

# Feather River West Levee Financing Authority

Board of Directors Regular Meeting Agenda – September 14, 2022, 2:00 p.m.  
(or upon conclusion of the Sutter Butte Flood Control Board Meeting)

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

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

**Meeting URL:** [https://us06web.zoom.us/webinar/register/WN\\_4NuQEGpeRbyr5xtRbbxP4w](https://us06web.zoom.us/webinar/register/WN_4NuQEGpeRbyr5xtRbbxP4w)

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

### Levee District 1

Charlie Hoppin  
Alt: Al Montna

### Levee District 9

Mike Morris  
Alt: Chris Schmidl

### Sutter County

Mike Ziegenmeyer  
Alt: Mat Conant

## AGENDA SUMMARY

### **SPECIAL MEETING/CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

### **PUBLIC COMMENT**

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

### **CONSENT CALENDAR**

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

- 1) Approval of the minutes for the July 13, 2022 Board Meeting
- 2) Continuing Brown Act Resolution No. 2022-10

## **PRESENTATION, DISCUSSION & ACTION ITEMS**

- 3) Approval of resolution 2022-11 establishing an assessment Appeal Policy related to the Feather River West Levee Operations and Maintenance Assessment District
- 4) Appointment of the Levee District 1 General Manager as the Executive Director of FRWLFA
- 5) Approval of Amendment No. 1 to the Funding and Services Agreement between the Feather River West Levee Financing Authority and Sutter Butte Flood Control Agency
- 6) SBFCA Services Update

**ADJOURNMENT**

The next regularly scheduled Board of Directors meeting is scheduled for October 12, 2022 at 2 p.m.

# Feather River West Levee Financing Authority

Board of Directors Special Meeting Minutes, July 13, 2022, 2:00 p.m.

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

The Feather River West Levee Financing Authority (Authority) Board of Directors (Board), State of California, met on the above date at 2:00 p.m. in Compliance with CA Executive Orders AB361. Members of the Board of Directors and members of the public participated in this meeting in person and by teleconference.

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

### MEMBERS PRESENT

Levee District 1:	Charlie Hoppin
Levee District 9:	Mike Morris
County of Sutter:	Mat Conant

**MEMBERS ABSENT:** Mike Ziegenmeyer

**STAFF PRESENT:** Chris Fritz, SBFCA Director of Engineering; Austin Cho, SBFCA Counsel; Seth Wurzel, SBFCA Budget Manager, Drew Stresser, Levee Districts 1 & 9 General Manager; Mike Inamine, HDR Project Manager; Kim Floyd, Public Outreach Manager; Terra Yaney, Board Clerk

### MEETING/CALL TO ORDER

At 2:00 p.m., Director Charlie Hoppin opened the meeting and led the group in the pledge of allegiance.

### PUBLIC COMMENT

[No Public Comment](#)

### CONSENT CALENDAR

1. Approval of the minutes for the June 22, 2022 Special Board Meeting
2. Continuing Brown Act Resolution No. 2022-07

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

- Charlie Hoppin - yes
- Mike Morris - yes
- Mat Conant - yes

[No Public Comment](#)

**PRESENTATION, DISCUSSION & ACTION ITEMS**

**3. Approval of resolutions related to the formation of the Feather River West Levee Financing Authority Operations and Maintenance Assessment District**

Budget Manager Seth Wurzel presented the resolutions submitted to the board for consideration. He explained that the first resolution formally declares the results of the ballot tabulation. He went onto explain process for tabulating the ballots. He then presented and explained that the second resolution submitted takes the necessary steps to form the Benefit Assessment District and adopt the Engineer’s Report and supporting Assessment Diagram.

**A motion to approve the resolutions related to the formation of the Feather River West Levee Financing Authority Operations and Maintenance Assessment District was made by Director Mike Morris and seconded by Director Mat Conant. The motion passed with no objection. The motion was approved as follows:**

- Charlie Hoppin - yes
- Mike Morris– yes
- Mat Conant - yes

**No Public Comment**

**4. SBFCA Services Update**

Budget Manager Seth Wurzel presented Items for consideration at future FRWLFA Board Meetings. The items discussed included: adoption of a formal FRWLFA Assessment appeals process, scope and contract for annual assessment administration, FRWLFA repayment terms to SBFCA and process for apportionment of FRWLFA assessment to LD1, LD9 & MA3

Director Charlie Hoppin would like the formal appeals process to be prioritized. He directed staff to present the appeals process to the board for consideration and the next board meeting.

**PUBLIC COMMENT**

**No public comment**

The entire recording, along with a PowerPoint presentation is available on the FRWLFA website at: <http://frwlfa.org/governance/meetings>

**ADJOURNMENT**

With no further business coming before the Board, the meeting was adjourned at 2:35 p.m.

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

**Terra Yaney, Board Clerk**

\_\_\_\_\_

**Charlie Hoppin, Board Chair**

**Feather River West Levee Financing Authority**

**RESOLUTION NO. 2022-10**

**AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF FEATHER RIVER  
WEST LEVEE FINANCING AUTHORITY PURSUANT TO THE BROWN ACT**

WHEREAS, Feather River West Levee Financing Authority (“Authority”) is committed to preserving public access and participation in meetings of the Board of Directors; and

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, THE BOARD OF DIRECTORS OF FEATHER RIVER WEST LEVEE FINANCING AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

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

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

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

Section 4. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) July 13, 2022, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Authority may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of Sutter Butte Flood Control Agency, this 14th day of September, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Board Chair

# Feather River West Levee Financing Authority

September 14, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette, SBFCA Executive Director

**SUBJECT:** Approval of resolution 2022-11 establishing an assessment Appeal Policy related to the Feather River West Levee Operations and Maintenance Assessment District

---

**RECOMMENDATION:**

Approve a resolution establishing a formal process and policy related to appeals of property assessments for the Feather River West Levee Operations and Maintenance Assessment District.

**BACKGROUND:**

The Feather River West Levee Financing Authority (FRLWFA), under Resolutions 2022-08 and 2022-09 adopted on July 13, 2022, authorized the formation of the Feather River West Levee Operations and Maintenance Assessment District (the "District"). The purpose of the District is to provide the necessary funding for the ongoing operations and maintenance of the locally maintained Feather River West Levee. Funding will be generated by the levy of assessments on all parcels within the District through the submittal of the assessment roll to the auditor/tax collector of Sutter County.

Assessments will be determined pursuant to the Final Engineer's Report confirmed by the FRWLFA Board under Resolution 2022-09. The Final Engineer's Report describes how assessments are determined and what attributes of the subject parcel are considered when determining special benefit and the associated assessment. Further, the Final Engineer's Report describes a process for a property owner appeal of the Assessment. The Appeals Process is addressed on Page 34 within Part III of the Final Engineer's Report. It states:

*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 Manger 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.*

The foregoing section establishes a general Appeals Process but requires further clarification as set forth in the attached resolution. The following sections summarize the additional clarification of an Appeals Policy for the FRLWFA assessment.

### **1. Designee / Internal Appeals Process**

The General Manager noted above in the Engineer's Report is to be synonymous with the Agency's Executive Director, an officer of the Agency, as defined within Section 3.01 of the Agency's Joint Exercise of Powers Agreement.

As described in the attached resolution, the internal agency staff process will include a level of review by FRWLFA staff (expected to be the FRWLFA Assessment Administrator) and then a second level for review by the Executive Director. The goal is to handle any appeal at a staff administrative level as efficiently as possible abating the need to bring the issue before the FRWLFA Board for a final determination.

### **2. Appeal Timeline**

The FRWLFA assessment roll is to be submitted to the Sutter County auditor/tax collectors by August 10<sup>th</sup> each year. (This timeline is set by statute). The assessments are included on the respective tax bills mailed directly to property owners sometime in October. Payment of tax bills is due in two equal installments on November 1<sup>st</sup> and the following February 1<sup>st</sup> and delinquent after December 10<sup>th</sup> and April 10<sup>th</sup> respectively.

To provide for the timely processing of any property owner appeals of the data and characteristics used to calculate the assessments, the following dates are established:

- **November 1** – last day for receipt of property owner requests to review and, if appropriate, revise the parcel characteristics used to calculate assessments (parcel acreage, structure square footage, land use category, benefit area, flood depth zone) to be processed in time for corrections to the tax bill.

Appeals received after November 1 will be considered for, and any resulting changes to assessments reflected in, the tax roll for the next fiscal year.

### **3. Basis of Appeal / Timing of Appeal Process**

As described above, property owners appealing their assessments must notify FRWLFA in writing. The attached resolution clarifies the content of that information necessary for a valid appeal of an assessment. The appeal should be received in writing at the Agency's mailing address or email address and should include:



- The assessor's parcel number,
- Description of basis of appeal,
- Any supporting documentation

FRWLFA staff will acknowledge receipt of the appeal within (15) business days and will inform the property owner of the outcome of the review within fifteen (15) business days from the acknowledgment. The review will determine if a factual correction in the data for the parcel is warranted. Changes in assessments, if appropriate, will be made consistent with the Final Engineer's Report. Corrections will be processed by the Executive Director and will be implemented in the most efficient manner as determined by Executive Director. If the property owner disagrees with the determination made by the Executive Director, the matter will be presented to the Board of Directors for consideration at a regular Board meeting for a final determination as described within Appeals Process within the Final Engineer's Report.

**FISCAL IMPACT**

There is no fiscal impact from the recommended Board action and the policy consideration presented herein. Any Fiscal Impacts would be the subject of an appeal and the application of the subject Appeals Policy.

Attachments:

1. RESOLUTION NO. 2022-11: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FEATHER RIVER WEST LEVEE FINANCING AUTHORITY TO ADOPT AN APPEALS PROCESS FOR APPEALS REGARDING THE FRWLFA OPERATIONS AND MAINTENANCE ASSESSMENT DISTRICT

**Feather River West Levee Financing Authority**

**RESOLUTION NO. 2022-11**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE FEATHER RIVER WEST LEVEE FINANCING AUTHORITY TO ADOPT AN  
APPEALS PROCESS FOR APPEALS REGARDING THE FRWLFA OPERATIONS AND  
MAINTENANCE ASSESSMENT DISTRICT**

WHEREAS, in May 2020, the Feather River West Levee Financing Authority (“FRWLFA”) was established by and between Levee District 1 (“LD1”), Levee District 9 (“LD9”), and Sutter County pursuant to the provisions of the Joint Exercise of Powers Act, Govt. Code Section 6500 et seq., for the purpose of financing the ongoing Operation, Maintenance, Repair, Rehabilitation, and Replacement (“OMRR&R”) of the west Feather River levees, related facilities, and administration expenses within the jurisdictions of LD1, LD9, and Maintenance Area 3 (“MA3”) within Sutter County; and

WHEREAS, in April 2022, the Board adopted Resolution No. 2022-03 preliminarily approving an Engineer’s Report, declaring its intention to form Feather River West Levee Financing Authority (FRWLFA) Operations and Maintenance Assessment District (“District”); and

WHEREAS, in June 2022, after a duly held a property owner protest ballot proceeding for the formation of the District, the Board adopted Resolution Nos. 2022-08 and 09 declaring the results of the property owner ballot proceeds, confirming the Engineer’s Report and forming the District; and

WHEREAS, Engineer’s Report includes a section that addresses the process for a Property Owner appeal of a property assessment; and

WHEREAS, the Board has determined that Property Owner appeals process described within the Engineer’s Report requires further clarification and the Board now desires, as part of the implementation of the District, to provide that clarification and formalize the process for Property Owner appeal of an assessment for the District.

NOW, THEREFORE, BE IT RESOLVED, this Board finds the above recitals are true and correct;

BE IT FURTHER RESOLVED THAT;

1. Part III of the Engineer’s Report confirmed by FRWLFA Resolution 2022-09 includes a provision for the appeal of assessments by Property Owners. The position of General Manager noted within Part III of the Engineer’s Report is synonymous with the Agency’s Executive Director, an officer of the Agency, as defined within Section 3.01 of the Agency’s Joint Exercise of Powers Agreement.

2. As noted within Part III of the Engineer’s Report, the appeals process established for assessments allows property owners to address issues where the information from the Sutter County Assessor’s Office, used as the primary source of data for individual parcel characteristics when calculating an assessment, leads to an error in the calculated special benefits for the assessment. Where such circumstances are discovered, either by the persons administering the Assessment District or by the owners of the affected property, the Executive Director of FWRLFA (or his or her designee)

shall review such circumstances. The Executive Director (or his or her designee) shall determine if corrections or adjustments are appropriate, any such corrections or adjustments being consistent with the concept, intent and parameters of the Assessment District as set forth within the Engineer's Report and herein. Unless such proposed changes are appealed to the FRWLFA Board of Directors, they will be incorporated into the assessment roll.

2. The Executive Director shall delegate to appropriate FRWLFA staff the responsibility to log all appeals that are made in person, by mail, by email, by teleconference, or otherwise. FRWLFA staff shall determine which appeals may be easily resolved and shall resolve them. The Board anticipates these kinds of appeals will include the correction of structure square footage, property size, land use designations, the existence or absence of structures, and related items. Where FRWLFA staff is able to resolve the appeal, FRWLFA staff shall provide notification of the resolution of the appeal to the property owner with a statement that explains the resolution, and shall thereafter create a log of the resolution of the appeal. If the property owner is not satisfied with the result of the appeal, or if FRWLFA staff determined that the appeal could not be easily resolved, the matter shall be referred to the Executive Director (or his or her designee).

3. Where an appeal is to be presented to the Executive Director (or his or her designee), FRWLFA staff shall forward all evidence provided by the appealing property owner to the Executive Director (or his or her designee), and shall also present a staff report providing all necessary and additional information (if any) compiled by staff to better inform the decision of the Executive Director (or his or her designee). Based upon the information received, the Executive Director (or his or her designee) shall make a decision on the appeal and shall provide a written statement of his or her decision.

4. All decisions on appeals by FRWLFA staff and the Executive Director (or his or her designee) shall be based upon the documentary evidence presented by the appealing property owner, along with any additional information compiled by FRWLFA staff, and shall be guided by the following principles: (i) based upon the work previously done, as documented in the Engineer's Report, all properties proposed to be assessed, and the structures located thereon, are believed to receive a benefit from the work proposed to be funded by FRWLFA; (ii) due to the ever-changing use of structures (particularly agricultural, commercial, and industrial), it is not reasonable to base an assessment upon whether a structure is currently occupied or not, so the assessment should be based upon an assumption that the structure will be occupied, unless evidence is presented that the structure will very rarely be occupied by contents that can be damaged; (iii) with a set of over 25,000 properties, even with the use of complex hydrologic and hydraulic modeling, flood depths are still estimates and it is presumed that a structure (and its contents) will benefit from flood damage reduction, unless the property owner can present compelling evidence otherwise; and (iv) the assessment district is designed to fairly determine the benefits received by each property (including its structure and the contents).

5. If a property owner is not satisfied with the results of his or her appeal to the Executive Director (or his or her designee), the property owner shall be permitted to appeal to the Board directly. In such cases the Executive Director shall place the appeal on the Board's agenda, prepare a staff report to the Board to provide to the Board all necessary background, and shall schedule time for the property owner to directly address the Board. Decisions of the Board on such appeals shall not be subject to reconsideration by the Board unless so requested by the Board itself.

6. The FRWLFA assessment roll is submitted to the Sutter County Auditor/Tax Collector by August 10<sup>th</sup> each year. The assessments are included on the respective county tax bills mailed directly to property owners in October. Payment of tax bills is due in two equal installments on

November 1st and the following February 1st and delinquent after December 10th and April 10th respectively. To provide for the timely processing of any property owner appeals of the data and characteristics used to calculate the assessment, November 1st shall be the last day for receipt of property owner requests to review and, if appropriate, revise the parcel characteristics used to calculate assessments (parcel acreage, structure square footage, land use category, benefit area, flood depth zone) to be processed in time for corrections to the tax bill. All appeals received after November 1st will be considered for, and any resulting changes to assessments reflected in, the tax roll for the next fiscal year.

7. As described in the Engineer’s Report, Part III and further confirmed here: In the event that an appeal is filed, and an approved adjustment 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.

8. Property owners appealing their assessments must notify FRWLFA in writing at the Agency’s mailing address or email address. The Assessor’s parcel number, description of basis of appeal, and any supporting documentation must be included. FRWLFA staff will acknowledge receipt of the appeal within five (15) business days, and will inform the property owner of the outcome of the review within fifteen (15) business days.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its adoption and the Board Clerk shall certify the adoption of this Resolution.

\* \* \* \* \*

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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

# Feather River West Levee Financing Authority

September 14, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette, SBFCA Executive Director

**SUBJECT:** Appointment of the Levee District 1 General Manager as the Executive Director of FRWLFA

---

**RECOMMENDATION:**

Appoint the Levee District 1 General Manager as the Executive Director of the Feather River West Levee Financing Authority.

**BACKGROUND:**

Section 3 of the Feather River West Levee Financing Authority (FRLWFA) Joint Exercise of Powers Agreement authorizes the Board of Directors to hire an Executive Director, and further provides that the Executive Director is authorized to sign agreements and handle the funds and records of the Agency.

Now that the Agency has a benefit assessment in place and will be advancing its implementation, it is recommended that the Board appoint an Executive Director. Further, it is recommended that the Levee District 1 General Manager, currently Andrew Stresser, be appointed as the Agency's Executive Director. The Executive Director is directed to bring before the Agency recommendations to further the intent of the Agency and the approved Assessment District.

**FISCAL IMPACT**

It is not expected that the Executive Director position will be a compensated position at this time. Because funds from the Assessment District will ultimately flow through to Levee Districts 1 & 9, it is expected that any compensation for the duties of the Executive Director position will be addressed by Levee District 1 where its General Manager would be employed.

# Feather River West Levee Financing Authority

September 14, 2022

**TO:** Board of Directors

**FROM:** Michael Bessette – SBFCA Executive Director  
Seth Wurzel – SBFCA Budget Manager

**SUBJECT:** Feather River West Levee Financing Authority – Amendment No. 1 to the Funding and Services Agreement with Sutter Butte Flood Control Agency

---

## Recommendation

That the Board of Directors approve Amendment No. 1 to the Funding and Services Agreement with SBFCA to incorporate a limit to the funding amount provided by SBFCA and the term for the repayment of funds back to SBFCA for the services provided under the agreement.

## Discussion

In June 2020 the Board approved an approach for the provisions of administrative and assessment district formation services by approving an agreement with SBFCA and delegating authority to the Chair to execute the agreement for the agreed upon scope of work. It was contemplated at that time that SBFCA would direct contract for and fund all costs associated with the agreed upon scope of work and, if the formation of the assessment district was successful, that FRWLFA would reimburse SBFCA for the cost of the services provided over time. The structure and term of the repayment was not specified in the agreement because it was recognized that this would be a function of the amount of the assessment to be approved in the future. Now that the FRWLFA Operations and Maintenance Assessment District has been formed, SBFCA and FRWLFA can address these aspects of the prior funding agreement.

Further, because the approach for the implementation of the assessment calls for a delay in the first year's levy of the assessment while LD 1 addresses the responsibility for the MA 3 levee and the associated LAFCO annexation process, FRWLFA still needs additional support and funding from SBFCA to administer the agency and provide for the Assessment District's first year's levy of assessments (i.e., preparation of the assessment roll to submit to Sutter County).

At this time, staff recommends that FRWLFA address the following through a proposed Amendment No 1 to the current Funding and Services Agreement executed with SBFCA.

- Incorporation of (1) an updated limit to the total costs of the service to be provided by SBFCA to FRWLFA and (2) an additional year of services; and
- Incorporation of terms for repayment to SBFCA

The attached Amendment No. 1 to the agreement sets a limit of \$750,000 for the services and incorporates a provision for equal annual payments back to SBFCA over 15 years starting in June 2024. If the total cost of the services reaches the limit, then the impact to FRWLFA starting in 2024 would \$50,000 per year. The annual budget for the Assessment District considered repayment to SBFCA through annual payments of approximately \$65,000 per year. Amendment No. 1 is consistent and well within this budget assumption. The limit of \$750,000, when taking into consideration of the expended budget to date (approximately \$650,000), would provide sufficient budget to allow SBFCA to continue to provide services at its current level to FRWLFA through June 2024. Under the current schedule for commencing the levy of the Assessment, by June 2024, FRWLFA would

have received one year of funding. The goal of SBFCA's support between now and June 2024 is to facilitate the establishment of regular processes and procedures that can be replicated and leveraged into the future on an annual recurring basis with minimal effort and burden to FRWLFA.

**Budgetary Considerations**

The maximum impact to the Agency starting in June 2024 would be \$50,000 per year. This amount is within the amount budgeted within the Engineer's Report for reimbursements back to SBFCA of approximately \$65,000 per year.

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

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

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

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

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

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

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

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

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

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



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

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

**Feather River West Levee Financing Authority**

---

Charlie Hoppin, Board President

**Sutter Butte Flood Control Agency**

---

Michael Bessette, Executive Director