levee on the west bank of the Feather River. The remaining 1.5 miles of levee from the Highway 99 crossing to the confluence with the Sutter Bypass has been slated for repair by SBFCA. A special benefit assessment district was formed by SBFCA to fund the local share of the construction costs, known as the Sutter Butte Flood Control Agency Assessment District, and this assessment district incorporated all properties located within the SBFCA boundaries except properties adjacent to Cherokee Canal/Butte Sink, properties north of Sutter Buttes in the far westerly portion of SBFCA's jurisdiction, and high ground areas above the 200-year floodplain around the easterly base of Sutter Buttes and in the far northerly portion of SBFCA's jurisdiction. The FRWLP was completed in 2020, providing the urban portion of the basin (Yuba City to north of Biggs) protection against 200-year flood flows within the Feather River and increasing the level of flood protection for the remainder of the basin (areas south of Yuba City).

Ongoing Operation, Maintenance, Repair, Rehabilitation, and Replacement (“OMRR&R”) of the west Feather River levees are the responsibilities of the following Local Maintenance Agencies (“LMAs”) and State Maintenance Areas (“MAs”) located along the Feather River: Maintenance Area 7 (“MA7”) within Butte County; Maintenance Area 16 (“MA16”) covering the very southern section of Butte County and Sutter County north of the Sunset Pump Station; Levee District 1 (“LD1”); Levee District 9 (“LD9”); and Maintenance Area 3 (“MA3”).

## Legislative Authority

In May 2020, the Feather River West Levee Financing Authority (“FRWLFA”) was established by and between Levee District 1, Levee District 9, and Sutter County pursuant to the provisions of the Joint Exercise of Powers Act, Govt. Code Section 6500 et seq. (“JEP Act”). Agencies formed pursuant to the JEP Act may provide financing for any of their members or other local agencies in the State of California in connection with the acquisition, construction, improvement, and maintenance of public capital improvements, working capital requirements or insurance programs of such members or other local agencies.

FRWLFA was specifically formed for the purpose of financing the OMRR&R of the west Feather River levees, related facilities, and administration expenses within the jurisdictions of LD1, LD9, and MA3 in Sutter County (hereafter collectively referred to as the “FRWLFA Levees”). The FRWLFA Levees consist of twenty-seven (27) miles of the west Feather River levee improvements from Paseo Road south to the confluence of the Sutter Bypass and must be maintained in compliance with strict State and Federal standards and regulations. The location of the FRWLFA Levees within the jurisdictions of LD1, LD9, and MA3 in Sutter County are illustrated in **Figure 1**, on page 6 and more detailed OMRR&R activities is provided in Part I – Plans and Specifications Section of this Report.

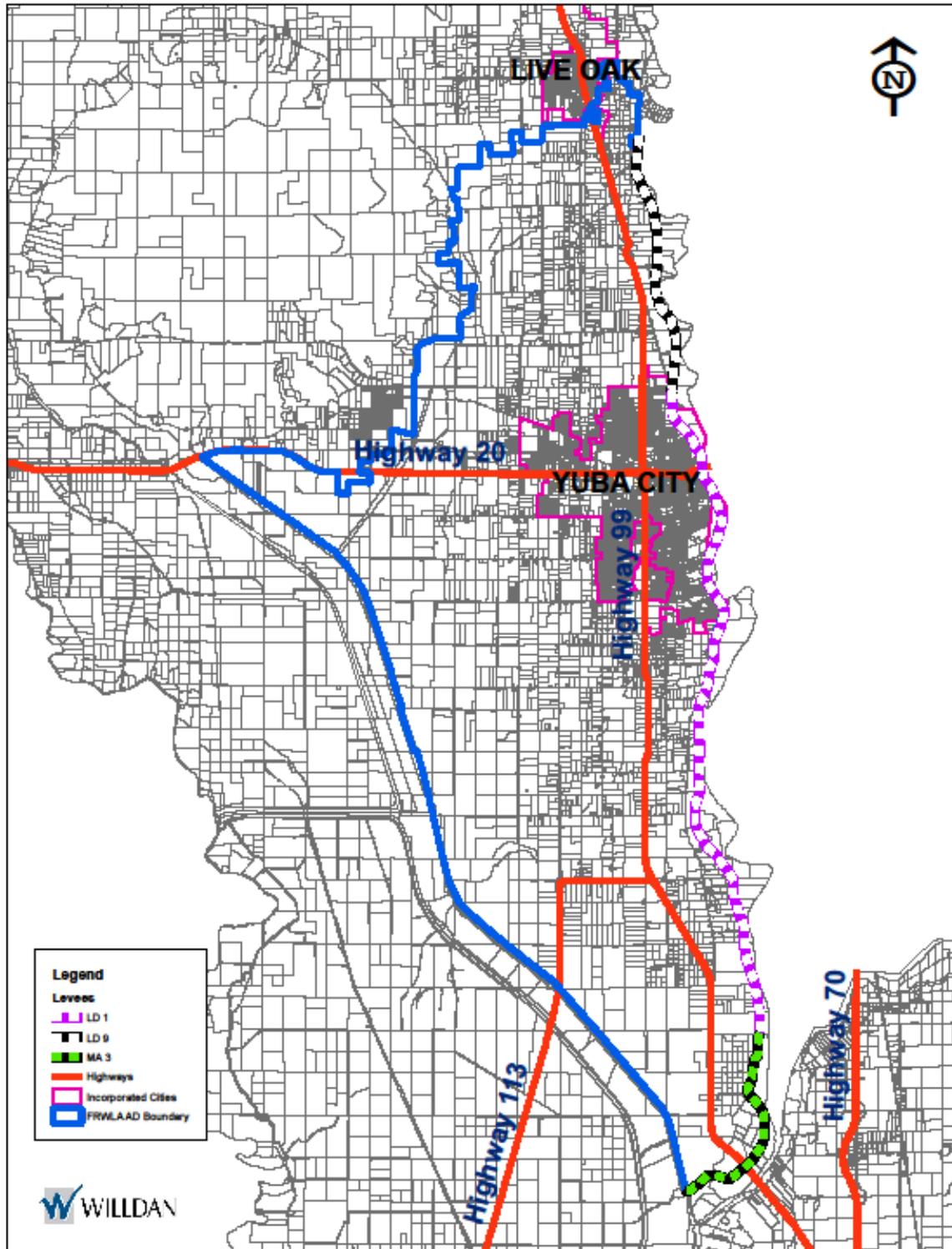
Pursuant to the provisions of the Benefit Assessment Act of 1982 (Govt. Code section 54703 et seq.), (the “1982 Act”), and in compliance with the substantive and procedural requirements of the California State Constitution Article XIID (“California Constitution”), the Board of Directors (“Board”) of FRWLFA proposes to form and levy special benefit assessments for the district to be designated as:

### **FRWLFA Operations and Maintenance Assessment District**

(hereafter referred to as “District”), which includes all lots and parcels of land within the Yuba City Basin that receive a particular and distinct benefit (special benefit) from the ongoing OMRR&R and related incidental expenses associated with the FRWLFA Levees. This Engineer’s Report has been prepared in connection with the formation of said District for fiscal year 2022/2023 and the levy and collection of annual assessments related thereto, as required pursuant to Section 54716 of the 1982 Act.

The Board proposes to form the District, and annually levy and collect special benefit assessments on the Sutter County tax roll to provide ongoing funding for the costs and expenses required to operate and maintain the FRWLFA Levees that are deemed necessary and essential requirements to minimize potential flood risks and provide a distinct and particular benefit to those assessed properties.

Figure 1: FRWLFA Levees



The OMRR&R program provided by the District and funded in whole or in part by the assessments described herein are made pursuant to the 1982 Act and the substantive and procedural provisions of the California Constitution.

## 1982 Act

Section 54710(a) of the 1982 Act permits any local agency which is authorized by law to provide flood control may impose a benefit assessment pursuant to this chapter to finance the maintenance and operation costs of flood control services. In addition to maintenance and operation costs, Section 54710.5 authorizes agencies to finance the cost of installation and improvement of flood control facilities:

*“Any local agency which is authorized by law to provide drainage services or flood control services may, in addition to imposing a benefit assessment for the purposes authorized pursuant to Section 54710, impose such an assessment to finance the cost of installation and improvement of facilities.”*

Other provisions of 1982 Act worth noting include the following:

Section 54711 outlines certain prerequisites that must be met for the levy of benefit assessments:

- (1) *“The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of the service...”*
- (2) *“The annual aggregate amount of the assessment shall not exceed the estimated annual cost of providing the service...”*
- (3) *“The revenue derived from the assessment shall not be used to pay the cost of any service other than the service for which the assessment was levied...”*

Pursuant to Section 54716(a) and engineer's report shall be prepared and filed with the clerk of the local agency and contain all of the following information:

- (1) *“A description of the service proposed to be financed through the revenue derived from the assessment.”*
- (2) *“A description of each lot or parcel of property proposed to be subject to the benefit assessment...”*
- (3) *“The amount of the proposed assessment for each parcel.”*
- (4) *“The basis and schedule of the assessment.”*

## California Constitution

The costs of the proposed improvements addressed in this Report have been identified and allocated to properties within the boundaries of the District based on special benefits as outlined by Article XIII D of the California Constitution.

Article XIII D Section 2d defines District as follows:

*“District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.”*

Article XIII D Section 2i defines Special Benefit as follows:

*“Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”*

Article XIII D Section 4a defines proportional special benefit assessments as follows:

*“An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.”*

## Engineer's Report

This Engineer's Report (“Report”) has been prepared pursuant to Section 54716 of the 1982 Act and presented to the FRWLFA Board for its consideration and approval. This Report describes: the boundaries of the District that incorporates each lot or parcel of property determined to receive special benefit from the OMRR&R of the FRWLFA Levees; the methodology for levying an assessment upon parcels that receive special benefit from the operation and maintenance to be provided by the Local Maintenance Agencies (LD1 and LD9) or subsequent agency or agencies; and the levy and collection of the annual assessments to fund in part the costs and expenses to provide and sustain the OMRR&R program for the FRWLFA Levees.

The budgeted expenses and assessments described in this Report are based on the anticipated annual funding required to support the overall OMRR&R expenses associated with the FRWLFA Levees as well as incidental expenses associated with the formation and administration of the District. While the cost of originally constructing the west Feather River levees is not part of the annual assessments, the budgeted expenses and corresponding assessments represent an estimate of the annual funding required to address not only the regular annual operation and maintenance expenditures and incidental expenses (including annual administrative expenses and formation expenses), but also the collection and accumulation of a reserve fund for periodic routine repairs, as well as long term funding for replacement and rehabilitation projects to ensure the sustainability and useful life of the levee system. This Report does not address additional flood control improvements that may be installed and/or expanded within the Yuba City Basin such as the Sutter Bypass, Wadsworth Canal, or Intercepting Canals, nor significant modifications to or extension of the FRWLFA Levees.

The word “parcel,” for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number (APN) by the Sutter County Assessor's Office. The Sutter County Auditor-Controller uses APNs and specific Fund Numbers to identify properties to be assessed on the tax roll for the District special benefit assessments.

If any section, subsection, sentence, clause, phrase, or portion of this Engineer's Report is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Engineer's Report and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions might subsequently be declared invalid or unconstitutional.

## Ballot Proceedings

Pursuant to the provisions of Article XIID, Section 4 of the California Constitution, the FRWLFA Board shall call for and conduct a property owner protest ballot proceeding (referred to as “Ballot Proceeding”) for the proposed levy of the new assessments and the assessment range formula presented and described in this Report. In conjunction with this Ballot Proceeding, the Board will conduct a noticed public hearing to consider public testimonies, comments, and written protests regarding the levy of the proposed new assessments. Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether a majority protest exists:

“A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.”

After completion of the ballot tabulation, the Board will confirm the results of the balloting. If majority protest exists for the proposed new assessment, further proceedings to implement the new assessment for the District shall be abandoned at this time. If tabulation of the ballots indicate that majority protest does not exist for the assessment and the assessment range formula (inflationary adjustment) presented in the ballots and described in the Report, the Board may adopt this Report (as submitted or amended), approve the assessment diagram, and confirm the assessment rate for fiscal year 2022/2023 (“Initial Maximum Assessment”) and the assessment range formula (inflationary adjustment). Either in the same resolution or by a separate resolution the Board may order the levy and collection of the District assessments for fiscal year 2022/2023 as approved and such assessments shall be submitted to the Sutter County Auditor/Controller for inclusion on the property tax roll for each affected parcel, or at the Board's discretion, the first year's annual assessment including the assessment range formula adjustment to the Initial Maximum Assessment presented and described herein, may be postponed to a subsequent fiscal year.

## Report Organization

This Report consists of five (5) parts:

### Part I

**Plans and Specifications:** This section provides an overall description of the FRWLFA Operations and Maintenance Assessment District, the FRWLFA Levees, and the OMRR&R program to be funded in large part by the District's annual assessments. The assessments outlined in this Report are based on these improvements, materials, equipment, services, and activities authorized by the 1982 Act and that provide special benefit to the properties to be proportionally assessed. More detailed information regarding the specific improvements, facilities, operations, maintenance, services, and activities (specific plans and specifications) for the District are on file in the offices of FRWLFA and by reference are made part of this Report.

### Part II

**Method of Apportionment:** This section includes a discussion of the general and special benefits associated with the FRWLFA Levees and the OMRR&R program to be provided within the District and outlines the method of calculating each parcel's proportional special benefit and corresponding assessment. The method of apportionment developed for this District to proportionately allocate the special benefit costs and resulting assessments are generally similar and consistent with the method of apportionment utilized for the SBFCA assessment to fund in part the construction of the FRWLFP.

### Part III

**Estimate of Costs:** An estimate of the annual costs to provide the OMRR&R program associated with the FRWLFA Levees. The budget outlined in this section includes an estimate of the maintenance costs and incidental expenses including, but not limited to, labor, materials, utilities, equipment, and administration deemed necessary to fully support the FRWLFA Levees. Those OMRR&R materials, equipment, services, and activity expenses and/or other costs determined to be of general benefit shall not be assessed as special benefit costs and will be funded by other revenue sources available to FRWLFA or its member agencies.

### Part IV

**Assessment Roll:** The Assessment Roll contains a listing of each Assessor's Parcel Number to be assessed within the District for special benefits received commencing in fiscal year 2022/2023, along with the initial maximum assessment amount to be balloted ("Balloted Assessment") for each parcel. The Balloted Assessment amount for each parcel is based on the parcel's calculated proportional special benefit as outlined in "Part II – Method of Apportionment" and the annual assessment rate established by the estimated costs (budget) in "Part III – Estimate of Costs" of this Report. Due to the number of parcels within the District (over 25,000 parcels), the Assessment Roll for fiscal year 2022/2023 has been filed electronically with the FRWLFA Board Clerk rather than displayed in this Report and by reference the listing of the APNs and the corresponding assessment amounts are made part of this Report.

## Part V

**Assessment Diagram:** This section of the Report contains a diagram showing the boundaries of the District, which incorporates the parcels determined to receive special benefits from the FRWLFA Levees and OMRR&R program. The diagram also provides a visual depiction of the location and extent of the FRWLFA Levees being maintained. Parcel identification, the lines, and dimensions of each lot, parcel, and subdivision of land within the District are shown on the Sutter County Assessor's Parcel Maps and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Sutter County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District.

## Part I — Plans and Specifications

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### District Overview

The territory within the FRWLFA Operations and Maintenance Assessment District is narrowly defined to include those parcels within the Yuba City Basin of Sutter County that have been identified as parcels receiving a reduction or elimination of potential flooding from the west Feather River levees and related flood control infrastructure improvements that are to be maintained as part of the FRWLFA's Operation, Maintenance, Repair, Rehabilitation, and Replacement (OMRR&R) program. The boundaries of the District and the parcels therein are based on hydrologic and hydraulic mapping (flood levels), incorporating each of the parcels that have been identified as receiving a reduction or elimination of potential flood damages as a result of possible breaches or other flooding from the FRWLFA Levees. Based on the hydrologic and hydraulic data, the District incorporates approximately 25,000 properties in the Live Oak, Yuba City and unincorporated areas of Sutter County that are protected from flooding by these west Feather River levees.

The purpose of FRWLFA and this District is to provide in part, through annual assessments, a cost effective program to properly fund and support the daily and long-term materials, equipment, services, and activities necessary to ensure that the design level of flood protection for the twenty-seven (27) miles of levees that comprise FRWLFA Levees are sustained and maintained over time, thereby reducing potential flood damages to structures, the contents of structures, and land associated with the lots and parcels of land in the District.

Collectively, Levee District 1, Levee District 9, and the State through DWR Maintenance Area 3 are currently responsible for operating and maintaining the west Feather River levee system within Sutter County. LD1 and LD9 are responsible for approximately twenty-two (22) miles of the Improvements from Paseo Road south to Marcuse Road and MA3 is responsible for the remaining five (4.9) miles of the Improvements from Marcuse Road to the Sutter Bypass. The OMRR&R of the FRWLFA Levees is strictly governed by State and Federal regulations which includes not only the twenty-seven (27) miles of levees, but also a pump station (Star Bend Pump Station), twenty-five (25) Relief Wells, Union Pacific Closure Structure, and other appurtenant structures.

### FRWLFA Levees

In order to comply with State and Federal requirements and regulations FRWLFA's OMRR&R program may include but is not limited to levee inspections and evaluations, debris cleanup, mowing, grazing, and spraying for weed control, rodent control, levee road maintenance and resurfacing, levee patrols, flood fighting, replacing erosion protection materials, repair of levee embankments, and pump station and relief well operations and maintenance. In addition to the on-going performance of these services and activities on an annual or long-term basis, the District assessments will also provide for the collection and accumulation of reserve funding necessary to support routine and as needed repairs, and periodic (scheduled) repairs, equipment purchases and replacements, as well as long-term rehabilitation and renovation projects of the facilities to ensure an adequate level of service over the duration of the assessment district.

## OMRR&R Program

Specific OMRR&R activities that collectively provide special benefits to parcels within the District may include but are not limited to:

- Permitting and compliance requirements (Local, State and Federal):
  - Environmental permitting;
  - State and Federal inspections;
  - Certification of levees and structures (certification and documentation);
  - Safety equipment, safety certificates, and safety training; and
  - System Wide Improvement Framework (SWIF) compliance as administered by the USACE (i.e., right of way, encroachments, video/pressure testing of pipes, tree, or structure removals, USACE periodic survey findings).
- Levee operations and maintenance activities:
  - Erosion control including seeding, vegetation planting silt fence, waddles, straw, rock slope protection, etc.;
  - Rodent and squirrel control including pesticide applications and rodent hole repair;
  - Weed control chemical applications (herbicides, sterilant, and preemergent); and
  - Slope repairs;
  - Disking waterside patrol road and fire breaks;
  - Burning;
  - Mowing and/or grazing (sheep and/or goats);
  - Tree pruning, tree, and root removal;
  - Scraping and grading levee crowns and toe roads;
  - Removal of imbedded flood debris in levees;
  - Embankment crack repair;
  - Backfill unauthorized excavations (i.e., children's forts, scrap metal recovery, homeless camps and toilets, garbage pits);
  - Engineering excavations, such as potholing and borings for geotechnical exploration of levees; and
  - Dragging levee slopes and roads.
- Patrol road operations and maintenance
  - Grading and minor earthwork on patrol roads;
  - Repair and rehabilitation of asphalt surfaces;
  - Repair and replacement of gravel surfaces;
  - Sign and levee mile marker installation, replacements, and repair;
  - Bollard installation and maintenance; and
  - Placement of public access barriers (K-rail or boulders).

- Operations and maintenance activities for flood control structures and facilities including but not limited to:
  - Relief well maintenance, including:
    - Well utilities, debris removal, swabbing, and cleaning;
    - Pump testing and periodic repair;
    - Monitoring well replacement and abandonment;
    - Well construction; and
    - Telementary recording devices, monitoring repair and replacement.
  - Piezometer maintenance, including:
    - Annual operation and maintenance;
    - Bi-annual reading and reporting; and
    - Replacements.
  - Pump maintenance, including:
    - Station motor control and telementary upgrades; and
    - Pump rebuilds and ceramic coating.
  - OMRR&R servicing and activities of other facilities including:
    - Environmental habitat restoration as required;
    - Vault hatches;
    - Gates and fences;
    - Riprap areas;
    - Concrete ditches;
    - Retaining walls;
    - Observation wells;
    - Union Pacific Railroad crossing; and
    - Pipe crossings and collection pipes.
- Performance of emergency flood response activities including levee patrols and flood fighting; and
- Hazmat Response/Homeless Cleanup.

In addition to the on-going regular annual operation and maintenance of the FRWLFA Levees, the annual assessment will also provide for the collection and accumulation of a fund to support long-term routine repairs, rehabilitation, and replacement of the levee facilities and infrastructure in order to ensure the integrity of the levee system and provide an adequate level of service over the duration of the assessments. The expenses associated with these long-term repairs, rehabilitation, and replacement are generally considered expenses that are greater than can reasonably be collected in a single fiscal year and are therefore collected as assessment installments and accumulated for these future expenses when needed or scheduled.

## Part II — Method of Apportionment

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### Benefit Analysis

The west levees along the Feather River are Yuba City Basin's first line of defense against flooding by runoff from Sierra Nevada mountain storms. As noted previously, California weather has been changing with more precipitation falling in the mountains as rain, and less as snowpack. SBFCA secured the necessary funding to construct the west Feather River levee improvements in part through the Sutter Butte Flood Control Agency Assessment District. These levees provide a specific level of flood protection that have significantly reduced potential flooding and damage to properties within the Yuba City Basin. While potential flooding and damage to properties has been dramatically reduced with the construction of the west Feather River levees, no levee system provides full flood protection to the properties, particularly if those improvements are not maintained. In order to comply with strict State and Federal standards and regulations, the west Feather River levees improvements and appurtenant facilities require a comprehensive OMRR&R program. Although continuing changes to the climate will inevitably place greater stress on the region's flood control system including the SBFCA constructed levees along the Feather River, even under status quo climate conditions, a comprehensive OMRR&R program for the levee system is essential to ensuring the long-term protection of people and property in the Yuba City Basin.

The analysis and findings outlined in this Report and the resulting method of apportionment and assessment rate structure is focused on establishing a reasonable and appropriate benefit nexus (both general and special benefits) consistent with the provisions of the 1982 Act, Proposition 218 (Article XIII D of the California Constitution), and case law regarding assessments. The method of apportionment and resulting proportional special benefit assessments for this District are based on the premise that the OMRR&R program to be provided by the Local Maintenance Agencies is necessary and essential to minimize potential flood risks to specific properties within the Yuba City Basin; thereby directly reducing potential flood damages to structures, the contents of those structures, and land associated with those properties. Therefore, the formulas used for calculating assessments as described herein reflect both the composition and characteristics of each parcel within the District, the hydrology associated with those parcels (reduced flood level) and the resulting calculated flood damage reduction benefits to those parcels that directly result from the OMRR&R program to be funded.

To levy an assessment for a property-related service such as OMRR&R for flood control improvements and facilities, the California Constitution requires the local agency imposing the assessment (FRWLFA) to comply with the following:

- Identify and include in the District all parcels that will have special benefits conferred on them by the improvements, facilities and/or services.
- Only special benefits are assessable, and the agency shall separate the general benefits from the special benefits conferred on a parcel.
- Calculate the proportional special benefit for each parcel in relationship to the entirety of the capital cost, the maintenance, and operation expenses of a public improvement, and/or the cost of the property related service being funded.
- No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.

## Special Benefit

Essentially, the primary function of FRWLFA and the FRWLFA Operations and Maintenance Assessment District is to provide a collective and coordinated benefit funding source to support an ongoing OMRR&R program, necessary to ensure reduced potential flood damages to structures, the contents of those structures, and the land associated with the parcels within the Yuba City Basin that receive a particular and distinct benefit from the FRWLFA Levees. As previously noted, the District boundary has been narrowly defined to include each identified parcel based on hydrologic and hydraulic data that will receive a reduction or elimination of flood damages. The existing FRWLP infrastructure was designed to provide 200-year protection from Feather River flood flows over much of the northern portion of the basin generally from Yuba City to the north and designed to provide 100-year protection from Feather River flood flows south of Yuba City when combined with anticipated future improvements to the Sutter Bypass levees by the DWR and a proposed repair of the lower 1.5 miles of the Feather River. However, the Sutter Bypass levees are not a part of the proposed OMRR&R program funding contained in this Report nor are the Wadsworth Canal and East-West Interceptor Canals. The operation and maintenance of the Sutter Bypass levees, the Wadsworth Canal and the East-West Interceptor Canals are the obligation of the State of California under Water Code 8361, and it is anticipated that the operation and maintenance of these three flood control improvements will continue to be the State's responsibility in the future.

The special benefits to parcels (protected properties) within the District associated with an OMRR&R program for the FRWLFA Levees that complies with strict State and Federal standards and regulations include but are not limited to:

- Continued level of flood protection for urban and non-urban areas protected by the FRWLFA Levees.
- Continued assurance of reduced potential flood damages to structures, content of those structures, and land.
- Local agency control which provides for:
  - More expedited response to levee maintenance needs;
  - Consistency of annual assessments;
  - Lower costs than if levees are turned over to the State; and
  - More direct input from property owners.
- A Federally compliant OMRR&R program will prevent properties that have been removed from a Federal Emergency Management Agency ("FEMA") Special Flood Hazard Area (due to recent levee improvements), from being mapped back into a FEMA Special Flood Hazard Area, which would result in:
  - Mandated flood insurance for any property with a federally backed mortgage;
  - Increased cost of flood insurance; and
  - Building restrictions.

- Promotes best and full use of properties within the District by allowing local governments (e.g., Sutter County, Yuba City, Live Oak, etc.) to implement general plans for urban and urbanizing areas with appropriate levels of flood protection.
- Sustain and grow the local economy by creating construction jobs and related spending, protecting property values, and allowing for responsible residential, commercial, and industrial development.
- Retention of Federal assistance during or following

Ultimately, both public and privately owned parcels within this narrowly defined District boundary will receive a particular and distinct benefit over and above any general benefits the west Feather River Levee improvements and proposed OMRR&R program provides to the general public or properties in general. It is clear the assessed parcels will be directly impacted and/or burdened if the improvements are not properly operated and maintained including necessary repairs, replacements, and rehabilitation efforts. Without the proposed special benefit assessment revenue, the LMAs will lack the funding required to meet State and Federal OMRR&R requirements and the parcels within the District could be negatively impacted by the following:

- Greater flood risk resulting in increased risk of property damage and loss of life due to flooding.
- Loss of FEMA low-to-moderate risk flood zone designation that will likely result in higher FEMA National Flood Insurance Program (NFIP) premiums, mandatory flood insurance, and building restrictions.
- Loss of federal assistance during or following a flood emergency, such as repair of a levee break.
- Loss of local levee operations and maintenance control to the State.
- Loss of urban level of flood protection status for Live Oak and Yuba City, resulting in development restrictions.
- The State would eventually assume operations and maintenance at a higher cost that often varies dramatically from year to year.
- State can impose an exaction (assessment) for operation and maintenance without a vote of the property owners. Under state management, operations and maintenance are performed regardless of costs, which are then passed through to property owners without local input.
- Under state management, there is no limitation on annual assessments.

While properties within the District will derive substantially similar special benefits from the proposed OMRR&R program (services and activities necessary to ensure reduced flood damages to structures, the contents of structures, and land on an ongoing basis), the special benefit (particular and distinct benefit) for each parcel is proportional to the potential flood damages specifically and directly related to each parcel's potential flood depth and development characteristics (i.e. land use, structure size, and land size).

## General Benefit

Based on the proposed services and activities to be funded by District assessments (OMRR&R of the FRWLFA Levees) and relationship to properties to be assessed, it is evident that the OMRR&R program slated to receive assessment funding directly impacts and benefits developed properties and agricultural properties, as well as the potential development of properties. Furthermore, because the flood control maintenance and operations to be funded by the District assessments protect specific parcels (narrowly defined boundaries) from potential flood damage and the fact that the flood damage benefit for each parcel is measurable, the benefits to these assessed parcels are clearly direct and display particular benefit (proportional special benefits). However, it is also recognized that flood mitigation services and activities also directly or indirectly provide some measure of benefit to properties in general and to the public at large (general benefit) in the form of continued safe access and travel through the District area.

OMRR&R of the FRWLFA Levees will provide a general benefit to real property, residents, and the public generally in the form of continued safe access and travel through the District area. Prevention of flooding of public infrastructure within the District, such as roads, easements, and various rights-of-way, benefit the assessed parcels generally with respect to access and travel, and also facilitates general public services such as police and fire protection access. Protection of such infrastructure through OMRR&R of the FRWLFA Levees therefore provides a general benefit both to people and properties within and outside of the District. Property associated with such public infrastructure improvements and facilities is typically not assigned Assessor's Parcel Numbers. The acreage associated with most of these public infrastructures, compared to the acreage of Assessor assigned parcels within the District, provides a reasonable and quantifiable measure of the proportional general benefit and general benefit costs associated with the FRWLFA Levee OMRR&R program.

The total land area within the District boundaries is approximately 92,500 acres of which approximately 88,060 acres are assessed County Assessor designated parcels (APNs) with the remaining 4,440 acres being comprised of public infrastructure improvements and facilities that may include, but is not limited to: public streets, easements, rights-of-way, and other public-lands including wetlands, canals, channel ways, open spaces, preserves, and other similar restricted-use public areas. Of the 4,440 acres public infrastructure land, conservatively, 500 acres are considered flood and drainage control facilities such as wetlands, canals, channel ways. These control facilities clearly do not receive a special benefit from the OMRR&R program, nor do they provide a measurable benefit (general or special) to the District parcels. The remaining 3,940 acres, or approximately 4.26% of the total 92,500 acres, identified as public infrastructure improvements and facilities within the District, collectively serve or are in proximity to parcels being assessed. This reflects a reasonable and quantifiable measure of the proportional general benefit both to people and properties within the District and the proportional general benefit costs associated with the FRWLFA Levee OMRR&R program.

Therefore, it is reasonable to conclude that the overall general benefit costs associated with the District's OMRR&R program is less than five percent (5%) of the annual OMRR&R budgeted expenditures. These general benefit costs shall be excluded from the special benefit assessment funding and not assessed to the parcels within the District. Furthermore, either separately or collectively, FRWLFA, the Local Maintenance Agencies (LD1 and LD9), or subsequent agency or agencies shall annually fund the overall general benefit costs associated with the District's OMRR&R program. The calculated "Total Annual Expenses" and the "General Benefit Expenses

(Agency Funded)” proposed for fiscal year 2022/2023 (initial fiscal year) are identified in Table 5, Estimate of OMRR&R Costs for Fiscal Year 2022/2023 (found in Part III of this Report).

## Assessment Methodology (Special Benefit Calculations)

To assess benefits equitably it is necessary to calculate each property's relative share of the special benefits conferred by the funded improvements and service. As previously noted, the OMRR&R program to be funded by the assessments will provide ongoing flood damage reduction benefits to the properties in the District and like the physical levee improvements themselves, such services and activities support the long-term avoidance of damage to structures, content within the structures, and land. The Damages Avoided method of assessment apportionment is utilized in this District and establishes a Total Damages Avoided for each parcel based on the combined Structure Damage, Content Damage, and Land Damage reduction benefit calculated for the parcel. The proportional special benefit calculation for each parcel considers these three factors independently. The benefit calculation can be summarized as follows:

**Special Benefits = Damages Avoided**

**Damages Avoided = Structure Damage + Content Damage + Land Damage**

### Structure and Content Damage

The damage avoided to structures and the content of those structures is derived by determining the amount of flood depth reduction experienced by each particular parcel and the protection provided as a result of the west Feather River Levee and the ongoing operation and maintenance, repair, replacement, and rehabilitation of such improvements.

Determining the avoided damages to structures and contents requires considering the following factors:

- Relative Structure and Content Value
- Flood Depth Reduction
- Percentage of Flood Damage Reduction
- Structure Size

### Relative Structure and Content Value

The United States Army Corps of Engineers (USACE) has identified the potential flood damages to structures by the following general land use categories:

- Residential — Physical damages to dwelling units (single-family, multifamily, and mobile homes) and to residential contents, including household items and personal property.
- Commercial — Structure value and content value damages (to commercial and public buildings), including equipment and furniture, supplies, merchandise, and other items used in the conduct of business.
- Industrial — Losses from inundation of industrial properties, including warehouses, consisting of fixtures and equipment, inventory, and structure.

- Agricultural — Non-residential structures on agricultural properties would experience damages to equipment, tools, supplies, livestock, feed, seed, chemicals, and other items used for agricultural purposes and business.

To reflect differences related to flood damages to structures and their content, Relative Structure and Content Values for residential, commercial, industrial, and agricultural structures shown in the following table (**Table 1**) are utilized. The residential, commercial, and industrial structure and content values were originally determined using USACE data developed in connection with an American River Watershed Investigation <sup>(1)</sup> and the content values for agricultural structures were derived from a related technical report <sup>(2)</sup>. The Relative Structure Values shown in **Table 1** are used in the assessment methodology to reflect the relative structure and content value relationships between land use categories (proportional benefit). These values represent gross averages for the different land uses and do not represent assessed values or current market values for an individual structure.

**TABLE 1: RELATIVE STRUCTURE AND CONTENT VALUE**

Land Use	Relative Structure Value (\$/Sqft)	Relative Content Value (\$/Sqft)
Residential	60	30
Residential - Mobile Home	30	15
Commercial (Public & Private)	70	75
Industrial (Public & Private)	50	58
Agricultural	50	30

<sup>(1)</sup> US Army Corps of Engineers (USACE), American River Watershed Investigation, California Feasibility Report, Sacramento District, December 1991.

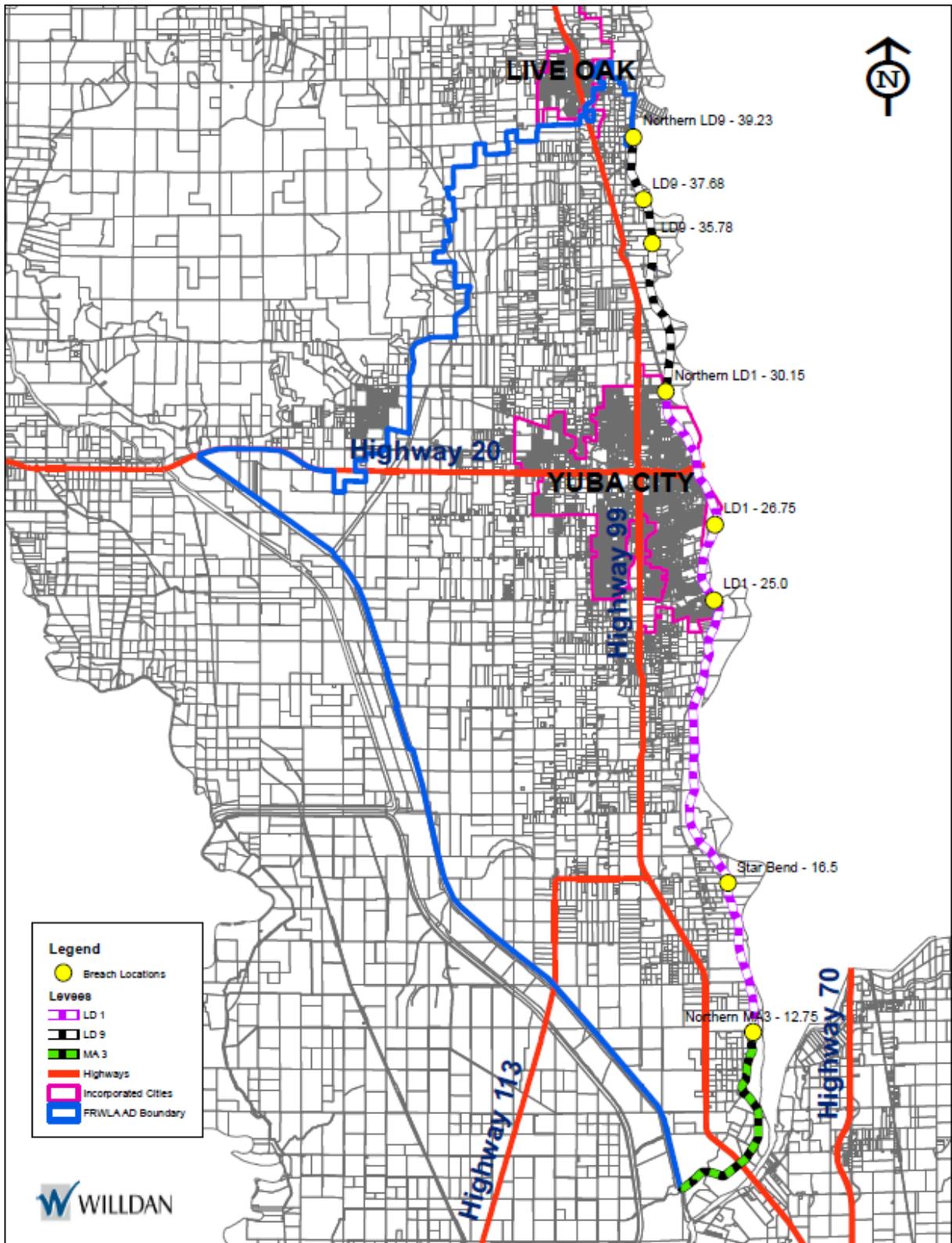
<sup>(2)</sup> US Army Corps of Engineers (USACE), Draft Economic Re-evaluation Report, American River Watershed Project, Appendix D, Attachment II, Technical Report, May 2007.

## Flood Depth Reduction

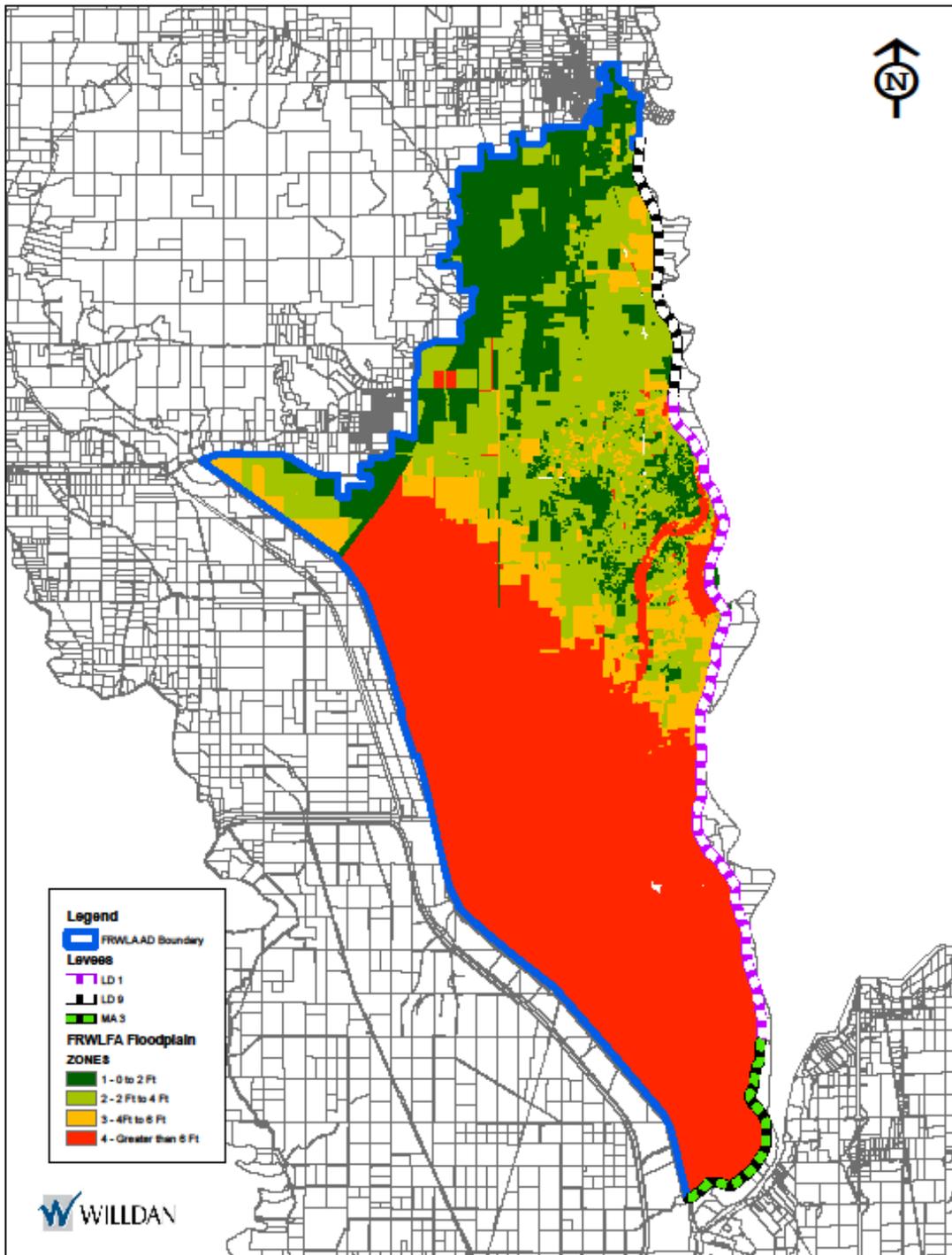
The OMRR&R program proposed for the District is intended to support the long-term operation and maintenance needs of the west Feather River levee improvements and flood control facilities. So, both the boundaries of the proposed District and the flood depth reductions attributed to the benefiting parcels within those boundaries was determined using GIS flood mapping models. These models were derived from flood elevation data and flood depths developed by hydraulic modeling of possible levee breaches (levee failures) at several locations along the west Feather River levees, prepared by Peterson Brustad Inc. (PBI), to encompass all parcels that receive benefits from the OMRR&R of the west Feather River levees. To identify all parcels that would receive a reduction or elimination of flooding (flood depth avoidance) and thus receive OMRR&R benefits, levee breaches were modeled at various locations to delineate those areas that are protected by the FRWLFA Levees and proposed OMRR&R program. The modeled breach locations are illustrated in **Figure 2**, on page 22.

The individual breach models were overlaid into a composite flood depth map to quantify individual parcel flood depths. Based on this mapping and the underlying data, relative flood depths were established by grouping every parcel into one of four flood depth ranges (flood depth zones) based on the composite flood depth map. The four flood depth ranges include depths two feet or less (0.00 to 2.00 feet); greater than two feet and up to four feet (2.01 to 4.00 feet); greater than four feet and up to six feet (4.01 to 6.00 feet); and greater than six feet (6.01 feet or greater). The boundaries of the District and the flood depth ranges are illustrated in Figure 3, on page 23.

**Figure 2: Breach Model**



**Figure 3: Flood Depth Ranges**



## Percentage of Flood Damage Reduction

The relationship between depth of flooding and damages to structure and contents is calculated for each parcel based on the various land use categories specific to the structure (residential, commercial, industrial, and agricultural); the four flood depth ranges (flood depth zones) applicable to this District; and the depth-damage curves established for the USACE American River Watershed Investigation. Although based on 1988 Federal Insurance Administration (FIA), depth-damage relationships for residential structure depth-damage curves are slightly different for one-story and two-story residential, since that data distinction is not readily available from Sutter County Assessor's data, the residential structure depth-damage curve and percentages applied have been averaged together and applied to all residential structures. USACE damage surveys of flood damaged structures conducted immediately after the storm of 1986 confirmed the reasonableness of these 1988 FIA depth-damage relationships. The commercial and industrial depth-damage curves were based on depth-damage relationships developed by the Tennessee Valley Authority (TVA) for the Department of Housing and Urban Development (HUD). A separate investigation conducted by the USACE (Morrison Creek Investigation), established depth-percent damage relationships for commercial properties that were similar to those in the HUD study.

The relation between depth of flooding and damages to structure and contents are illustrated in **Table 2**, expressed as percent of structure value.

**TABLE 2: PERCENT DAMAGE TO STRUCTURE AND CONTENTS**  
**Percent Damage to Structure and Contents**  
**Expressed as Percent of Structure Value <sup>(3)</sup>**

Land Use	Flood Depth Ranges			
	2.00 Ft. or Less	2.01 Ft. to 4.00 Ft.	4.01 Ft. to 6.00 Ft.	6.01 Ft. or Greater
Residential	16%	35%	44%	64%
Commercial	34%	81%	109%	126%
Industrial	65%	77%	90%	108%
Agricultural	38%	49%	59%	74%

<sup>(3)</sup> Because percentage values represent damages to both structure and contents, they may exceed 100% of structure value.

The above functional relationships between flood depth and structure and content damages are the same percentages applied in the Sutter Butte Flood Control Agency Assessment District which originally funded in part the construction of the west Feather River levee improvements and provides a reasonable and proportional measurement for the flood-damage reduction benefit received by developed properties as a result of the levee improvements and OMRR&R program.

For example, in the case of a residential single-family home on a parcel that experiences a flood-depth reduction of three feet (3.00 ft.), the depth-damage percentage for a residential structure in the 2.01 to 4.00 foot range of 35 percent would be applied for the structure and content damage associated with this residential property.

## Structure Size

Flood damages to structures and their contents were calculated for each property within the District boundaries using the square footage for the first and second stories of residential structures, the first story of commercial, industrial, and agricultural structures, and appropriate structure value and depth-percent damage relationships for the particular land use category. Structure size was determined for each parcel in the District (special benefit area) based on data obtained from the County Assessor's parcel data either directly or through third party sources. For those properties identified with a structure or structures for which no specific structure detail information was available from the County Assessor or third-party sources, the footprint of the structure or structures shall be measured by the Assessment Engineer, using GIS and recent aerial imagery or by field measurements.

## Application of Structure and Content Damage Calculation

As stated above, both the structure and content damage are calculated for each individual parcel in the District based on the specific attributes of the parcel, i.e., land use type, structure size, and flood-depth reduction.

### **Structure and Content Damage Avoided = Structure Damage + Content Damage**

$$\text{Structure Damage} = \text{Building SF} \times \text{Relative Structure Value} \times \text{Depth \%}$$

$$\text{Content Damage} = \text{Building SF} \times \text{Relative Content Value} \times \text{Depth \%}$$

As an example:

The Structure and Content Damage Avoided for a residential single-family structure that is 2,000 square feet (sf) located in flood depth zone 2.01 to 4.00 feet would be calculated as follows:

$$\text{Structure Damage} = 2,000 \text{ sf} \times 60/\text{sf} \times 35\% = 42,000$$

+

$$\text{Content Damage} = 2,000 \text{ sf} \times 30/\text{sf} \times 35\% = 21,000$$

$$\text{Structure and Content Damage Avoided} = 42,000 + 21,000 = 63,000$$

63,000 would represent the proportional Structure and Content Damage Benefit experienced by the example parcel presented.

## Land Damage

There are several factors that may contribute to the flood damage reduction benefit to land, both vacant and improved. These include, but are not limited to, avoidance of physical damage to the land during a flood, the ability to secure financing for development projects, reduced cost of flood insurance, changes to the full and best land use of the property, preservation of land values, avoidance of damage to crops or other related impacts to agricultural operations, reduced cost of improvements, and the ability to access the property. The factors that impact the land damage calculation include:

- Relative Land Damage Factor
- Parcel Size

### Relative Land Damage Factor

The benefit to land in the District is proportional to the relative land values. To account for the benefit received by the land and to weigh this benefit appropriately with respect to the relative structure and content damage benefit, each property in the proposed District is assigned a relative land damage cost per acre or a Relative Land Damage Factor.

$$\text{Relative Land Damage per Acre} = \text{Relative Land Damage Factor}$$

This Relative Land Damage Factor is based on an algorithm of the average land value over several years within a given land use classification multiplied by a land value percentage which is a weighted ratio of the average land value within that land use classification to the total property value of those same properties. As part of developing this relative land damage factor, each parcel in the District was categorized into one of five broader land use classifications similar to those land use classifications applied for structural and content damages including, residential, commercial, industrial, agricultural, and public properties. (For purposes of calculating land damages, each vacant parcel is assigned to an appropriate land use classification based on the county use code or other available sources and all residential properties including residential mobile homes are grouped together as residential).

$$\text{Relative Land Damage Factor} = \text{Average Land Value} \times \text{Land Value Percentage}$$

$$\text{Average Land Value} = \text{Sum Total of Land Values} / \text{Sum Total of Acreage}$$

(for all parcels in each land use classification)

$$\text{Land Value Percentage} = \text{Sum Total of Land Values} / \text{Sum Total of Land and Improvement Values}$$

(for all parcels in each land use classification)

**Table 3** displays the results of the above Relative Land Damage Factor calculation for each land use calculation.

**TABLE 3: RELATIVE LAND DAMAGE PER ACRE**

<b>Land Use</b>	<b>Relative Land Damage/Acre (\$)/acre <sup>(4)</sup></b>
<b>Single-Family Residential</b>	<b>46,950</b>
<b>Multi-Family Residential</b>	<b>41,750</b>
<b>Commercial</b>	<b>91,900</b>
<b>Industrial</b>	<b>26,750</b>
<b>Vacant Residential</b>	<b>21,450</b>
<b>Vacant Commercial</b>	<b>57,100</b>
<b>Vacant Industrial</b>	<b>17,400</b>
<b>Agricultural Orchard</b>	<b>6,350</b>
<b>Agricultural</b>	<b>3,550</b>
<b>Public</b>	<b>65,300</b>
<b>General Benefit</b>	<b>21,750</b>

<sup>(4)</sup> Data from Sutter County Secured Roll Data July 2017 through July 2020 as compiled by Willdan Financial Services.

The applicable Relative Land Damage per Acre above is multiplied by each parcel's specific acreage to establish the parcel's Land Damage Avoided Value. The land damage factor values above considered land values alone, exclusive of any building improvements. The values derived are not actual assessed values or market values for any individual parcel of land; rather, they represent the value relationship between various land use classifications for the property in the District.

### **Parcel Size**

Flood damages to land are calculated for each parcel in the District using land use code designations and acreage information available from the Sutter County Assessor's records or available third-party sources.

### Application of Land Damage Calculation

As stated above, land damage is calculated for each individual parcel in the District based on the specific attributes for the parcel, i.e., land use type and parcel size/acreage.

$$\text{Land Damage Avoided} = \text{Acreage} \times \text{Relative Land Damage Factor}$$

As an example:

The Land Damage Avoided for a residential single-family property on a 7,800 square foot lot (0.179 acres) would be calculated as follows:

$$\text{Land Damage Avoided} = 0.179 \text{ Acres} \times 46,950 / \text{Acre} = 8,404$$

8,404 represents the Land Damage benefit experienced by the example parcel.

### Total Proportional Flood Damage Reduction Benefit

The total proportional Flood Damage Reduction Benefit (FDRB) for each benefiting parcel in the District is the sum of the avoided structure damage, content damage, and the land damage associated with that parcel. Given the residential single-family property example used in the preceding discussions, the resulting total FDRB is calculated as follows:

$$\text{Total FDRB} = \text{Structure Damage} + \text{Content Damage} + \text{Land Damage}$$

#### Residential Single-Family Example:

Parcel Acreage: 0.179 acres

Building Square Feet: 2,000

Flood Depth: 3 Feet

$$\text{Structure Damage} = 2,000 \text{ sf} \times 60/\text{sf} \times 35\% = 42,000$$

+

$$\text{Content Damage} = 2,000 \text{ sf} \times 30/\text{sf} \times 35\% = 21,000$$

+

$$\text{Land Damage} = 0.179 \text{ Acres} \times 46,950 / \text{Acre} = 8,404$$

$$\text{Total Flood Damage Reduction Benefit} = 42,000 + 21,000 + 8,404 = 71,404$$

The analysis described above was performed for every parcel that receives special benefit as well as the general benefit calculations. The Total Flood Damage Reduction Benefit (special benefit) for the assessed parcels is estimated to be 3,828,571,338 FDRBs. Table 4 that follows, provides a summary breakdown the FDRBs for both special and general benefits for fiscal year 2022/2023.

**TABLE 4: FLOOD DAMAGE REDUCTION BENEFITS BY LAND USE <sup>(5)</sup>**

Land Use	Structure & Content Damage Reduction Benefit	Land Damage Reduction Benefit	Total Flood Damage Reduction Benefit
Residential Multi Family	137,276,325	15,879,395	<b>153,155,720</b>
Residential Single Family	1,078,068,441	241,529,141	<b>1,319,597,582</b>
Commercial	965,262,079	134,507,689	<b>1,099,769,768</b>
Industrial	636,622,808	25,251,249	<b>661,874,057</b>
Agricultural Non-Orchard	99,284,270	148,892,898	<b>248,177,168</b>
Agricultural Orchard	52,255,997	234,118,266	<b>286,374,263</b>
Commercial Vacant	0	12,000,136	<b>12,000,136</b>
Industrial Vacant	0	13,548,388	<b>13,548,388</b>
Public Vacant	0	26,852,013	<b>26,852,013</b>
Residential Vacant	0	7,222,243	<b>7,222,243</b>
<b>Special Benefit</b>	<b>2,968,769,920</b>	<b>859,801,418</b>	<b>3,828,571,338</b>

<sup>(5)</sup> The Flood Damage Reduction Benefit data in Table 4 above is based on parcel information and characteristics at the time this Report was prepared and applicable to fiscal year 2022/2023.

## Part III — Estimate of Costs

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### Proposed Fiscal Year 2022/2023 Budget

The following budget (**Table 5**) outlines an Estimate of Costs to fund the District's west Feather River levee OMRR&R program expenses for fiscal year 2022/2023. While periodic servicing, installation, construction, or replacement of flood control facilities are permitted under the 1982 Act and certainly applicable to this District, the funds necessary to perform such services or activities are typically significantly greater than can be reasonably collected in a single year's assessments. Therefore, many of the services and activities associated with the District's OMRR&R program will be collected in installments over several years and held in a designated reserve fund established for the District, until such time the services or activities are deemed necessary and scheduled for implementation. However, it should be noted that although the funds collected and accumulated in the District's reserve fund are intended to be sufficient to address the cost of normal levee repairs and rehabilitation, as well as equipment and facility replacements that may be reasonably anticipated as a result of annual storms and erosion over the years, these reserve funds are not intended to fund reconstruction of the levee in the event of unforeseen major levee damages or failures. Such major replacement/reconstruction projects would be costly and would require the agency to retain a significantly large fund balance for something that hopefully will never happen. Therefore, if unforeseen major levee damages or failures occur subsequent funding measures may be necessary to address the replacement needs.

**Table 5** on the following page identifies the estimated expenses and the resulting "Maximum Assessment Rate per FDRB" for fiscal year 2022/2023 being presented to the property owners of record in a property owner protest ballot proceeding required pursuant to the provisions of the Constitution.

**TABLE 5: ESTIMATE OF OMRR&R COSTS FISCAL YEAR 2022/2023**

BUDGET ITEMS	DISTRICT BUDGET FISCAL YEAR 2022/2023
<b>Annual Operations &amp; Maintenance Expenses (O&amp;M)</b>	
Personnel Salaries and Benefits	\$ 696,271
Contract and Operational Services	153,967
Material, Equipment, and Utilities	<u>170,208</u>
<b>Total Annual Operations and Maintenance Expenses</b>	<b>\$ 1,020,446</b>
<b>Repair, Rehabilitation, &amp; Replacement Funding (RR&amp;R)</b>	
RR&R Services and Activities Funding Collection	\$ 373,872
RR&R Material & Equipment Funding Collection	<u>84,795</u>
<b>Total Repair, Rehabilitation, &amp; Replacement Funding Collection</b>	<b>\$ 458,666</b>
<b>Incidental Operational Expenses</b>	
Agency Overhead & Administration	\$ 233,836
Professional Administration Services	189,791
Office Supplies, Equipment, Utilities & Repairs	28,909
Federal, State, County & Local Fees and Reimbursements	<u>99,646</u>
<b>Total Annual Incidental Expenses</b>	<b>\$ 552,182</b>
<b>TOTAL ANNUAL EXPENSES</b> (Sum-total of O&M, RR&R, and Incidental Expenses)	<b>\$ 2,031,295</b>
<b>General Benefit Expenses (Agency Funded)</b>	<b>\$ (99,980)</b>
<b>TOTAL ELIGIBLE SPECIAL BENEFIT EXPENSES</b>	<b>\$ 1,931,314</b>
<b>Funding Adjustments/Contributions</b>	
Additional Agency Contribution	<u>-</u>
<b>Total Funding Adjustments / Contributions</b>	<b>\$ -</b>
<b>BALANCE TO LEVY</b>	<b>\$ 1,931,314</b>
<b>District Statistics</b>	
Total Parcels	25,181
Parcels Levied	25,042
Total Flood Damage Reduction Benefits (FDRBs)	3,828,571,338
<b>Assessment Rate per FDRB FY2022/2023</b>	<b>\$0.00050445 <sup>(6)</sup></b>
<b>Balloted Maximum Assessment Rate per FDRB</b>	<b>\$0.00050445</b>

<sup>(6)</sup> The Assessment Rate per FDRB is calculated by dividing the Balance to Levy by the Total Flood Damage Reduction Benefits (FDRBs).

Note: Subtotals and totals above may not balance due to rounding.

## Calculation of Assessments

An assessment amount per Flood Damage Reduction Benefit (FDRB) is calculated by:

Taking the "Total Annual Expenses" (Total budgeted costs) and subtracting the "General Benefit Expenses (Agency Funded)" to establish the "Total Eligible Special Benefit Expenses."

**Total Annual Expenses – General Benefit Expenses = Total Eligible Special Benefit Expenses**

To the resulting "Eligible Special Benefit Expenses", various "Funding Adjustments/Contributions" may be applied that may include, but are not limited to:

- "Reserve Fund Transfer/Deduction", represents an amount of available existing funds from the "Reserve Fund Balances" being applied to pay a portion of the Special Benefit Expenses for the fiscal year.
- "Additional Agency Contribution", represents a further funding contribution from the Agency above the amount applied as General Benefit. This adjustment addresses the funding gap between the amount budgeted to provide the improvements and services ("Special Benefit Expenses"); and the amount that will be collected through the assessments ("Balance to Levy").

These adjustments to the Special Benefit Expenses result in the net special benefit amount to be assessed "Balance to Levy".

**Eligible Special Benefit Expenses +/- Funding Adjustments/Contributions = Balance to Levy**

The amount identified as the "Balance to Levy" is divided by the total number of Flood Damage Reduction Benefits of parcels that benefit to establish the "Assessment Rate" or "Assessment per FDRB" for the fiscal year. This Rate is then applied back to each parcel's individual FDRB to calculate the parcel's proportionate special benefit and assessment for the improvements.

**Balance to Levy / Total FDRB (Assessed Parcels) = Assessment per FDRB (Rate)**

**Assessment per FDRB x Parcel FDRB = Parcel Assessment Amount**

## Assessment Rate and Revenue

Proposition 218 requires assessments levied to be proportional to the benefits conferred by the improvements, facilities, and/or services provided. In order to ensure that the spread of assessments is proportional based upon the benefits calculated above, the annual special benefit costs of the improvements, facilities, and/or services is divided by the total benefits calculated for all benefiting parcels. The estimated OMRR&R program revenue required annually is approximately \$2,031,295 (in fiscal year 2022/2023 dollars), of which approximately \$99,980 is calculated to be General Benefit costs with approximately \$1,931,314 being identified as special benefit costs. The proportional assessment rate to generate the estimated \$1,931,314 in Total Eligible Special Benefit Expenses is approximately **\$0.00050445** per Flood Damage Reduction Benefit (\$1,931,314 / 3,828,571,338 FDRB = \$0.00050445 per FDRB).

## Annual Inflationary Adjustment (Assessment Range Formula)

As part of the District formation and establishment of annual assessments to fund the ongoing OMRR&R, the proposed assessments described in this Report and to be submitted to the property owners of record in the Ballot Proceeding shall include an annual inflationary adjustment referred to as an Assessment Range Formula. The purpose of establishing an Assessment Range Formula is to provide for reasonable increases and inflationary adjustment that are inevitably associated with providing such improvements and activities, thereby reducing the need for additional noticing and balloting procedures simply because of inflationary factors. The Assessment Range Formula for this District is defined by the following:

Commencing in the second fiscal year (Fiscal Year 2023/2024) and each fiscal year thereafter, pursuant to Government Code §53739(b), the authorized Maximum Assessment Rate per FDRB established for the District in the previous fiscal year shall be adjusted by the lesser of:

- (1) Four percent (4.0%); or,
- (2) The percentage increase in the Consumer Price Index (CPI) as defined in the following.

The local Consumer Price Index used for the inflationary adjustment shall be based on the CPI for All Urban Consumers (CPI-U), established for the San Francisco-Oakland-Hayward, California area, all items, base period 1982-84=100, as developed and defined by the U.S. Bureau of Labor Statistics. The CPI-U used shall be as determined by the Bureau of Labor Statistics for the 12-month percent change in the Annual Data.

Each fiscal year the Agency shall identify the annual percentage change in the CPI-U, using the difference over a 12-month period between the current year and of the previous year (Annual Data which is based on the prior calendar year's Annual Percentage Change). This percentage difference shall then establish the range of increase to the maximum assessment rate allowed based on CPI. If the percentage change in the CPI is greater than four percent (4.0%), the maximum assessment rate shall be increased by four percent (4.0%). If the percentage change in the CPI is less than four percent (4.0%), the maximum assessment rate shall be increased by the percentage change in the CPI. However, if the percentage change in the CPI is negative (less than 0%) then the maximum assessment rate shall not be increased or decreased from the prior fiscal year. Therefore, the minimum annual adjustment to the Maximum Assessment Rate per FDRB is zero percent (0%) and the maximum annual adjustment is four percent (4%).

Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the Agency shall use the revised index or comparable system as approved by the Agency Board for determining fluctuations in the cost of living.

The adjusted maximum assessment shall be calculated each fiscal year independent of the annual budget and calculated Annual Assessment Rate. Although the authorized Maximum Assessment Rate will be recalculated and adjusted per the formula described above each fiscal year, the Annual Assessment Rate to be adopted and applied each fiscal year may be equal to or less than the authorized Maximum Assessment Rate. If the budget and the calculated Annual Assessment Rate for a given fiscal year does not require an increase or the increase is less than the adjusted authorized Maximum Assessment Rate, then the annual assessments can be approved without a Ballot Proceeding. If the calculated Annual Assessment Rate is greater than the authorized Maximum Assessment Rate per FDRB, then the proposed assessment would be considered an increased assessment. To impose such a new or increased assessment, the

Agency must comply with the provisions of the California Constitution Article XIII D Section 4c, that requires a Ballot Proceeding and the assessment increase must be approved by the property owners before that new or increased assessment may be imposed.

## Appeals Process

Any property owner who believes his or her property should be reclassified, and the individual assessment adjusted may file a written appeal with the Board Clerk of FRWLFA who will refer the appeal to the General Manager or other designee appointed by the FRWLFA Board or General Manager (referred to as "Designee"). Any such appeal is limited to correction of an assessment during the then-current fiscal year and for future years.

All appeals must include a statement of reasons why the property should be reclassified and may include supporting evidence. On the filing of any such appeal, the General Manager or Designee, will promptly review the appeal and any information provided by the property owner and may investigate and assemble additional evidence necessary to evaluate the appeal. If the General Manager or Designee finds that the individual assessment should be modified, the appropriate changes will be made to the Assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the General Manager is authorized to refund the property owner the amount of any approved reduction to the individual assessment for the then current fiscal year. In the event that an appeal is filed, and the General Manager approves an adjustment and authorizes a refund, that refund shall only be for the current fiscal year. Refunds for any prior fiscal year's assessments whether delinquent or paid before the appeal was filed, will not be made.

If a landowner disputes the decision of the General Manager or Designee, a secondary appeal may be made to the FRWLFA Board, which will consider the matter at a regularly scheduled Board meeting. Any decision made by the Board shall be final.

## Part IV — Assessment Roll

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Due to the number of parcels within the proposed FRWLFA Operations and Maintenance Assessment District, the Assessment Roll for fiscal year 2022/2023 (a listing of the parcels to be assessed for special benefit within this District along with the assessment amounts) has been filed with the Clerk of the Feather River West Levee Financing Authority, in an electronic format and is by reference made part of this Report. The proposed Assessment Roll shall be available for public inspection in the Feather River West Levee Financing Authority Office during normal office hours.

The Assessment Roll reflects all parcels identified within the District and the corresponding proportional special benefit assessment amount for fiscal year 2022/2023, which is also the amount being balloted for each parcel as part of the Ballot Proceeding. Each parcel listed on the Assessment Roll is currently shown and illustrated on the County Assessor's Roll and the County Assessor's Parcel Number Maps (APN maps). These records are, by reference, made part of this Report and shall govern for all details concerning the description of the lots and parcels. All assessments presented on the assessment roll are subject to change as a result of parcel changes made by the County including parcel splits, parcel merges or development changes that occur prior to the County Assessor's Office securing the final roll and generating tax bills for fiscal year 2022/2023.

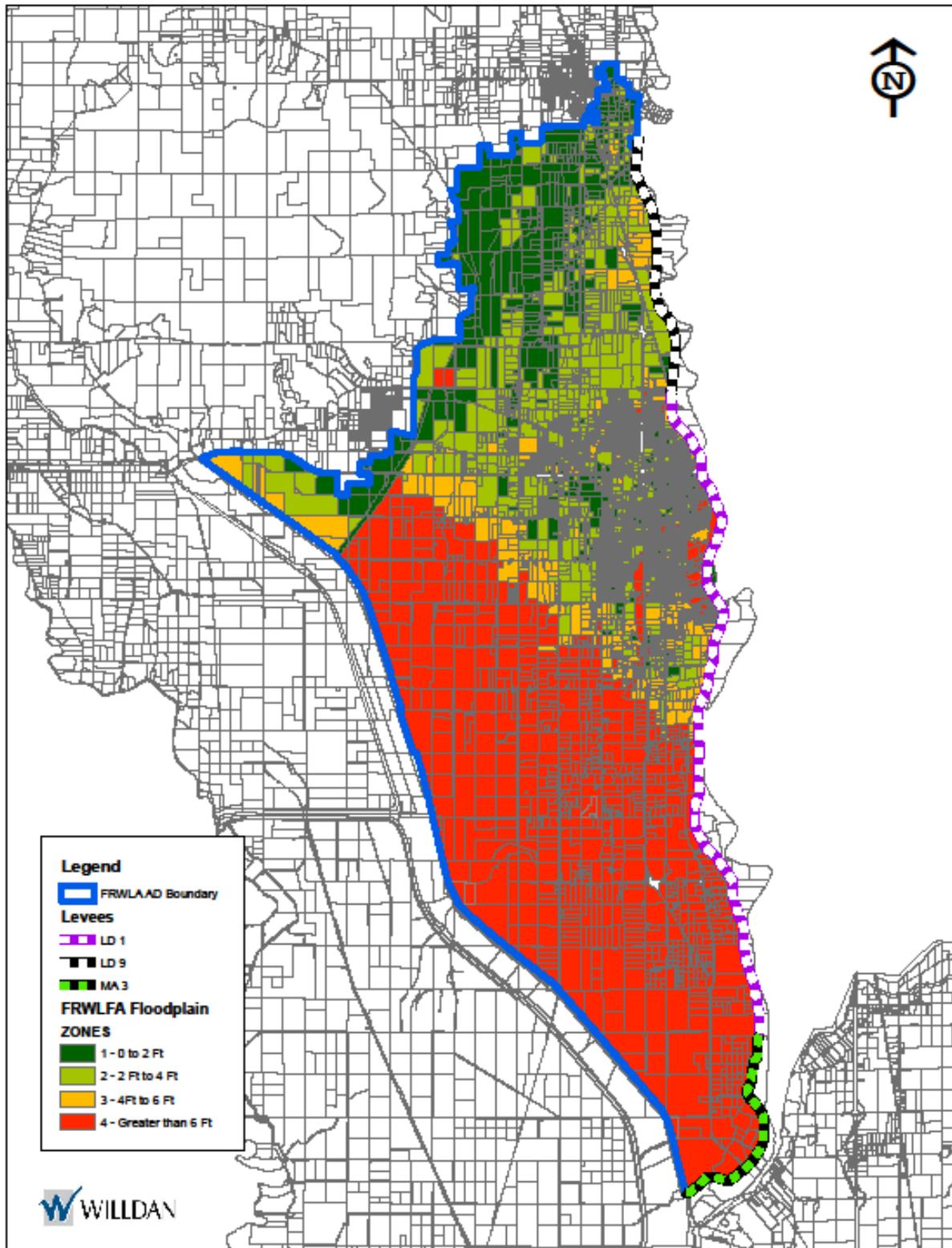
## Part V — Assessment Diagram

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The territory within the FRWLFA Operations and Maintenance Assessment District is narrowly defined to include those lots and parcels of land within the Yuba City Basin of Sutter County that have been identified as parcels receiving a reduction or elimination of potential flooding from the west Feather River levees and related flood control infrastructure improvements that are to be maintained as part of the FRWLFA's Operation, Maintenance, Repair, Rehabilitation, and Replacement program. The boundary of the District and the parcels therein are based on hydrologic and hydraulic mapping (flood levels), incorporating each of the parcels within the Yuba City Basin that have been identified as parcels receiving a reduction or elimination of potential flood damages from inundation or force by floodwaters as a result of possible breaches or other flooding from the west Feather River levees and related flood control infrastructure improvements that extend from Paseo Road south to the confluence of the Sutter Bypass (FRWLFA Levees). Based on the hydrologic and hydraulic data, the District incorporates approximately 25,000 properties in the Live Oak, Yuba City and unincorporated areas of Sutter County that are protected from flooding by FRWLFA Levees.

The parcels within the District as identified on the Assessment Roll as referenced in Part IV of this Report and depicted in the Boundary and Flood Zone Diagram on the following page constitute the Assessment Diagram FRWLFA Operations and Maintenance Assessment District. The Boundary and Flood Zone Diagram also shows the general location of the west Feather River Levee to be maintained as part of the OMRR&R program for which properties identified on the Assessment Roll referenced in Part IV of this Report are being balloted for a new special benefit assessment to support the ongoing annual expenses associated with the OMRR&R program. The parcels therein shall consist of and be dictated by the lines and dimensions as those lots, parcels and subdivisions of land listed on the Assessment Roll and shown on the Sutter County Assessor's parcel maps for fiscal year 2022/2023 and shall incorporate all subsequent parcel splits and merges and by reference the Sutter County Assessor's parcel maps are incorporated herein and made part of this Report.

Figure 3: Boundary and Flood Zone Diagram (Assessment Diagram)



**Feather River West Levee Financing Authority**

**RESOLUTION NO. 2022-04**

**RESOLUTION ADOPTING PROPOSITION 218 PROCEDURES FOR THE OPERATIONS AND MAINTENANCE ASSESSMENT BALLOT PROCEEDING OF THE FEATHER RIVER WEST LEVEE FINANCING AUTHORITY**

WHEREAS, the Board of the Feather River West Levee Financing Authority (FRWLFA) adopted Resolution R-2022-03 and by initiating procedures, indicated its intention to levy assessments, preliminarily approving an Engineer's Report, and providing for notice of Public Hearing for the formation and imposition of a new proposed special benefit assessment district hereinafter referred as the FRWLFA Assessment District (District) and,

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and,

WHEREAS, Article XIID of the California Constitution imposes certain procedural and substantive requirements relating to assessments (as defined); and,

WHEREAS, some of the requirements of Proposition 218 are unclear and require judicial interpretation or legislative implementation; and,

WHEREAS, the proposed District includes levees and benefitting properties encompassed by the existing State Maintenance Area 3 (MA3) as prescribed under California Water Code Section 12878, and

WHEREAS, the District levies may be imposed after the MA3 is dissolved and associated levees and benefitting properties are annexed by Levee District 1 (LD1), and

WHEREAS, the annexation of MA3 by LD1 must be approved by the Central Valley Flood Protection Board, and

WHEREAS, the annexation of MA3 by LD1 must be approved by the Sutter County Local Area Formation Commission under the provisions of Section 56000 of the California Government Code, and

WHEREAS, FRWLFA believes it to be in the best interest of the community to record its decisions regarding implementation of the provisions of Proposition 218 relating to the proposed District and to provide the community with a guide to those decisions and how they have been made.

NOW, THEREFORE, BE IT RESOLVED, by the FRWLFA Board, acting as the governing board of the FRWLFA District:

**SECTION 1. Statement of Legislative Intent.**

It is the FRWLFA's intent in adopting this Resolution, to adopt assessment ballot proceedings that are consistent, and in compliance with Articles XIIC and XIID of the California Constitution and with California Government Code Section 53750 et. seq., and Government Code Section 54703 et seq., the Benefit Assessment Act of 1982, which collectively govern the provisions authorizing the levy of the proposed District. It is not the

intent of FRWLFA to vary in any way from the requirements of the aforementioned law.

## SECTION 2. Definition of Assessment.

Proposition 218 defines "assessment" as any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax." This means that an assessment that is not a charge upon real property for a special benefit conferred upon the real property is not an "assessment" for purposes of article XIID, section 2(b) of the California Constitution.

## SECTION 3. Existing Operations and Maintenance Assessments and Property Related Fees.

- A. LD1 currently imposes two assessments and MA3 currently imposes one assessment for levee operations and maintenance in those respective service areas. Collection of these assessment shall cease upon the levy of the proposed FRWLFA assessment.
- B. Levee District 9 (LD9) is currently funded by an annual ad valorem tax imposed by Sutter County. This funding shall remain in place to pay for the general benefits of FRWLFA levee operations and maintenance conferred on real property located in the District or to the public at large.

## SECTION 4. Funding of District Operations and Maintenance

FRWLFA assessments shall be apportioned to fund operations and maintenance in accord with approved budgets as documented in the Engineer's Report or as approved by FRWLFA and the boards of LD1 and LD9.

## SECTION 5. Assessment Ballot Proceeding.

The following procedures shall be used in the assessment ballot proceeding for the Proposed Assessment required by Article XIID, Section 4 of the California Constitution:

- A. Amount of Assessment. Only special benefits are assessable. Each parcel shall only be assessed by the parcel's proportionate share of the public improvement or property related service based upon that parcel's special benefit from the improvement or service. The amount shall be proportional to and no greater than the special benefits conferred on the property.
- B. Special Benefit. For purposes of determining the amount of the assessment:
  - 1. Special benefit means a particular and distinct benefit over and above general benefits conferred on real property located in the District or to the public at large;
  - 2. Special benefits are those which the property assessed receives, due to the improvement or service, in excess of the general public benefit;
  - 3. The fact that other property within the area will be, to a greater or lesser extent, specially benefited by the improvement or service, will not have the effect of depriving assessed property of its character as specially benefited property;
  - 4. Special benefit is immediate and of such a character as can be seen and traced.

5. General benefits are remote and sometimes contingent.
- C. Engineer's Report. FRWLFA Board shall direct the filing of an Engineer's Report that shall comply with the requirements of Article XIID, Section 4 of the California Constitution, Government Code Section 54716. The Engineer's Report shall identify the improvement or service to be funded by the assessment; its estimated cost, including all planning, administrative, and ancillary costs authorized by law to be funded by the assessment; the entire special benefit attributable to the improvement or service, which benefit shall be separated from the general benefit, if any. Each parcel assessed shall be specially benefited by the improvement or service. The Engineer's Report shall also provide the evidence upon which the FRWLFA Board may find that a special benefit exists. The Engineer's Report shall apportion the assessment to each parcel in the District according to its respective special benefit.
  - D. Mailed Notice. The following guidelines shall apply to the mailed notice of the proposed assessment pursuant to Article XIID, Section 4, of California Constitution and Government Code Section 54716 (c).
    1. For all mailed notices, the record owner(s) of each parcel to be assessed and their mailing address shall be determined from the last equalized property tax roll prepared and made available to FRWLFA by the Sutter County Assessor. If the property tax roll indicates more than one owner, each owner shall receive notice at the mailing address provided. Only property owners shall receive notice.
    2. The mailed notice may be combined in a package with the Assessment Ballot described in Section 4.G below. The form of mailed notice and Assessment Ballot package is attached to this Resolution as **Exhibit A**.
    3. The mailed notice shall be sent at least forty-five (45) days prior to the date set for the Public Hearing on the assessment. An affidavit of mailing from the contracted vendor providing mailing services indicating the date of mailing shall be the date of the notice for purpose of determining the forty-five day minimum notice requirement.
    4. The notice provided by this section and in accordance with Article XIID, Section 4 of the California Constitution and Government Code 54716, shall supersede and be in lieu of any other statutes requiring notice to levy or increase an assessment, including but not limited to the notice required by Government Code section 54954.6.
    5. Failure of any person to receive notice shall not invalidate the proceedings.
    6. The cost of providing notice shall be included as a cost of the District.
    7. FRWLFA, upon the receipt of any returned ballots from the United States Postal Service, for any reason, will utilize its reasonable best efforts to forward the notice to the record property owner of the parcels associated with the returned notice. Failure of FRWLFA to determine a valid mailing address for a Record Owner shall not invalidate the proceedings.

E. Posted Notice

1. A notice of the proposed assessment shall be posted on the internet website of FRWLFA.
2. The form of the posted notice is attached to this Resolution as **Exhibit B**.
3. The posted notice shall be posted at least two weeks prior to the Public Hearing.

F. Assessment Ballot. The following guidelines shall apply to the assessment ballot:

1. The ballot required by Article XIID, Section 4(d) of the California Constitution and Government Code Section 53753 shall be mailed with the mailed notice described in Section 4(D) to all property owners of record within the District at least forty-five (45) days prior to the date of the public hearing on the proposed assessment.
2. The form and/or ballot guide provided by this section shall contain the following information and shall be substantially in the form attached to this Resolution as **Exhibit A**.
  - a) The total amount to be charged to all parcels within the proposed District;
  - b) The amount to be charged to the owner's particular parcel(s);
  - c) The duration of the assessment payments;
  - d) The reason for the proposed assessment;
  - e) The basis upon which the amount of the proposed assessment was calculated;
  - f) A summary of the procedures for the completion, return and tabulation of the ballots;
  - g) A statement that the failure to receive a majority of ballots in support of the proposed assessment will result in the assessment not being imposed;
  - h) On the face of the envelope in which the notice of election and ballot are mailed, there shall appear in substantially the following form in no smaller than 16- point bold type: "OFFICIAL BALLOT ENCLOSED"; and
  - i) The ballot shall include the address for return of the ballot, the date and location where the ballots will be tabulated, and a place where the person returning it may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.
3. All ballots must be returned to FRWLFA by mail or in person, sealed in the envelope provided not later than the date for return of ballots stated on the notice described in Section 4(D). In person ballots will be accepted at the Levee District 1 office located at 243 Second Street, Yuba City, California. In person ballots will also be accepted by a FRWLFA representative at official public meetings

prior to the Public Hearing.

4. The envelope provided for the return of ballots shall be "security envelopes" which conceal the contents therein provided by FRWLFA.
5. A ballot must be signed under penalty of perjury. For properties with more than one owner of record, ballots will be accepted from each owner of record. Each owner of record is entitled to vote. If more than one owner of record votes, FRWLFA shall apportion the voting rights between the owners based upon the respective record interests as FRWLFA deems correct, proper, and appropriate. However, if only one owner of record votes, FRWLFA shall tabulate that vote on behalf of the entire parcel.
6. Because assessments are levied on property and tenants are not directly liable to FRWLFA for payment of assessments, a tenant of real property shall not have the power or authority to submit an assessment ballot.
7. Only ballots with original signatures, not photocopies, will be accepted. Ballots will not be accepted via e-mail. Ballots not submitted in the security envelope provided by FRWLFA shall not be counted.
8. FRWLFA may issue a duplicate ballot to any property owner whose original ballot was lost or destroyed. Such ballots shall be clearly marked as duplicate ballots and shall be accompanied by sufficient information for the Clerk of the FRWLFA to verify the location and ownership of the property in question and the identity of the individual casting the ballot to verify its authenticity.
9. An assessment ballot proceeding is not an election.
10. Assessment ballots shall remain sealed until the tabulation of ballots commences after the conclusion of the Public Hearing. An assessment ballot may be submitted, changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the Public Hearing.
11. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Government Code section 6252, and equally available for inspection (e.g., by the proponents or the opponents of the proposed assessment), pursuant to Government Code Section 53750(e)(2).
12. Prior to the public hearing, neither the assessment ballot nor the envelope in which it is submitted shall be treated as a public record, pursuant to Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the balloting process.

#### G. Public Hearing.

1. At the Public Hearing, the FRWLFA Board shall hear all public testimony regarding the proposed assessment and accept ballots until the close of the Public Hearing which hearing may be continued from time to time.

2. The FRWLFA Board may impose reasonable time limits on both the length of the entire Public Hearing and the length of each speaker's testimony.
3. At the conclusion of the Public Hearing, the FRWLFA Board shall direct the tabulation of the ballots, including those received during and prior to the close of the Public Hearing.
4. If additional time is necessary for public testimony, the FRWLFA Board may continue the public hearing to a later date to receive additional testimony.

H. Tabulating Ballots. The following guidelines shall apply to tabulating assessment ballots:

1. An impartial person designated by the FRWLFA Board who does not have a vested interest in the outcome of the proposed assessment shall publicly tabulate the assessment ballots submitted, and not withdrawn, in support or opposition to the proposed assessment. The assessment engineer has been determined by the FRWLFA Board to be a person that does have a vested interest in the outcome of the proposed assessment.
2. Because of the size of the proposed District and the expected number of ballots to be tabulated, the FRWLFA Board has determined that the ballot tabulation will take place after the close of the Public Hearing at a different location than the Public Hearing. The time and location of the ballot tabulation will be announced prior to but not later than the close of the Public Hearing.
3. The ballot tabulation will take place at a location accessible to the public. The ballots shall be unsealed and tabulated in public view so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.
4. The impartial person tabulating the ballots may use technological methods of tabulating the assessment ballots, including, but not limited to, optically readable (bar-coded) assessment ballots.
5. FRWLFA shall determine the validity of all ballots. FRWLFA shall accept as valid all ballots except those in the following categories:
  - a) A photocopy of a ballot which does not contain an original signature;
  - b) An unsigned ballot;
  - c) A ballot signed by an individual claiming to represent the owner without an affidavit;
  - d) A ballot which lacks an identifiable "yes" or "no" vote;
  - e) A ballot which appears to be tampered with, marred, defaced, split into two or more parts, or otherwise invalid based upon its appearance or method of delivery or other circumstances;
  - f) A ballot which is submitted on a form which is different than the form

of ballot provided by FRWLFA;

- g) A ballot submitted to FRWLFA via e-mail; and,
- h) A ballot not returned in a FRWLFA issued "security envelope."

FRWLFA's decision, after consultation with its attorney that a ballot is invalid, shall be final and may not be appealed to the FRWLFA Board.

6. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in the Public Records Act, and equally available for inspection by the proponents and the opponents of the proposed assessment.
7. The ballots and all materials associated with the Tabulation shall be preserved for a minimum of two years, after which they may be destroyed.
8. A property owner who has submitted an assessment ballot may withdraw the ballot and submit a new or changed ballot at any time prior the conclusion of the Public Hearing on the assessment.
9. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings conducted pursuant to this Resolution under this section and Article XIID, Section 4 of the California Constitution.
10. If according to the final tabulation of the ballots, ballots submitted and not withdrawn against the proposed assessment exceed the ballots submitted and not withdrawn in favor of the assessment, weighted according to the proportional financial obligation of each affected property, a "majority protest" exists and the FRWLFA Board shall not impose the new assessment.
11. If according to the final tabulation of the ballots, ballots submitted and not withdrawn against the proposed assessment do not exceed the ballots submitted and not withdrawn in favor of the assessment, weighted according to the proportional financial obligation of each affected property, a "majority protest" does not exist and the FRWLFA Board may further consider the formation of the District and the levy and collection of the assessment.

PASSED AND ADOPTED \_\_\_\_\_, by the following vote of the FRWLFA Board, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Terra Yaney, Board Clerk  
Feather River West Levee Financing Authority  
County of Sutter  
State of California

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Charlie Hoppin, Board Chair  
Feather River West Levee Financing Authority  
County of Sutter  
State of California

Attachments: Exhibit A: Form of Mailed Notice and Assessment Ballot Package  
Exhibit B: Form of Posted Notice

# EXHIBIT A - FORM OF NOTICE & BALLOT

## FEATHER RIVER WEST LEVEE FINANCING AUTHORITY



### NOTICE OF PUBLIC HEARING AND ASSESSMENT BALLOT PROCEDURE REGARDING THE PROPOSED FORMATION OF A NEW ASSESSMENT DISTRICT

#### Feather River West Levee Financing Authority

#### FRWLFA Operations and Maintenance Assessment District

##### Purpose of this Notice

The purpose of this notice that includes both this document and the accompanying Assessment Ballot, is:

- to provide information to the record owners of property within the jurisdiction of the Feather River West Levee Financing Authority (“FRWLFA”), regarding proceedings being undertaken by FRWLFA for the formation of the **FRWLFA Operations and Maintenance Assessment District** (“District”) and to levy annual assessments for this District which includes your property; and
- to transmit an Assessment Ballot to the owners of property within the proposed District, to enable such owner or owners to express support or opposition to the proposed assessment on such property, by completing and returning the accompanying Assessment Ballot; and,
- to identify the time and place of the scheduled public hearing on these matters and to provide instructions to assist the owners of property in completing and returning the Assessment Ballot.

##### Reason for the Assessment

The Feather River West Levee Financing Authority (FRWLFA) is a joint powers agency of Levee District 1 (“LD1”); Levee District 9 (“LD9”) and Sutter County. The purpose of FRWLFA and the proposed new assessment on properties within its boundaries is to provide a stable revenue source to fund the ongoing special benefit expenses associated with the Operation, Maintenance, Repair, Rehabilitation, and Replacement (“OMRR&R”) program for the west Feather River levees within the jurisdictions of LD1, LD9, and Maintenance Area 3 within Sutter County (hereafter collectively referred to as the “FRWLFA Levees”). The FRWLFA Levees consist of twenty-seven (27) miles of the west Feather River levee improvements from Paseo Road south to the confluence of the Sutter Bypass that must be maintained in compliance with strict State and Federal standards and regulations. The OMRR&R of these levee improvements are considered a particular and distinct special benefit to properties within the proposed District and the assessments are intended to support the ongoing maintenance associated with the FRWLFA Levees.

##### Basis upon which the assessments are calculated

The estimated annual OMRR&R program costs are allocated to parcels within the District based on a benefit formula that equitably distributes those costs in proportion to the special benefit of each parcel. A calculated Flood Damage Reduction Benefit (“FDRB”) that reflects each parcel’s special benefit is established based on specific parcel characteristics including land use category, parcel size (acreage), building/structure size (square footage), and relative flood depth (flood depth range/zone). For this District, the properties to be assessed may be categorized as Agricultural (Orchard & Non-Orchard); Commercial (Public & Private); Industrial (Public & Private); Residential (Mobile Home, Multi Family, & Single Family); and Vacant (Commercial, Industrial, Public, & Residential) properties. The total eligible special benefit expenses (“Balance to Levy”), is divided by the total calculated FDRB of all special benefiting parcels within the District. The result of this calculation establishes an assessment rate per Flood Damage Reduction Benefit (“Levy per FDRB” or “Assessment Rate”). This Assessment Rate multiplied by each parcel’s calculated FDRB equals each parcel’s annual assessment amount.

$$\text{Total Balance to Levy} / \text{Total FDRB} = \text{Levy per FDRB (Assessment Rate)}$$
$$\text{Levy per FDRB} \times \text{Parcel's calculated FDRB} = \text{Parcel Assessment Amount}$$

The proposed assessment for your property is listed on the enclosed ballot. Utilizing the Assessment Calculator, available at [www.frwlfa.org](http://www.frwlfa.org) you can enter your parcel number or physical address to find your parcel’s land use category, structure footprint (square feet), property size (acreage), and flood depth zone. A more detailed description of the OMRR&R program, the FRWLFA Levees, and basis upon which the assessments have been calculated is in the Engineer’s Report, which is on file with the FRWLFA Board Clerk and available at [www.frwlfa.org](http://www.frwlfa.org).

##### The Total Annual Assessment Proposed to be Charged

**The total annual amount of the assessments being balloted to properties within the District is \$1,914,587.51.** This total amount balloted divided by the total calculated Flood Damage Reduction Benefit (“FDRB”) of 3,795,398,741 for all parcels results in a proposed new assessment rate of **\$0.00050445** per FDRB (Maximum Assessment Rate for Fiscal Year 2022/2023). The amount of the proposed assessment identified on the accompanying Assessment Ballot as “Your Parcel’s Balloted Assessment Amount” is based upon this Maximum Assessment Rate and your property’s proportional special benefit based on your parcel’s FDRB assignment.

# EXHIBIT A - FORM OF NOTICE & BALLOT

## Inflationary Adjustment

Because the cost of servicing and maintaining the FRWLFA Levees are impacted by inflation over time, the proposed maximum assessment rate of \$0.00050445 per FDRB and your parcel's corresponding assessment includes an annual inflationary adjustment based on the lesser of four percent (4%) or the percentage increase in the Consumer Price Index (CPI) for All Urban Consumers (CPI-U), established for the San Francisco-Oakland-Hayward, California area, all items, base period 1982-84=100, as developed and defined by the U.S. Bureau of Labor Statistics. The CPI-U used shall be for the 12-month percent change in the Annual Data. As part of your support or opposition to the assessment described in this notice and presented on the accompanying Assessment Ballot, you are also indicating your support or opposition to this annual inflationary adjustment that may be applied to future assessments. If the assessment is approved, this annual inflationary adjustment shall be applied annually commencing in fiscal year 2023/2024.

## Duration of the Assessments

If approved, the proposed assessment plus inflationary adjustment indicated on the accompanying ballot may be assessed and appear on your 2023/2024 property tax bill. At the FRWLFA Board of Directors' discretion, a lesser amount may be assessed. Because the proposed assessments will provide annual funding for the ongoing maintenance and operation of the FRWLFA Levees, there is no sunset (no end date) on the assessments, but the annual budget and assessments shall be presented at a public hearing each fiscal year, which is open to the public for comment and testimony.

## Public Hearing

**Notice is hereby given that a public hearing regarding the proposed District and assessment amounts will be held during a scheduled meeting of the Feather River West Levee Financing Authority Board of Directors, in the Yuba City Council Chambers at Yuba City Hall, located at 1201 Civic Center Boulevard, Yuba City, California, on the following date and commencing at the following time:**

**Wednesday, June 22, 2022, starting at 2:00 P.M.**

The Board of Directors shall consider all objections and protests, if any, to the proposed District and assessment which has been deemed necessary for the operation, maintenance, repair, rehabilitation, and replacement program for the FRWLFA Levees. Any interested person shall be permitted to present written and oral testimony regarding these proceedings. The Board of Directors may impose reasonable time limits on both the length of the entire public hearing and the length of each interested person's oral testimony. The Board of Directors may also continue the public hearing.

## Protest Provisions

Pursuant to California Constitution Article XIID, Section 4 (e), at the Public Hearing, the Board of Directors shall consider all protests against the proposed assessment. In addition to the property owner assessment ballots, written protests regarding the District and assessments may be filed with the FRWLFA Board Clerk prior to or during the Public Hearing. The FRWLFA Board shall not impose an assessment and will abandon the formation of the District, if there is a majority protest, as calculated below.

## Assessment Ballot

The amount of the assessment identified on the accompanying Assessment Ballot as "Your Parcel's Balloted Assessment Amount" represents your parcel's proportional special benefit of the total amount being balloted at the maximum assessment rate. Any time before the end of the Public Hearing, you may submit the Assessment Ballot to the FRWLFA Board Clerk. To do so: mark the Ballot either " YES — IN FAVOR OF THE ASSESSMENT" or " NO — OPPOSED TO THE ASSESSMENT", sign the Ballot, seal the Ballot in the enclosed return envelope, and mail or deliver it to the FRWLFA Board Clerk. If you do not use the envelope provided, the return envelope should have the words "ASSESSMENT BALLOT, DO NOT OPEN" printed on the outside to ensure it is not opened in advance of the Public Hearing. The Ballot may be submitted, changed or withdrawn at any time before the end of the Public Hearing. If you need a replacement Ballot, call the FRWLFA Hotline or email as listed below.

Any Ballot returned unmarked or unsigned, or not received by the FRWLFA Board Clerk before the end of the public hearing will be rejected and not counted. **The proposed District will be abandoned and a new assessment will not be imposed if the Ballots submitted in opposition to the assessment exceed the Ballots submitted in favor of the assessment, with each Ballot weighted according to the dollar amount of the assessment on the property to which that Ballot relates.** Only valid ballots received by the FRWLFA Board Clerk before the end of the public hearing shall be counted. In addition to the property owner assessment ballots, written protests regarding the District and assessments may be filed with the FRWLFA Board Clerk prior to or during the Public Hearing. Please ensure that your Assessor's Parcel Number (APN) listed on the accompanying Assessment Ballot is included on any written protest or correspondence so that your property can be correctly identified for the record.

## EXHIBIT A - FORM OF NOTICE & BALLOT

### **Additional Information**

For more information or to receive a replacement ballot, call the FRWLFA Hotline at (800) 401-8302 and leave a message or email FRWLFA at [info@frwfa.org](mailto:info@frwfa.org).

**EXHIBIT A - FORM OF NOTICE & BALLOT**

**FEATHER RIVER WEST LEVEE  
FINANCING AUTHORITY**

**OFFICIAL ASSESSMENT BALLOT**

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

**FRWLFA Operations and Maintenance Assessment District**

This Ballot is for the property designated as Assessor's Parcel Numbers: <<BALLOTAPN>>

<<OWNER1>>  
<<OWNER2>>  
<<MAILADDRESS>>  
<<MAILCITY>>, <<MAILSTATE>>, <<MAILZIP>>

This is your official property owner assessment ballot for the proposed levy of new assessments for the FRWLFA Operations and Maintenance Assessment District ("District") to fund the ongoing special benefit expenses associated with the Operation, Maintenance, Repair, Rehabilitation, and Replacement ("OMRR&R") program associated with the west Feather River levees as described in the accompanying Notice and described more fully in the Engineer's Report, which is on file with the FRWLFA Board Clerk. This balloting process was initiated on April 20, 2022, and approved by the Board of Directors.

**To complete your ballot, mark an (X) in the voting square next to the word "YES" or next to the word "NO" below, sign and date the ballot, and return the entire ballot to the FRWLFA Board Clerk. If you wrongly mark, tear, or deface this ballot, return it to the FRWLFA Board Clerk with a request for a replacement ballot. All completed ballots must be received by the FRWLFA Board Clerk no later than the close of testimony at the public hearing scheduled for June 22, 2022.**

**BALLOT**

**Assessor's Parcel Number:** <<BALLOTAPN>>

Proposed New Maximum Assessment Rate: **\$0.0005445** per FDRB

**Your Parcels Balloted Maximum Assessment Amount:** << BALLOT\_AMT>>

This is an annual assessment that is collected as part of your County property tax bill. The amount assessed each fiscal year shall be based on the net expenses to be assessed, but the assessments may not exceed the Proposed New Maximum Assessment Rate shown above plus the annual inflation adjustment without the approval of the property owners.

**YES — IN FAVOR OF THE ASSESSMENT** proposed for the District and the new assessment for my property shown above including the annual inflation adjustment equal to the lesser of 4% or the annual percentage increase of the Local Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-Hayward, California area. <<BALLOTYES>>

**NO — OPPOSED TO THE ASSESSMENT** proposed for the District and the new assessment for my property shown above including the annual inflation adjustment equal to the lesser of 4% or the annual percentage increase of the Local Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-Hayward, California area. <<BALLOTNO>>

I hereby declare, under penalty of perjury, that I am the record owner of the property (Assessor's Parcel Number) identified on this ballot or I am the authorized representative of that record owner.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Please see the back of this sheet for information about your assessment ballot and instructions for completion and delivery of the assessment ballot.

# EXHIBIT A - FORM OF NOTICE & BALLOT

## INFORMATION ABOUT YOUR ASSESSMENT BALLOT AND INSTRUCTIONS FOR COMPLETION AND DELIVERY OF ASSESSMENT BALLOT

### Feather River West Levee Financing Authority ("FRWLFA") FRWLFA Operations and Maintenance Assessment District

**To Cast Your Ballot:** Prior to the public hearing, completed ballots may be mailed to the FRWLFA Board Clerk at the address indicated below or personally delivered to the Levee District 1 Office located at 243 Second Street, Yuba City California, Monday through Friday between 8 AM and 5 PM. A return envelope has been provided for your convenience that is addressed to the FRWLFA Board Clerk. You may also personally present completed ballots to the FRWLFA Board Clerk at the public hearing on June 22, 2022, at the Yuba City Council Chambers at 1201 Civic Center Boulevard, Yuba City, California. If you return your ballot by mail, please be sure to allow time for mail delivery. The FRWLFA Board Clerk must receive all ballots no later than the end of the public testimony portion of the public hearing on June 22, 2022. If you damage or misplace your ballot, a replacement ballot can be obtained by calling the FRWLFA Hotline at (800) 401-8302 or emailing [info@frwlfa.org](mailto:info@frwlfa.org).

**All submitted ballots must be clearly marked to indicate either "Yes — In Favor of assessment" or "No — Opposed to the assessment" and signed; otherwise, the ballot will be rejected and not counted.** To ensure the privacy of your ballot prior to the ballot tabulation, please return your ballot in the envelope provided, or in a sealed envelope that indicates that a ballot is enclosed by noting on the front of the envelope "Assessment Ballot, Do Not Open".

A ballot previously submitted may be withdrawn at any time prior to the close of the public hearing by request to the FRWLFA Board Clerk by the person(s) that signed the submitted ballot. An assessment ballot may be changed at any time prior to the end of the public hearing by requesting a withdrawal of the previous ballot and requesting a replacement ballot. Only the person(s) signing the ballot may make such a request. The replacement ballot must be received by the FRWLFA Board Clerk prior to the deadline set forth herein.

**If you have questions:** Should you have any questions prior to the public hearing, please leave a message on the FRWLFA Hotline at (800) 401-8302 or email [info@frwlfa.org](mailto:info@frwlfa.org), and FRWLFA staff will respond promptly.

Feather River West Levee Financing Authority  
Attn: FRWLFA Board Clerk  
P.O. Box M  
Yuba City, CA 95991

*Completed ballots MUST be received by the FRWLFA Board Clerk no later than the close of the public testimony portion of the public hearing, which is scheduled to begin on **Wednesday, June 22<sup>nd</sup> at 2:00 p.m.**, in the Yuba City Council Chambers, located at 1201 Civic Center Boulevard, Yuba City, California*

#### How to cast your ballot:

1.  Check Yes or No
2.  Sign and date it
3.  Return to the FRWLFA Board Clerk on or before the Public Hearing on, June 22, 2022, in accordance with the deadlines referenced above



P.O. Box M  
Yuba City, CA 95991

**FRWLFA Operations and Maintenance Assessment District  
Property Owner Ballot**

**OFFICIAL BALLOT ENCLOSED  
Do Not Discard**

**FEATHER RIVER WEST LEVEE  
FINANCING AUTHORITY**  
P.O. Box M  
Yuba City, CA 95991

Feather River West Levee Financing Authority  
Attn: Board Clerk  
P.O. Box M  
Yuba City, CA 95991

**Official Property Owner Assessment Ballot Enclosed  
FRWLFA Operations and Maintenance Assessment District**

Postage  
Required

**Do Not Open**  
until after the Public Hearing

## **EXHIBIT B - FORM OF POSTED NOTICE**

### **Official Notice of Public Hearing Feather River West Levee Financing Authority FRWLFA Operations and Maintenance Assessment District**

Pursuant to the Benefit Assessment Act of 1982 (Government Code 54703 et. seq.), the Feather River West Levee Financing Authority (FRWLFA) is undertaking proceedings to consider an assessment on certain properties within the proposed FRWLFA Assessment District (District). The proposed assessment is necessary to ensure the proper maintenance and operation of FRWLFA levees in accordance with agreements with United States Army Corps of Engineers (USACE) and the California Department of Water Resources.

#### **Engineer's Report**

In accordance with Proposition 218, an Engineer's Report (Report) has been prepared and is on file with the FRWLFA Clerk. The Report includes a description of the cost of levee operations and maintenance and a description of each parcel proposed to be subject to the assessment. The Report establishes each benefitting property's assessment based on its proportional special benefit received relative to the special benefit received by all of the properties in the proposed assessment from the Services.

**A copy of the Engineer's Report is on file with the FRWLFA Clerk and Levee District 1 and is available for review at the Levee District 1 office, located at 243 Second Street, Yuba City, California, during normal business hours. The full report is also available at [www.frwlfa.org](http://www.frwlfa.org).**

#### **Ballot Proceeding**

Each record owner, or the legally authorized representative of such record owner, of property within the proposed assessment boundaries has the right under the provisions of Article XIII D of the California Constitution ("Proposition 218") and the Proposition 218 Omnibus Implementation Act (Government Code 53750 et seq.) to submit a ballot in favor of or in opposition to the proposed assessment. Notice of a public hearing and ballots have been mailed to each record owner of property and property owners will have no less than 45-days to return ballots to FRWLFA. Property owners with inquiries regarding the Ballot Proceeding can call the FRWLFA Hotline at (800) 401-8302 or email FRWLFA at [info@frwlfa.org](mailto:info@frwlfa.org).

#### **Public Hearing**

**A public hearing will be held on Wednesday, June 22<sup>nd</sup>, 2022, at 2:00 PM at the Yuba City Council Chambers at City Hall, 1201 Civic Center Boulevard, Yuba City, California. All interested members of the public are encouraged to attend.**

Property owners will have the opportunity to submit their ballot at the public hearing and provide written and/or verbal testimony regarding the proposed assessment to the FRWLFA Board of Directors at the Public Hearing.

For more information, visit [www.frwlfa.org](http://www.frwlfa.org)