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BOARD OF DIRECTORS

City of Stockton

Jesús Andrade, Chair
Dan Wright
Alt. Sol Jobrack

Public Member

Mike Morowit

San Joaquin County

Katherine M. Miller
Tom Patti
Alt. Miguel Villapudua

City of Manteca

Jose Nuño
Gary Singh, Vice-Chair

Executive Director

Chris Elias

City of Lathrop

Paul Akinjo
Diane Lazard

BOARD MEETING

THURSDAY, MAY 16, 2019

9:00 A.M.

425 N. El Dorado Street, City Hall, Second Floor, Council Chambers

1. CALL TO ORDER / ROLL CALL

2. PLEDGE TO FLAG

3. CONSENT ITEMS

- 3.1) Approve minutes of the Board meeting of April 29, 2019
- 3.2) Approve Construction Management Contract with KSN, Inc. for the Constructability Review of the Smith Canal Gate Project
- 3.3) Approve Task Order No. 6 with Peterson Brustad, Inc. for Engineering Services during bidding and construction for the Smith Canal Gate Project
- 3.4) Approve Amendment to the Contractual Service Agreements with the Independent Panel of Experts for the Smith Canal Gate Project

4. NON-CONSENT ITEMS

- 4.1) Resolution to take the appropriate and necessary actions to adopt and implement the Agency's retirement plans and consider establishing a policy on Social Security taxes

5. PUBLIC HEARING

- 5.1) Resolution to approve the annual Engineer's Report for the Operations and Maintenance for the Flood Protection Restoration Assessment District, and order the levy and collection of Operations and Maintenance assessments within the District for fiscal year 2019/2020
- 5.2) Resolution to approve the Technical Memorandum and Order the Levy and Collection of Assessments within the Smith Canal Area Assessment District for Fiscal Year 2019/2020

6. BUDGET PRESENTATION

- 6.1) Approve the proposed 2019/20 budget for the San Joaquin Area Flood Control Agency

7. ORAL REPORT FROM EXECUTIVE DIRECTOR

- 7.1) This is an opportunity to provide timely information to the Board in support of its work and to provide an update, if needed on any communications received.

8. PUBLIC COMMENTS

9. BOARD QUESTIONS, COMMENTS, ACTIONS

10. CLOSED SESSION

- 10.1) Dominick Gulli v. San Joaquin Area Flood Control Agency; ICF International, Inc.; Peterson and Brustad, Inc; Moffat and Nichol.
Case No. STK-CV-UWM-2015-0011880
- 10.2) Atherton Cove Property Owners Association v. San Joaquin Flood Control Agency. C085520 San Joaquin County
Case No. STK-CV-UWM-2015-60011847
- 10.3) Conference with Legal Counsel – Anticipated Litigation
Government Code Section 54956.9(d)(4)(1 Potential Case)
Anticipate Litigation

11. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Board's office at (209) 937-7900 or (209) 937-7115 (fax). Requests must be made one full business day before the start of the meeting.

Agenda Item 3.1

**MINUTES
SAN JOAQUIN AREA FLOOD CONTROL AGENCY
BOARD MEETING OF APRIL 29, 2019**

CITY COUNCIL CHAMBERS, STOCKTON, CALIFORNIA

1. CALL TO ORDER / ROLL CALL 1:34 PM

Roll Call

Present:

Director Akinjo
Director Morowit
Director Miller
Director Andrade
Director Singh
Director Patti
Director Lazard
Director Wright

Absent:

Director Nuño

Director Akinjo was not present during Roll Call. He arrived at 2:43 PM.

2. PLEDGE TO FLAG 1:34 PM

3. CLOSED SESSION 1:35 PM

- 3.1) Dominick Gulli v. San Joaquin Area Flood Control Agency; ICF International, Inc.; Peterson and Brustad, Inc; Moffat and Nichol.

Case No. STK-CV-UWM-2015-0011880

- 3.2) Atherton Cove Property Owners Association v. San Joaquin Flood Control Agency. C085520 San Joaquin County

Case No. STK-CV-UWM-2015-60011847

REPORT OF ACTION TAKEN IN CLOSED SESSION 2:08 PM

- 3.1) No report.

- 3.2) Counsel received direction from the Board.

4. CONSENT ITEMS 2:08 PM

- 4.1) Approve minutes of the Board meeting of March 28, 2019

- 4.2) Authorization of SJAFCA representatives to travel to Washington, D.C. for Spring 2019 Advocacy Trip
- 4.3) Revocation of Board action regarding Resolution of Necessity for acquisition of property interests from APN 109-020-060 for the Smith Canal Gate Project

PUBLIC COMMENT

- Dominick Gulli **2:09 PM**

Motion: Approve Consent Items
Moved by: Director Morowit, seconded by Director Wright
Vote: Motion carried 7-0
Yes: Director Morowit, Director Miller, Director Andrade, Director Singh, Director Lazard, Director Wright
Abstain: Director Patti
Absent: Director Akinjo, Director Nuño

5. SMITH CANAL 2:13 PM

- 5.1) Approval of Resolution of Necessity for acquisition of property interests from APN 109-020-060 for the Smith Canal Gate Project

Director Patti left the room and was not present during the presentation and discussion of Item 5.1.

A letter from Terra Land Group commenting on Agenda Items 4.2, 4.3, 5.1, 6.1 & 9.1 was passed to the Board for their review.

A table, prepared by Interwest Consulting Group, titled "Chronology Between Interwest and Stockton Golf and Country Club" was passed to the Board for their review and information.

PUBLIC COMMENT

- Dominick Gulli **2:23 PM**

Motion: Approve Resolution of Necessity for acquisition of property interests from APN 109-020-060 for the Smith Canal Gate Project
Moved by: Director Miller, seconded by Director Wright
Vote: Motion carried 6-0
Yes: Director Morowit, Director Miller, Director Andrade, Director Singh, Director Lazard, Director Wright
Recuse: Director Patti
Absent: Director Akinjo, Director Nuño

6. ORAL REPORT FROM EXECUTIVE DIRECTOR 2:27 PM

- 6.1) This is an opportunity to provide timely information to the Board in support of its work

7. PUBLIC COMMENTS 2:27 PM

- Dominick Gulli

8. BOARD QUESTIONS, COMMENTS, ACTIONS 2:33 PM

- Director Miller
- Director Morowit

Executive Director, Chris Elias, addressed the Board.

- Director Patti

Legal Counsel, Scott Shapiro, addressed Director Patti and Director Miller's concerns.

9. RECESS 2:46 PM

THE MEETING RECONVENED OFF CAMERA FOR STRATEGIC PLANNING

- 9.1) Strategic Planning Session **2:50 PM**

10. ADJOURNMENT 4:58 PM

The meeting adjourned at 4:58 PM. The next meeting is scheduled for May 16, 2019, at 9:00 AM.



CHRIS ELIAS
EXECUTIVE DIRECTOR
SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

Agenda Item 3.2

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **CONSTRUCTION MANAGEMENT CONTRACT WITH KSN, INC. FOR
THE CONSTRUCTABILITY REVIEW AND SUPPORT SERVICES
NEEDED DURING THE BIDDING PROCESS OF THE SMITH CANAL
GATE PROJECT**

RECOMMENDATION

It is recommended that the Board of Directors of the San Joaquin Area Flood Control Agency adopt a resolution authorizing the Executive Director to execute a consultant contract with KSN, Inc. in the amount of \$165,816 for the constructability review and support services needed during the bidding process.

DISCUSSION

Background

On July 10, 2013, the Board approved formation of the Smith Canal Gate Assessment District for the local cost of the design and construction as well as the long-term operations and maintenance.

In November 2013, the Board authorized a contract with Peterson Brustad, Inc. (PBI) for the design of the project, and Task Order No.1 for the development of the Project's Environmental Impact Report (EIR) and public outreach. All work performed under this contract is to be performed by task orders approved by the Board.

On August 28, 2015, SJAFCA submitted a full application for an Urban Flood Risk Reduction (UFRR) grant requesting State funding in the amount of \$22,309,666 and the State Department of Water Resources (DWR) accepted the application and presented an UFRR agreement for execution by the Agency.

In November 2015, the Board authorized Task Order No. 5 for the design, permitting, and right of way acquisition for the project.

As the project was moving forward with the completion of design documents, professional construction management services were sought. These services are required to provide independent and detailed reviews of draft/final construction plans and specifications to ensure that work requirements are clear, achieve high-end quality and streamline project delivery. In addition, the requested services include assisting in the bidding process, construction, and project administration to reduce impacts to the project. Professional construction management services are also required to ensure the Project is constructed

**CONSTRUCTION MANAGEMENT CONTRACT WITH KSN, INC., FOR
CONSTRUCTABILITY REVIEW AND SUPPORT SERVICES NEEDED DURING THE
BIDDING PROCESS OF THE SMITH CANAL GATE PROJECT** (Page 2)

according to contract requirements and in accordance with local, State and federal standards.

On February 2, 2017, the Board authorized the Executive Director to seek Statements of Qualifications and Proposals from engineering firms to provide construction management and inspection services for the Smith Canal Gate project.

On May 18, 2017, the Board approved a construction management contract with AECOM Technical Services, Inc., (AECOM) for the Construction Management (CM) of the project and Task Order No.1 for the constructability review and technical support services during the design.

As negotiations with AECOM for the CM contract were unsuccessful, on February 7, 2019, the Board authorized the termination of the existing contract with AECOM, and to seek Statement of Qualifications and Proposals to select a new engineering firm to provide the CM services for the Project.

Present Situation

Statement of Qualifications and Proposals were sent to 23 Builder Exchange contacts, posted in the websites for the Cities of Stockton, Lathrop and Manteca; and the San Joaquin County. In addition, the request was advertised on the Architectural/Engineering Consultants Information Network, a web-based company that reaches approximately 45 Architectural/Engineering firms.

Three firms submitted complete packages as required by the Statement of Qualifications request:

- 1) Dillon and Murphy
- 2) WSP USA Inc., and
- 3) KSN, Inc.

Interviews were conducted on April 8, 2019. Selection of the most qualified firm was based on the overall qualifications, key personnel, and experience with similar complex flood control projects including gates and floodwalls, involvement with U.S. Army Corps Engineers and DWR, and floodplain related issues and standards. A three-member selection panel comprised of representatives from DWR, The Handen Company, (Construction Manager Consultant), and SJAFCA unanimously selected KSN, Inc. (KSN) which is located in the Stockton area.

Since staff is still negotiating the scope of work and budget for the required CM services, it is recommended that at this time only a contract for the constructability review services be authorized. The services include constructability reviews and support services needed

**CONSTRUCTION MANAGEMENT CONTRACT WITH KSN, INC., FOR
CONSTRUCTABILITY REVIEW AND SUPPORT SERVICES NEEDED DURING THE
BIDDING PROCESS OF THE SMITH CANAL GATE PROJECT** (Page 3)

of sound contract documents to ensure the construction process will move in an orderly manner while trying to minimize change orders and reduce costs. The work will be completed prior to the starting of the project's construction phase and will include in general the following activities:

- General project management and meetings including discipline coordination
- General review of bidding documents and design plans to ensure they are aligned
- Review of gate, sheet pile floodwall, electrical instrumentation and communications for system integration
- Construction efficiency through review of scheduling specification for project controls
- Construction Contract and Specifications
- Review contract documents for constructability, biddability and construction best practices

Staff negotiated a fee in the amount of \$165,816 with KSN for the required services under this contract. The negotiated fee is reasonable for a project of this size and complexity, and consistent with the current rates for this type of work. It is recommended that a contract in the amount of \$165,816 be approved.

It is therefore, recommended that the Board adopt a resolution authorizing the Executive Director to execute of a consultant contract with KSN in the amount of \$165,816 for the constructability review and support services during the bidding process.

A subsequent contract for the construction management services during the construction phase of the Project will be submitted to the Board at a future meeting.

Assessment District funds will be used to cover this contract; 63% will be reimbursed by DWR per the UFRR Funding Agreement.

PREPARED BY: Juan J. Neira



APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR
CE:JJN:dc

RESOLUTION NO. SJAFCA 19-22

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

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**SMITH CANAL GATE PROJECT – AUTHORIZATION TO EXECUTE A
CONTRACT WITH KSN INC., FOR THE CONSTRUCTABILITY REVIEW
AND SUPPORT SERVICES DURING BIDDING**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA
FLOOD CONTROL AGENCY, AS FOLLOWS:

Authorize the Executive Director to:

1. Execute a consultant contract with KSN Inc., in the amount of \$165,816 for the Smith Canal Gate project constructability review and support services needed during the bidding process.

PASSED, APPROVED AND ADOPTED this 16th day of May 2019.

JESÚS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

Chris Elias, Secretary
of the San Joaquin Area
Flood Control Agency.

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

CONTRACTUAL SERVICES AGREEMENT

THIS AGREEMENT is made at Stockton, California, as of April 1, 2019, by and between the SAN JOAQUIN AREA FLOOD CONTROL AGENCY ("Agency"), and KJELDEN, SINNOCK, & NEUDECK, INC. ("Consultant"), who agree as follows:

1. **SERVICES**. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide or cause to be provided to Agency the services described in Exhibit A. Services shall be provided on a time and materials basis. Consultant shall provide said services at the time, place and in the manner specified in Exhibit A.

2. **PAYMENT**. Agency shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all billings for said services to Agency in the manner specified in Exhibit B; or, if no manner be specified in Exhibit B, then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to Agency.

3. **FACILITIES AND EQUIPMENT**. Except as set forth in Exhibit C, Consultant shall, at its sole cost and expense, furnish all facilities and equipment or data which may be required for furnishing services pursuant to this Agreement. Agency shall furnish to Consultant only the facilities, equipment or data listed in Exhibit C according to the terms and conditions set forth in Exhibit C.

4. **GENERAL PROVISIONS.** The general provisions set forth in Exhibit D are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control insofar as it is inconsistent with the general provisions.

5. **EXHIBITS.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

6. **CONTRACT ADMINISTRATION.** This Agreement shall be administered by the Executive Director ("Administrator"). All correspondence shall be directed to or through the Administrator or his or her designee.

7. **NOTICES.** Any written notice to Consultant shall be sent to:

Chris Neudeck, Principal
KJELDEN SINNOCK & NEUDECK, INC. (KSN)
711 N. Pershing Avenue
Stockton, CA 95203

Any written notice to Agency shall be sent to:

Chris Elias, Executive Director
San Joaquin Area Flood Control Agency
22 East Weber Avenue, Room 301
Stockton, CA 95202

Executed as of the day first above stated:

KJELDTSEN, SINNOCK & NEUDECK, INC.

By:

Chris Neudeck
Principal

SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

By:

Chris Elias
Executive Director

Approved as to Form:

By:

Scott L. Shapiro
General Counsel

EXHIBIT A

SCOPE OF SERVICES

1.0 Project Management / Administration

1.1 Project Management / Administration

Project management activities include, but are not limited to, background data gathering and review, coordination between SJAFCA, KSN, and its sub-consultants, preparing invoicing, and general management oversight.

2.0 Constructability Reviews

2.1 General Review of Bidding Documents

The KSN team will provide a detailed constructability review of final plans and specifications. The review will not constitute a design peer review but instead will focus on the following:

- ▢ Clarity and completeness of the drawings.
- ▢ Review for ambiguities or inconsistencies in the drawings and details.
- ▢ Level of detail of information to facilitate public bidding.
- ▢ Coordination of information and requirements between drawings, details, and permit requirements; schedule constraints; technical specifications; front-end / contract documents; and other pertinent requirements.
- ▢ General quality control review of the drawings.

Ahead of and upon completion of each review, the KSN team will meet with the design engineer to discuss and reconcile review comments. The KSN team will also review contractor bids with SJAFCA Staff for responsiveness and make award recommendations.

2.2 Review of Gate

The KSN team will provide a detailed constructability review of final plans and specifications as they pertain to the canal miter gate, associated embedded parts, and their operating equipment. This review will consider

potential improvements for the equipment's design, fabrication, and construction, with a goal of increased reliability and minimized future maintenance. The review will be based on the KSN team's past experience with similar equipment design and construction.

2.3 Review of Sheet Pile Floodwall

The KSN team will provide a detailed constructability review of final plans and specifications as they pertain to the permanent cellular structures / sheet pilings. The review will look at geotechnical, structural, and civil issues related to the floodwall. The review will also consider staging, sequencing, and overall constructability.

2.4 Review of Electrical, Instrumentation, and Communications

The KSN team will provide a detailed constructability review of final plans and specifications as they pertain to electrical, instrumentation, and communications. The electrical plans will be reviewed and verified to accurately depict all electrical equipment and devices shown on single line diagrams. The conduit schedule will be checked for accurate description of routing, power conductor and conduit sizing, control conductor count and type, communications conduit size, and media type and count. Controls equipment, communications protocols, and media types will be reviewed for their applications and coordinated with the various equipment specifications. The electrical drawings and specifications will be compared to the mechanical drawings and specifications for coordination.

2.5 Review of Scheduling Specification for Project Controls

The KSN team will provide a review of the scheduling specification to verify that it is tailored to the KSN team's project control needs and carrying out the project within the allowable time frame.

TERM

The term of this Agreement shall be for 18 months, unless otherwise terminated by the Agency, and may be extended by the Agency to accomplish activities contained in the above Scope of Services.

EXHIBIT B

PAYMENT SCHEDULE

Agency shall pay Consultant an amount not to exceed the total sum of ONE HUNDRED SIXTY-FIVE THOUSAND EIGHT HUNDRED SIXTEEN DOLLARDS (\$165,816) for services to be performed and reimbursable costs incurred pursuant to this Agreement. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information.

1. Serial identifications of progress bills, i.e., Progress Bill No. 1.
2. The beginning and ending dates of the billing period.
3. A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available and the percentage of completion.
4. For each work item in each task consultant shall submit the following information: the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense.

Agency shall make monthly payments, based on such invoices, for services satisfactorily performed, and for authorized reimbursable costs incurred.

The total sum stated above shall be the total which Agency shall pay for the services to be rendered by Consultant pursuant to this Agreement. Agency shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

Agency shall make no payment for any extra, further or additional service pursuant to this Agreement unless such extra service and the price therefore is agreed to in writing executed by the Executive Director or other designated official of Agency authorized to obligate Agency thereto prior to the time such extra service is rendered and in no event shall the sum of such change order together with the previous change orders exceed \$100,000 without Board approval. The dollar amounts of change orders approved by specific Board action, plus the dollar amounts of any change orders which predate such specific Board action, shall not be counted in computing the authority limits of the Executive Director or other designated official to approve change orders hereunder.

Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the fee schedule of hourly billing included as Exhibit B-1.

Reimbursable expenses are also specified on Exhibit B-2. Expenses not listed are not chargeable to Agency.

The services to be provided under this Agreement may be terminated without cause at any point in time in the sole and exclusive discretion of Agency. In this event, Agency shall compensate the Consultant for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Consultant shall maintain adequate logs and time sheets in order to verify costs incurred to date.

The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a fully executed contract from the Executive Director of the Agency.

EXHIBIT B-1

2019/2020/2021 FEE SCHEDULE PREVAILING WAGE PROJECTS Effective July 1, 2019

Position	Rate
Principal Engineer	\$ 265.00
Associate Engineer	\$ 238.00
Senior Engineer	\$ 211.00
Engineer	\$ 189.00
Junior Engineer	\$ 151.00
Senior Surveyor	\$ 216.00
Surveyor	\$ 184.00
Assistant Surveyor	\$ 157.00
Field Crew-One Man & Vehicle	\$ 213.00
Field Crew-Two Man & Vehicle	\$ 322.00
Inspector	\$ 167.00
Inspector & Vehicle	\$ 197.00
Senior Project Manager	\$ 237.00
Project Manager	\$ 200.00
Assistant Project Manager	\$ 178.00
Grant Manager	\$ 157.00
GIS/CAD Technician III	\$ 151.00
GIS/CAD Technician II	\$ 130.00
GIS/CAD Technician I	\$ 97.00
Project Accountant	\$ 143.00
Administrative III	\$ 108.00
Administrative II	\$ 92.00
Administrative I	\$ 76.00
Equipment	Hourly Rate
30 Print Cloud WorkStation	\$ 27.00
GPS Receivers-Per Receiver Per Hour	\$ 27.00
Robotic Total Station	\$ 38.00
HDS Scanner	\$ 162.00
Boat	\$ 59.00
Expenses	
Auto Mileage per current Federal Rates	
Special Consultants	Cost Plus 10%
Reimbursable Expenses	Cost Plus 10%
(Printing, Photos, Copies, Travel, Telephone, Fax, Survey Materials, etc.)	

Additional charges may apply for overtime services.

Fees are due and payable within 30 days from the date of billing. Fees past due may be subject to a finance charge computed on the basis of 1 1/2% of the unpaid balance per month.

Hourly rates are subject to review and adjustment July 1st of each year.

EXHIBIT B-2

REIMBURSABLE EXPENSES

- At cost plus 10% for outside printing, plotting, copying, travel, sub-consultants, and outside services and charges
- At 5% of labor for in-house expenses including telephone, computer, and incidental copying and printing
- Auto mileage per current Federal Rates

EXHIBIT C

While CONSULTANT is performing services locally, Agency shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with Agency employees and reviewing records and the information in possession of Agency. The location, quantity, and time of furnishing said physical facilities shall be in the sole discretion of Agency. In no event shall Agency be obligated to furnish any facility which may involve incurring any direct expense, including, but not limiting the generality of this exclusion, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

EXHIBIT D

GENERAL PROVISIONS

1. INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, Agency shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.

2. LICENSES; PERMITS; ETC. Consultant represents and warrants to Agency that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to Agency that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Stockton Business License.

3. TIME. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

4. INSURANCE REQUIREMENTS. Consultant shall not commence or continue to perform any services unless it, at its own expense, has in full force and effect all required insurance set forth below. In the event that Consultant employs subcontractors or subconsultants, Contractor shall require and confirm that each meets the minimum insurance requirements specified below and shall not permit any of them to perform services until they have complied with the same insurance requirements. All of the insurance shall be provided on policy forms satisfactory to the Agency. Additionally, all insurance and bond premiums incurred by Consultant shall be the sole responsibility of Consultant and are included in Consultant's bid price.

The types of insurance Consultant shall obtain and maintain for the full period of the Agreement are:

- Worker's Compensation and Employer's Liability Insurance (if not exempt)
- Commercial General Liability Insurance
- Commercial Automobile Liability Insurance
- Professional Liability Insurance

All insurance policies shall be issued by an insurance company admitted (except for the Professional Liability which shall be authorized to business in California) and licensed to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A and Financial Size Category Class VII in accordance with the latest edition of Best Key Rating Guide, unless otherwise approved by Agency.

Prior to exercising any right or commencing any services, Consultant shall furnish Agency with endorsements and certificates to the required policies of insurance, excepting workers' compensation and professional liability, in such forms reasonably acceptable to Agency confirming that Agency is named as an additional insured for all liability risks on such policies. The additional insured endorsements shall cover but not be limited to liability arising out of any and all activities performed by or on behalf of Consultant.

Any deductible or self-insured retention must be declared to and approved by Agency and shall be the sole responsibility of the Consultant.

If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the required policy additional insured endorsement(s) to Agency at least ten (10) days prior to the expiration date. In the event of cancellation for non-payment of premium, Agency may pay premiums due by Consultant and deduct the paid payment from amounts then or subsequently owing to the Consultant under this Agreement.

Insurance limits called for herein shall be considered to be minimum and Agency shall have the absolute discretion to require higher limits should the nature of the Work and risks involved call for higher limits. A requirement of higher limits may necessitate an adjustment in Consultant's compensation pursuant to a change order. Consultant shall give Agency prompt notice of a claim made or a suit instituted arising out of Consultant's services under this Agreement.

Under the Workers' Compensation, Commercial General, and Auto Liability, consultant hereby grants to Agency, on behalf of any insurer providing insurance to Agency with respect to the services of Consultant under this Agreement, a waiver of any right of subrogation which any such insurer of Consultant may acquire against Agency by virtue of the payment of any loss under such insurance. Consultant shall provide all applicable endorsements reflecting waiver of the right to subrogation.

All of the below insurance policies are to contain, or be endorsed to contain, the following provisions:

- For any claim related to this Agreement, the Consultant's insurance shall be primary insurance with respect to Agency. Any insurance, self-insurance or other coverage maintained by Agency shall not contribute to it.
- Any failure of Consultant to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to Agency.

- The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

4.1. Worker's Compensation and Employer's Liability Insurance. If Consultant is not exempt due to having no employees, Consultant shall, before commencement of the services, provide a certificate of insurance and an endorsement evidencing that it has obtained for the period of the Agreement, full worker's compensation insurance coverage as required by law for not less than the statutory limits and employer's liability insurance in the sum of not less than \$1,000,000 per accident for bodily injury and disease for all persons whom they employ or may employ in carrying out the Work. By Consultant's signature on the Agreement, Consultant certifies that Consultant is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and the Consultant shall comply with such provisions before commencing the performance of the Work under this Agreement.

4.2. Commercial General Liability Insurance. Consultant agrees to carry commercial general liability insurance which shall be on an occurrence basis and which shall include coverage for third party liability risks including, without limitation, bodily injury including coverage for injury, sickness or disease, emotional distress, and death, personal injury/advertising injury, property damage from injury to or destruction of property of others, contractual liability coverage, premises/operations and products/completed operations, underground excavation and removal of lateral support, explosion and collapse hazard, and independent contractors. Coverage shall have limits of liability of not less than the following:

Bodily Injury/Property Damage \$ 1,000,000 each occurrence \$2,000,000 aggregate

Personal Injury/Advertising Injury \$ 1,000,000 each occurrence \$2,000,000 aggregate

Coverage shall include excess liability or umbrella insurance providing protection for at least the hazards insured under the primary liability policies with the following limits:

General Aggregate: \$5,000,000.

Each Occurrence: \$5,000,000.

Coverage shall be at least as broad as Insurance Services Office form number GL 0002 (Ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001.)

4.3. Commercial Automobile Liability Insurance. Consultant shall maintain a commercial automobile liability insurance policy which shall cover at least symbol 1 (any auto) for all vehicles, automobiles, trucks, and equipment, including coverage for owned, hired, and non-owned automobiles and shall provide for contractual liability and owned

and non-owned mobile equipment to the extent it may be excluded from the commercial general liability policy. Coverage shall have limits of liability of not less than the following:

Combined Single Limit \$ 1,000,000

Coverage shall include excess liability or umbrella insurance providing protection for at least the hazards insured under the primary liability policies with the following limits:

General Aggregate: \$5,000,000.

Each Occurrence: \$5,000,000.

Coverage shall be at least as broad as Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.

4.4. Professional Liability Insurance. Consultant shall maintain professional liability insurance which shall cover all of its services under this Agreement and protect against any liability caused by negligent acts, errors or omissions on the part of the Consultant in the course of performance of the services specified in this Agreement. Coverage shall have limits of liability of not less than the following:

General Aggregate: \$2,000,000.

Each Occurrence: \$2,000,000.

Consultant's professional liability insurance shall remain in effect for the benefit of Agency for a period of not less than three years after completion of the services under this Agreement.

5. **CONSULTANT NO AGENT.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever. Further, Consultant shall not have authority to bind Agency for the payment of any costs or expenses without express written approval of Agency.

6. **ASSIGNMENT PROHIBITED.** No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

7. **PERSONNEL.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, desires the removal of any such persons, Consultant shall, immediately upon receiving notice from Agency of such desire of Agency, cause the removal of such person or persons.

8. EQUAL EMPLOYMENT OPPORTUNITY

- (a) Affirmative Action in Employment. Consultant shall comply with the Affirmative Action Program and Equal Employment requirements of the Agency.
- i. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, handicap, age, or national origin. Consultant will take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, handicap, sex, sexual orientation, age, or nation origin. Such action shall include but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection from training, including apprenticeship.
- ii. Consultant will incorporate the above Affirmative Action provisions in all sub-consultants for services covered by this Agreement.
- (b) General Employment Provisions Relating to Handicap/Disability Discrimination. No qualified individual with a handicap or disability shall, solely on the basis of such handicap or disability, be subjected to discrimination in employment by Consultant.
- (c) Reports. Consultant shall provide such reports and/or documents to Agency demonstrating compliance with the terms hereof.

9. STANDARD OF PERFORMANCE. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. All instruments of service of whatsoever nature which Consultant delivers to agency pursuant to this Agreement shall be prepared in a substantial, first class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in Consultant's profession.

10. INDEMNIFICATION. Consultant shall indemnify, defend, and hold harmless the Agency, its officers, employees, and agents from and against any and all claims, loss, costs, expenses (including, but not limited to, attorney's fees and costs incurred by the Agency), injury, or damage arising out of or relating to the negligent, reckless, or willful mis- performance of Consultant's services under this Agreement with the exception of injuries and damages caused by Agency's sole negligence, active negligence, or willful misconduct.

11. GOVERNMENTAL REGULATIONS. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant shall comply with all applicable rules and regulations to which Agency is bound by the terms of such fiscal assistance program.

12. DOCUMENTS. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Consultant pursuant to this Agreement shall become the property of Agency upon completion of the work to be performed hereunder or upon termination of the Agreement.

13. COMPLIANCE WITH APPLICABLE LAWS. Consultant shall comply with all laws applicable to the performance of the work hereunder, including, but not limited to, laws prohibiting discrimination based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.

14. USE OF RECYCLED PRODUCTS. CONSULTANTS shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

15. PROFESSIONAL SEAL. Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility" as per sample below.

Seal and Signature of Registered Professional
with report/design responsibility.

16. AMENDMENTS. This Agreement may be amended or modified only by a written agreement signed by all parties.

17. VALIDITY. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

18. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California and any suit or action by either party shall be brought in the County of San Joaquin, California.

19. MEDIATION. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be shared equally by the parties. If a mediated settlement is reached, neither party shall be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.

20. ATTORNEYS FEES. If a party brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party is entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled. Such fees may be set by the court in the same action or in a separate action brought for that purpose.

21. NO-WAIVER. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

22. SURVIVAL. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant survive the termination of this Agreement.

23. CONFLICT OF INTEREST. Consultant may serve other clients, but none who are active within the corporate limits of city or who conduct business that would place Consultant in a "conflict of interest" as that term is defined in the Political Reform Act, codified at California Government Code § 81000 *et seq.*

24. SOLICITATION. Consultant agrees not to solicit business at any meeting, focus group or interview related to this Agreement, either orally or through any written materials.

25. TERMINATION FOR CAUSE. If Consultant refuses or fails to perform the services under this Agreement or any separable part with care and diligence or if it should persistently or repeatedly refuse or should fail to supply enough properly skilled labor to perform the services in a timely manner or if it should fail to make prompt payment to subcontractors or subconsultants or if it should persistently disregard laws, ordinances, or instructions given by Agency, or breach any term of this Agreement, Agency may serve written notice upon Consultant of Owner's intention to terminate the Agreement. The notice will contain the reasons for such intention to terminate the Agreement, and unless within five (5) days after the service of such notice such violations shall cease and Agency is satisfied with arrangements for corrections, the Agreement shall upon the expiration of said five (5) days cease and terminate. In such case, Consultant shall be liable to Agency for shall be entitled to any and all losses and damages caused by the termination and any breaches of the Agreement.

26. TERMINATION FOR CONVENIENCE. Agency may, without prejudice to any other right or remedy, terminate the Agreement in whole or in part at any time, for any reason, at its convenience by giving Consultant five (5) days written notice. Upon receipt of any such notice, the Consultant shall, unless the notice directs otherwise, immediately discontinue the services on the date and to the extent specified in the notice.

In any such termination for the convenience of Agency, Consultant shall only be entitled to payment for services it has completed in accordance with the Agreement prior to receipt of the notice of termination. Under no circumstance shall Consultant be entitled to any other payment. More specifically, upon a termination for convenience, Consultant shall not be entitled to any lost profits on services that were not completed or anticipated overhead on services that were not completed, or any type of incidental or consequential damages relating to a termination for convenience. The payments described in this paragraph shall be the sole and exclusive remedy to which Consultant is entitled in the event of Termination for Convenience, and Consultant will be entitled to no other compensation or damages and expressly waives same.

If, after notice of Termination for Cause, it is determined that Consultant was not in default, the termination shall be deemed to have been for the convenience of Agency. In such event, Consultant may only recover from Agency payment in accordance with the above paragraph. Moreover, in the event that the Agreement is "terminated" under this provision, all provisions of this Agreement shall remain in full force and effect after such termination.

Agenda Item 3.3

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **TASK ORDER NO. 6 TO THE CONSULTANT CONTRACT WITH PETERSON BRUSTAD, INC., FOR ENGINEERING SERVICES DURING BIDDING AND CONSTRUCTION FOR THE SMITH CANAL GATE PROJECT**

RECOMMENDATION

It is recommended that the Board of Directors of the San Joaquin Area Flood Control Agency adopt a resolution authorizing the Executive Director to execute Task Order No. 6 to the Consultant Contract with Peterson Brustad, Inc., in the amount of \$1,908,000 to provide engineering services during bidding and construction for the Smith Canal Gate project.

DISCUSSION

Background

On July 10, 2013, the Board approved the formation of the Smith Canal Gate Assessment District to fund the local costs of design, construction and long-term operations and maintenance of the project.

In November 2013, the Board authorized a contract with Peterson Brustad, Inc. (PBI) in the amount of \$3.5 million for the design of the project, and Task Order No.1 (TO No. 1) in the amount of \$1.4 million for the development of the project's Environmental Impact Report (EIR) and public outreach. All work performed under this contract was to be performed by task orders approved by the Board.

On August 28, 2015, SJAFCA submitted a full application for an Urban Flood Risk Reduction (UFRR) grant requesting State funding in the amount of \$22,309,666. The State Department of Water Resources (DWR) accepted the application and presented an UFRR agreement for execution.

Following the authorization of TO No. 1, three other TOs were authorized for additional work and in November 2015, the Board authorized TO No. 5 for the design, permitting and right of way acquisition of the project.

On October 24, 2017, an UFRR grant was executed with DWR. Through this grant, the State cost-shares 63% of the project construction costs to a maximum amount of

**TASK ORDER NO. 6 TO THE CONSULTANT CONTRACT WITH PETERSON
BRUSTAD, INC., FOR ENGINEERING DESIGN SERVICES DURING BIDDING AND
CONSTRUCTION FOR THE SMITH CANAL GATE PROJECT** (Page 2)

\$22,309,666. In addition, on February 21, 2019, DWR conditionally approved an extra \$13,562,092 for the project. This extra funding will cover the additional project expenses that were required to address the comments from the IPEs and recent increases on project materials.

Present Situation

The project design is nearly completed except for a few comments being addressed and the comments expected from a constructability review that will be performed by KSN, Inc. upon approval of Item 3.4 on this Agenda. To have a seamless transition from the design to the construction phase, engineering services are required to support the project upcoming bidding and construction activities. Therefore, SJAFCA asked PBI to prepare a proposal (TO No. 6) to provide required services for the upcoming activities. PBI's TO No. 6 will focus on providing the required engineering services and supporting the construction management team during the bidding process and during the construction phase of the project.

Engineering services will include in general, but are not limited to, the following:

- Project general management and meetings
 - o Management of design team
 - o Manage and coordinate client communications
 - o Prepare monthly status reports, and invoicing
 - o Assist with the preparation of quarterly DWR updates
 - o Attend project meetings
 - o Attend Independent Panel of Experts meetings
- Engineering during bidding
 - o Address questions, provide clarification and answer Requests for Information (RFI)
 - o Attend pre-bidding meeting
 - o Prepare amendments/addenda to contract documents as needed
- Engineering during construction
 - o Attend weekly meetings (as needed)
 - o Conduct fabrication visits
 - o Review/Respond construction contractor's requests for information
 - o Review construction contractor's submittals
 - o Prepare plans and specifications modifications
- Post Construction Services
 - o Complete project's final technical documentation
 - o Commissioning support
 - o Update and finalize the O&M manual
 - o Finalize As-built drawings and Foundation Report
 - o Assemble ULDC Documentation and FEMA submittal package for the Letter of Map Revision

May 16, 2019

**TASK ORDER NO. 6 TO THE CONSULTANT CONTRACT WITH PETERSON
BRUSTAD, INC., FOR ENGINEERING DESIGN SERVICES DURING BIDDING AND
CONSTRUCTION FOR THE SMITH CANAL GATE PROJECT**

(Page 3)

PBI proposed fee for the above services is \$1,908,000. Staff has reviewed Task Order No. 6 proposal and finds the cost estimate reasonable and consistent with the current rates for a project of this size and complexity.

It is therefore, recommended that the Board adopt a resolution authorizing the Executive Director to execute TO No. 6 with PBI for \$1,908,000 for engineering services during bidding and construction for the Smith Canal Gate project.

Assessment District fund will be used to cover this contract; 63% will be reimbursed by DWR per the UFRR Funding Agreement.

PREPARED BY: Juan J. Neira

A handwritten signature in blue ink, appearing to read "Elías", is written over a horizontal line.

APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR

CE:JJN:dc

RESOLUTION NO. SJAFCA 19-23

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

=====

**SMITH CANAL GATE PROJECT – AUTHORIZATION TO EXECUTE
TASK ORDER NO. 6 TO THE CONSULTANT CONTRACT WITH PBI
FOR DESIGN SERVICES DURING CONSTRUCTION**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA
FLOOD CONTROL AGENCY, AS FOLLOWS:

Authorize the Executive Director to execute Task Order No. 6 with PBI in the
amount of \$1,908,000 to provide engineering services during bidding and construction for
the Smith Canal Gate project.

PASSED, APPROVED AND ADOPTED this 16th day of May 2019.

JESÚS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

Chris Elias, Secretary
of the San Joaquin Area
Flood Control Agency.

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency



**Task Order #6, San Joaquin Area Flood Control Agency Smith Canal
Closure Structure
- Engineering During Bidding and Construction**

This Task Order, Smith Canal Closure Structure -Engineering During Bidding and Construction is for \$1,908,000 under the Contract entered into on May 16, 2019 between San Joaquin Area Flood Control Agency (Resolution No. 19-23) and Peterson Brustad Inc.

This Task Order will focus on engineering services during bidding and construction. Bid phase services include responding to contractor questions, requests for information (RFI's), preparation of addenda, and attendance at the pre-bid meeting and bid opening. Construction phase services include contractor submittal/shop drawing reviews, responding to RFI's, periodic site visits, and weekly meetings during construction.

The scope of work is described by the attached scope of work, and budget, and schedule. The signatures below indicate approval of the Task Order and authorize initiation of the work.

Chris Elias Executive Director
Joaquin Area Flood Control Agency

Date

David Peterson, P.E.
Principal
Peterson Brustad Inc.

Date



San Joaquin Area Flood Control Agency Smith Canal Gate Project Task Order No. 6 – Engineering During Bidding and Construction

Scope of Work

Background

This Task Order will focus on engineering services during bidding and construction. Bid phase services include responding to contractor questions, requests for information (RFI's), preparation of addenda, and attendance at the pre-bid meeting and bid opening. Construction phase services include contractor submittal/shop drawing reviews, responding to RFI's, periodic site visits, and weekly meetings during construction.

Approach

This task order will cover design team activities during the construction. Design team members funded under this task order include PBI, Gamboni Landscape Architecture, Kleinfelder, and HDR. Bidding and construction phase activities of other project elements previously covered under the design team (environmental, outreach, right of way, surveying) are not included, and will be funded as needed under separate agreements.

Scope of Work

Task 1 – Project Management and Meetings

Task 1.1 - General Project and Quality Management

PBI project management activities focus on the internal functioning of the design team:

- Management of the design team
- Client communications
- Monthly invoicing, including status reports on
- PBI work
- Assist SJAFCA with the preparation of quarterly DWR updates

HDR project and quality management activities include the following:

80 Blue Ravine Rd, Suite 280, Folsom, CA 95630

916-608-2212

www.pbiengineering.com

- Preparation of work plan and schedule
- Coordination with the design team, SJAFCFA and the CM
- Monitoring project performance
- Preparation of status reports and monthly invoicing
- Quality reviews performed in accordance with the Quality Control Plan prior to deliverables submitted to PBI.

Task 1.2 - IPE Meetings

This subtask includes attendance at the following meetings:

- IPE meetings (4 assumed)

Task 2 – Engineering During Bidding

The design team will support the Construction Manager during the bidding phase to address questions, provide clarifications, and answer requests for information (RFI's) from prospective bidders. Members of the design team will attend the pre-bid meeting.

Amendments/addenda to the contract documents may be necessary during this time. For estimation purposes it is assumed that 40 RFI's will be reviewed and answered, and 4 contract document amendments/addenda prepared. Conformed contract documents will be prepared to include all addenda prepared during bidding.

Task 3 – Engineering During Construction

The design team will support the Construction Manager during construction as detailed in the following subtasks:

Task 3.1 - Weekly coordination and Site Visits. Attend weekly CM meetings (92 meetings are assumed during construction). PBI will attend in person as needed, and the remainder by phone. HDR will attend in person as needed, and the remainder by phone. Gamboni and Kleinfelder will attend on an as-needed basis. Those attending in person will also participate in a four-hour field visit. During one of the early visits it is assumed that Gamboni will mark invasive plants for contractor removal.

Task 3.2 – Fabrication visits and Site visits. Structural engineer to make site visits to the fabricator to verify progress and quality (as needed, up to 3). Additionally, mechanical and electrical engineer to make site visits for project integration (as needed, up to 4).

Task 3.3 – RFI Review/Response. It is assumed that there will be RFI's throughout the construction duration that will require the engineers of record to respond and/or provide clarifications to the contractor. For a multi-disciplined, complex project such as the Smith Canal project, it is assumed that 350 RFI's will be processed during construction.

Task 3.4 – Construction Contractor's Submittals. The design team will review the required contractor submittals as noted in the specifications (assumed 250 total). All comments and recommendations for approval, disapproval, clarifications, re-submittal will be coordinated through the CM. This assumes that 25% of the submittals will require re-submittals.

Task 3.5 – Plans and Specifications Modifications. The design team will prepare engineering and P&S revisions which are necessitated by different site conditions or a project feature design change determined during construction. Revisions to the specifications will be submitted in electronic form (PDF format). Revisions to the plans will be submitted in electronic form (in both PDF and AutoCad format). It is assumed that design modifications will be required on 8 civil/site plan drawing sheets, 12 structural/detail drawing sheets, 4 mechanical drawing sheets, 4 electrical drawing sheets. It is assumed that 10 specifications will have to be modified.

Task 3.6 – Final Closeout. Extra site visits required to close-out the project. Assume 2 full-day visits for civil staff (1 PBI, 1 HDR), geotechnical staff (1 HDR, 1 Kleinfelder), and structural staff (2 HDR). Assume 1 full-day site visit for mechanical staff (1 HDR) and electrical staff (1 HDR).

Task 4 – Post-Construction Services

The design team will perform the following tasks after construction is complete.

Task 4.1 – Final DDR and EDC Appendix. The DDR shall be taken from the Design Task Order and updated accordingly.

Task 4.2 – As-Built Drawings. Design team will develop as-built drawings based on contractor and construction management record drawings.

Task 4.3 – Commissioning Support. Extra site visits required to close-out the project. Assume 2 full-day visits for structural staff (2 HDR), mechanical staff (1 HDR), and electrical staff (1 HDR). It is assumed that the above staff would provide office support for 2 weeks to provide advice, respond to questions, and document the commissioning effort.

Task 4.4 – Final O&M Development/Review. The O&M manual shall be taken from the Design Task Order and updated to reflect the final as-built condition.

Task 4.5 – As-Built Final Foundation Report. The geotechnical engineers shall provide a final as-built foundation report. Both Kleinfelder and HDR shall contribute.

Task 4.6 – ULDC Documentation and FEMA LOMR. PBI will assemble the ULDC Engineer's Report as a minor reformatting of the DDR, and FEMA LOMR submittal package under this task. IPE review is not included in this task.

Task 5 – Contingency

This task is intended to provide an allowance for currently unknown issues such as design modifications to accommodate unforeseen site conditions, address unforeseen permitting conditions, deal with an unusual amount of RFIs or change order requests, litigation, and/or extraordinary land owner issue coordination. Contingency funds can only be used with approval of the SJAFCA Project Manager.

Assumptions

The following assumptions have been made in determining the price of this task order:

1. Commencement of construction in August 2019 and assumed completion in November 2021. Any stop work periods of longer than 1 month or an extension of the project completion date by more than 1 month may constitute a modification for additional hours due to a loss of efficiency and/or lengthening of overall schedule.
2. Additional RFI's, submittal reviews, and site visits (above what is scoped above) will be considered out of scope and require a modification.
3. Submittals will be provided in packages of associated components that will be installed together to expedite review.
4. No comment responses or coordination will be required for IPE meetings during construction as part of this task order.
5. Any analysis or design required due to construction changes/errors or unforeseen field conditions (that are different from original designs) will be considered out of scope and require a modification to resolve – it is understood that two plan modifications are accounted for in the scope language above.
6. Mechanical and Electrical Disciplines are out of town and will require additional travel to attend site visits. Civil, Geotechnical and Structural disciplines are local (Stockton/Sacramento/Folsom).
7. Weekly meetings and site visits assume 8 hours total per meeting. Additional meetings and/or hours beyond those detailed in the tasks will require a modification.
8. Pile driving records will be reviewed on a per pile basis.
9. Re-submittal rate of 25% is scoped for this effort. Should the contractor submittals exceed this due to inaccuracy or incomplete information, a modification will be required.
10. Hard copies of any deliverable will not be required – all electronic. Printing PDF contractor submittals and shop drawings may be required and will be accounted for in the ODC's portion of the fee proposal.
11. Additional office support hours beyond those assumed for commissioning will require a modification.
12. No public information, grant management, environmental compliance, surveying, or right of way services are included in this scope of work.

TASK ORDER SCHEDULE

These tasks will be completed by January 2022 and will proceed under the schedule prepared by the CM and contractor.

TASK ORDER BUDGET

The estimated budget for Task Order No. 6 is \$1,908,000 as identified in the attached Estimated Work Effort and Cost table.

Estimated Work Effort and Cost
San Joaquin Area Flood Control Agency - Smith Canal Closure Structure
Task Order No. 6 - Bidding and Engineering During Construction

Task No.	Task Description	Principal / Project Manager	Senior Engineer 2	Project Engineer 2	Project Engineer 1	Staff Engineer 1	Technician 3	Administrative 3	PBI Labor	Peterson Brustad	HDR Engineering	Kleinfelder Inc.	Gamboni Landscape Arch	PBI Expenses (\$)	Total Cost (\$)
Task 1 – Project Management and Meetings															
1.1	General Project and Quality Management	112	0	56	0	0	0	56	224	\$ 43,344	\$ 150,762	\$ -	\$ 4,620	\$ 4,334	\$ 203,060
1.2	IPE Meetings	32	0	32	0	0	0	0	64	\$ 13,568	\$ 27,379	\$ -	\$ -	\$ 1,357	\$ 42,304
									0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
									0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Subtotal Task 1	144	0	88	0	0	0	56	288	\$ 56,912	\$ 178,141	\$ -	\$ 4,620	\$ 5,691	\$ 245,364
Task 2 – Engineering During Bidding															
2.1	RFI Review/Response	5	0	10	0	0	0	0	15	\$ 2,990	\$ 19,223	\$ 4,813	\$ -	\$ 299	\$ 27,325
2.2	Pre-bid mtg	6	0	6	0	0	0	0	12	\$ 2,544	\$ 11,569	\$ -	\$ -	\$ 254	\$ 14,367
2.3	Addenda	2	0	16	0	0	16	0	34	\$ 5,188	\$ 49,752	\$ -	\$ -	\$ 519	\$ 55,459
2.4	Conformed Contract Documents	2	0	4	0	0	8	4	18	\$ 2,548	\$ 13,605	\$ -	\$ -	\$ 255	\$ 16,408
									0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
									0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Subtotal Task 2	15	0	36	0	0	24	4	79	\$ 13,270	\$ 94,149	\$ 4,813	\$ -	\$ 1,327	\$ 113,559
Task 3 – Engineering During Construction															
3.1	Weekly coordination	272	0	408	0	0	0	0	680	\$ 138,992	\$ 377,236	\$ 13,750	\$ 15,428	\$ 13,899	\$ 559,305
3.2	Fabrication visits	0	0	30	0	0	0	0	30	\$ 5,220	\$ 68,858	\$ -	\$ -	\$ 522	\$ 74,600
3.3	RFI Review/Response	34	0	120	0	0	0	0	154	\$ 29,380	\$ 149,383	\$ 22,688	\$ 7,700	\$ 2,938	\$ 212,089
3.4	Construction Contractor's Submittals	32	0	100	0	0	0	0	132	\$ 25,275	\$ 119,460	\$ 15,125	\$ 3,080	\$ 2,528	\$ 165,468
3.5	Plans and Specifications Modifications	4	0	16	0	0	16	0	36	\$ 5,688	\$ 80,046	\$ -	\$ 10,395	\$ 569	\$ 96,698
3.6	Final Closeout	8	0	8	0	0	0	0	16	\$ 3,392	\$ 50,908	\$ 2,033	\$ -	\$ 339	\$ 56,672
	Subtotal Task 3	350	0	682	0	0	16	0	1,048	\$ 207,947	\$ 845,891	\$ 53,596	\$ 36,603	\$ 20,795	\$ 1,164,832
Task 4 - Post Construcion Services															
4.1	Final DDR and EDC Appendix	2	0	8	0	0	0	0	10	\$ 1,892	\$ 48,357			\$ 189	\$ 50,438
4.2	As-Built Drawings	0	0	30	0	0	60	0	90	\$ 12,360	\$ 85,144			\$ 1,236	\$ 98,740
4.3	Commissioning Support	4	0	0	0	0	0	0	4	\$ 1,000	\$ 90,020			\$ 100	\$ 91,120
4.4	Final O&M Development/Review	4	0	4	0	0	0	0	8	\$ 1,696	\$ 19,963			\$ 170	\$ 21,829
4.5	As-Built Foundation Report	0	0	0	0	0	0	0	0	\$ -	\$ 20,105			\$ -	\$ 20,105
4.6	ULDC Documentation and FEMA LOMR	17	0	8	38	0	0	8	71	\$ 12,522	\$ 7,920	\$ 6,600		\$ 1,252	\$ 28,294
	Subtotal Task 4	27	0	50	38	0	60	8	183	\$ 29,470	\$ 271,509	\$ 6,600	\$ -	\$ 2,947	\$ 310,526
Task 5 - Contingency															
5.1	Contingency (4%)	0	0	0	0	0	0	0	0	\$ -				\$ -	\$ 73,719
	Subtotal Task 5	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 73,719
	COLUMN TOTALS	536	0	856	38	0	100	68	1,598	\$ 307,599	\$ 1,389,690	\$ 65,009	\$ 41,223	\$ 30,760	\$ 1,908,000

TOTAL COST	\$1,908,000
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Agenda Item 3.4

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **AMENDMENT TO THE CONTRACTUAL SERVICE AGREEMENTS WITH THE INDEPENDENT PANEL OF EXPERTS FOR THE SMITH CANAL GATE PROJECT**

RECOMMENDATION

It is recommended that the Board of Directors of the San Joaquin Area Flood Control Agency adopt a resolution authorizing the Executive Director to amend two of the Independent Panel of Experts' Contractual Service Agreements as follows:

1. Hultgren-Tillis Engineers in the amount of \$50,000 for the geotechnical review of the project during construction, and
2. QuestStructures in the amount of \$50,000 for the structural review of the project during construction

DISCUSSION

Background

On September 14, 2012, SJAFCA was awarded a \$2,412,500 grant from the State of California Department of Water Resources (DWR) for 50% of the design of the Smith Canal Gate project. As part of the Grant, DWR required an Independent Panel of Experts (IPE) to review the project during the design of the project.

On July 10, 2013, the SJAFCA Board approved the formation of the Smith Canal Gate Assessment District to fund the local share of the project.

The Lower San Joaquin River Feasibility Study (LSJRFS), for which SJAFCA and the Central Valley Flood Protection Board are the non-federal sponsors, includes the Smith Canal Gate project as part of the improvements in the Approved Plan. Because SJAFCA is seeking credit for the advance construction costs of the Smith Canal Gate to be applied to the LSJRFS, the Smith Canal Gate project is required to meet the U.S. Army Corp of Engineers' (USACE) Safety Assurance Review standards, which also requires the review of the project by an IPE.

The following experts: Edwin L. Hultgren with Hultgren-Tillis Engineers (geotechnical engineering), Joseph W. Domenichelli with Domenichelli & Associates

AGENDA ITEM 3.4

CONTRACTUAL SERVICES AGREEMENTS FOR THE INDEPENDENT PANEL OF EXPERTS FOR THE SMITH CANAL GATE DESIGN PROJECT (Page 2)

(hydrology/hydraulics), and Yusof Ghanaat with QuestStructures (structural engineering) were approved as the IPE by DWR and USACE on July 24, 2014 and September 3, 2015 respectively.

On December 15, 2014, SJAFCA Board approved the contractual services agreements for the three members of the IPE for their review of the design phase of the project.

On September 3, 2015, a Section 221 Memorandum of Understanding (MOU) was executed between SJAFCA and USACE to advance the construction of the Smith Canal Gate project and be eligible for a credit on the LSJRFS or another future flood control project.

On June 16, 2017, the IPE provided comments to the 65% design documents, which required significant design changes to address them.

On October 24, 2017, an UFRR grant was executed with DWR. Through this grant, the State cost-shares 63% of the project construction costs to a maximum amount of \$22,309,666.

As the existing contracts with the independent panel of experts only cover the review of the design phase of the project, on January 18, 2018, the Board approved contract amendments in the amount of \$50,000 to the three contracts with the IPEs for the review during the construction phase of the project. In addition, the term of the contracts was extended until the completion of the project.

On February 21, 2019, DWR conditionally approved an extra \$13,562,092 for the project. This extra funding will cover the additional project expenses that were required to address the comments from the IPEs and recent increases on project materials.

Present Situation

Both, DWR and USACE require that the IPE's review be conducted periodically during the design and construction phases of the project. The review should occur on a regular schedule sufficient to gather required information on the adequacy, appropriateness, and acceptability of the design and construction activities to assure public health, safety, and welfare.

Due to the complexity and the voluminous data developed for the project, the IPE's review of the geotechnical and structural design exceeded the allocated budgets. Additional funding is needed for the geotechnical and structural review during construction. In order to have adequate funding for the IPE's review related activities during the construction phase of the project, it is recommended that the contracts with Hultgren-Tillis Engineers and QuestStructures be amended in the amount of \$50,000 each for a total of \$100,000.

CONTRACTUAL SERVICES AGREEMENTS FOR THE INDEPENDENT PANEL OF EXPERTS FOR THE SMITH CANAL GATE DESIGN PROJECT (Page 3)

The contract with Domenichelli and Associates for the hydrology/hydraulics review during construction has enough funds currently (\$51,360).

Therefore, it is recommended that the Executive Director be authorized to amend two of the IPE's Contractual Service Agreements as follows:

- 1) Hultgren-Tillis Engineers in the amount of \$50,000 for the geotechnical review during construction, and
- 2) QuestStructures in the amount of \$50,000 for the structural review during construction

As stated above, the term of the three contracts with the IPEs is until the completion of the project.

Funds from the assessment district will be available to cover these agreements, and 63% of these expenses will be reimbursed by DWR per the Funding Agreement.

PREPARED BY: Juan J. Neira



APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR

CE:JJN:md

RESOLUTION NO. SJAFCA 19-24

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

=====

**SMITH CANAL GATE PROJECT – AUTHORIZATION TO AMEND TWO
OF THE INDEPENDENT PANEL OF EXPERTS’ CONTRACTUAL
SERVICES AGREEMENTS**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA
FLOOD CONTROL AGENCY, AS FOLLOWS:

Authorize the Executive Director to amend two of the Independent Panel of
Experts’ Contractual Services Agreements as follows:

1. Hultgren-Tillis Engineers in the amount of \$50,000 for the geotechnical review of
the project during construction, and
2. QuestStructures in the amount of \$50,000 for the structural review of the project
during construction

PASSED, APPROVED AND ADOPTED this 16th day of May 2019.

JESÚS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

Chris Elias, Secretary
of the San Joaquin Area
Flood Control Agency.

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

**AMENDMENT NO. 2
TO
SMITH CANAL GATE DESIGN INDEPENDENT REVIEW
CONTRACTUAL SERVICES AGREEMENT**

This Amendment to Contractual Services Agreement is made and entered into on March 19, 2018, by and between the SAN JOAQUIN AREA FLOOD CONTROL AGENCY ("SJAFCA"), and Hultgren-Tillis Engineers, who agree as follows:

WITNESSETH

WHEREAS, SJAFCA and Hultgren-Tillis Engineers entered into a three-year \$50,000 Contractual Services Agreement for the Independent Review of Smith Canal Gate Project on April 13, 2015 pursuant to SJAFCA Resolution No. 14-02;

WHEREAS, SJAFCA authorized an amendment to increase the Contractual Services Agreement with Hultgren-Tillis Engineers in the amount of \$50,000 (from \$50,000 to \$100,000) to account for the completion of the review during the design and construction phases of the project pursuant to SJAFCA Resolution 18-02.

WHEREAS, SJAFCA authorized an amendment to increase the Contractual services Agreement with Hultgren-Tillis Engineers in the amount of \$50,000 from (\$100,000 to \$150,000) to account for the completion of the review during the construction phase of the project pursuant to SJAFCA Resolution 19-24.

NOW, THEREFORE, in consideration of the foregoing and the following terms and conditions, the parties hereto agree as follows:

1. **PAYMENT:** Contract amount of said Contractual Services Agreement is increased by \$50,000.
2. **TERM:** Shall remain until project construction is completed
3. All other terms and conditions of said original Contractual Services Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this amendment to Contractual Services Agreement on the date and year first written above.

Executed as of the day first above stated:

HULTGREN-TILLIES ENGINEERS

By: _____
Edwin M. Hultgren
Principal Engineer

SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

By: _____
Chris Elias
Acting Executive Director

Approved as to Form:

By: _____
Scott L. Shapiro
General Counsel

**AMENDMENT NO. 2
TO
SMITH CANAL GATE DESIGN INDEPENDENT REVIEW
CONTRACTUAL SERVICES AGREEMENT**

This Amendment to Contractual Services Agreement is made and entered into on March 19, 2018, by and between the SAN JOAQUIN AREA FLOOD CONTROL AGENCY ("SJAFCA"), and QuestStructures, who agree as follows:

WITNESSETH

WHEREAS, SJAFCA and QuestStructures entered into a three-year \$50,000 Contractual Services Agreement for the Independent Review of Smith Canal Gate Project on April 13, 2015 pursuant to SJAFCA Resolution No. 14-02;

WHEREAS, SJAFCA authorized an amendment to increase the Contractual Services Agreement with QuestStructures in the amount of \$50,000 (from \$50,000 to \$100,000) to account for the completion of the review during the design and construction phases of the project pursuant to SJAFCA Resolution 18-02.

WHEREAS, SJAFCA authorized an amendment to increase the Contractual services Agreement with QuestStructures in the amount of \$50,000 from (\$100,000 to \$150,000) to account for the completion of the review during the construction phase of the project pursuant to SJAFCA Resolution 19-24.

NOW, THEREFORE, in consideration of the foregoing and the following terms and conditions, the parties hereto agree as follows:

1. **PAYMENT:** Contract amount of said Contractual Services Agreement is increased by \$50,000.
2. **TERM:** Shall remain until project construction is completed
3. All other terms and conditions of said original Contractual Services Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this amendment to Contractual Services Agreement on the date and year first written above.

Executed as of the day first above stated:

QUESTSTRUCTURES

By: _____
Yusof Ghanaat
President and Principal

SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

By: _____
Chris Elias
Executive Director

Approved as to Form:

By: _____
Scott L. Shapiro
General Counsel

Agenda Item 4.1

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Scott L. Shapiro, General Counsel

SUBJECT: **A RESOLUTION TO TAKE THE APPROPRIATE AND NECESSARY ACTIONS TO ADOPT AND IMPLEMENT THE AGENCY'S RETIREMENT PLANS AND CONSIDER ESTABLISHING A POLICY ON SOCIAL SECURITY TAXES**

RECOMMENDATION

Staff recommends that the Board of Directors of the San Joaquin Area Flood Control Agency approve and adopt a resolution to:

1. Authorize the adoption of the Agency's 401(a) and 457(b) plans; and
2. Authorize employer contributions to the 401(a) plan; and
3. Authorize reallocation of employer contributions for Mr. Elias from the 457(b) plan to the 401(a) plan; and
4. Delegate authority to Agency counsel to take the appropriate and necessary actions to implement the plans, including actions to adopt future amendments that are either required by law or do not increase the Agency's costs; and
5. Consider establishing the Agency's policy on Social Security taxes by either mandating a minimum 7.5% contribution to the Agency's retirement plans, or by authorizing a Section 218 Agreement.

DISCUSSION

Background

During closed session at the SJAFCA Special Board meeting of May 29, 2018, the Board gave direction to create a 457(b) Plan for the Executive Director whose hire date was anticipated to be June 16, 2018. During the same closed session meeting, the Board authorized (then) Chair Miller to sign a contract for the hiring of Executive Director, Mr. Chris Elias, who became the first employee of the Agency. Consequently, SJAFCA Resolution 18-15 was adopted to establish a 457(b) plan specifically for Executive Director Chris Elias. Among other provisions, Mr. Elias's employment contract provided that SJAFCA make contributions equal to 6.5% of his compensation to Mr. Elias's account under the 457(b) plan.

Since that time, the Agency has come across the need to develop its own benefit package that includes retirement plan options which was prompted by the recruitment for a Director

**A RESOLUTION TO TAKE THE APPROPRIATE AND NECESSARY ACTIONS TO
ADOPT AND IMPLEMENT THE AGENCY'S RETIREMENT PLANS AND CONSIDER
ESTABLISHING A POLICY ON SOCIAL SECURITY TAXES** (Page 2)

of Engineering Services for the Agency. This new job classification for a full-time Agency position was approved by the SJAFCA Board on March 28, 2019 per Resolution 19-09. The benefit package for the new Agency position includes a 401(a) plan with employer contributions to be made to such plan.

Current Situation

1. Because prior Board action in 2018 was restrictive to establishing a 457(b) plan specifically for Mr. Elias, it is recommended the Board approve authorization of the Agency's 401(a) and 457(b) plans.
2. Section 401(a) and 457(b) plans are identical in most respects: Both are defined-contribution plans; contributions to the plans are not subject to income taxes; participants' benefits under both plans are based solely on contributions made to the account, adjusted for investment earnings/losses; participants may invest their plan accounts among the plan's investment menu; and plan accounts are subject to income taxes only when distributed to participants or their beneficiaries. There are, however, a few differences, including:
 - employer contributions are subject to employee- and employer-owed FICA taxes (i.e., Medicare taxes and, if applicable, Social Security taxes) if made to a 457(b) plan, but not if made to a 401(a) plan;
 - employer contributions in a calendar year to an employee's 457(b) plan reduce, dollar for dollar, the amount that the employee may contribute to the 457 plan to the year under the tax limits, whereas employer contributions to the 401(a) plan have no effect on the 457(b) plan contribution limit; and
 - with limited exceptions, a federal 10% early withdrawal tax applies to distributions made from the 401(a) plan before the recipient participant reaches age 59 ½, but not to distributions from a 457(b) plan regardless of the participant's age at distribution.

Staff believes that the first two factors (which favor a 401(a) plan) outweigh the third factor (which arguably favors a 457(b) plan). Accordingly, staff recommends that the Board authorize and direct that any employer contributions made by the Agency for retirement benefits be allocated to the 401(a) plan.

3. Staff further recommends that the Board authorize and direct that employer contributions owed to Mr. Elias under his employment contract be reallocated from the 457(b) plan to the 401(a) plan, subject to Mr. Elias's written agreement.

A RESOLUTION TO TAKE THE APPROPRIATE AND NECESSARY ACTIONS TO ADOPT AND IMPLEMENT THE AGENCY'S RETIREMENT PLANS AND CONSIDER ESTABLISHING A POLICY ON SOCIAL SECURITY TAXES (Page 3)

4. Furthermore, staff recommends that the Board delegate authority to Agency counsel to take the appropriate and necessary actions to (1) implement the 401(a) and 457(b) plans, and (2) adopt future amendments to the plans that are either required by law, or do not increase the Agency's costs, thereby improving efficiencies by permitting the adoption of legally required or routine ministerial amendments without going through the Board approval process.
5. Finally, staff requests Board direction on the application of Social Security (SS) taxes to the Agency. Under current law, an Agency employee's compensation is subject to SS taxes, unless contributions totaling at least 7.5% of the employee's compensation are made to his or her account under the Agency's 457(b) or 401(a) plan, or both. The contributions can be from employer contributions (which aren't deducted from salary) or employee contributions (which come from salary deductions), or both.

Currently, the Agency doesn't require 457(b)/401(a) contributions totaling at least 7.5%. Without such a mandate, whether an Agency employee is subject to SS taxes for any period becomes a moving target: If the employee's contributions (combined with any Agency contributions) total at least 7.5% of compensation, the employee's Agency pay is exempt from SS taxes. Conversely, whenever total contributions are less than 7.5%, the employee's pay is subject to SS taxes. Consequently, whether SS taxes applies for any payroll period is dependent on how much the employee has decided to contribute to the 457(b) plan for that period (voluntary employee contributions to the 401(a) plan aren't permitted). This is burdensome to administer. Further, the moving target increases the risk of noncompliance, for which the Agency would be penalized. Finally, outside benefits counsel advises that they are not aware of any California public agencies that operate in this way—rather, all are either subject to, or exempt from, SS taxes at all times.

Accordingly, Staff recommends that the Board establish a policy under which Agency employees are—at all times—either exempt from SS taxes (Option 1) or subject to SS taxes (Option 2).

Policy Options	Pros	Cons
<i>Option 1, SS tax exemption:*</i> Under this policy, the Board would mandate that contributions totaling at least 7.5% of pay be made to employees' 457(b) or 401(a) accounts. For the above-discussed reasons, staff recommends that these contributions be allocated to the 401(a) plan.	Cost savings—neither the Agency nor any employee would owe SS taxes, saving the Agency and employee combined 12.4% (6.2% apiece) of pay up to the SS wage cap—though this cost savings would be partly	Employee not entitled to Social Security benefits for Agency employment

A RESOLUTION TO TAKE THE APPROPRIATE AND NECESSARY ACTIONS TO ADOPT AND IMPLEMENT THE AGENCY'S RETIREMENT PLANS AND CONSIDER ESTABLISHING A POLICY ON SOCIAL SECURITY TAXES (Page 4)

Policy Options	Pros	Cons
	offset by the required 7.5% 457(b) or 401(a) contribution	
<i>Option 2, SS tax applies:</i> Under this policy, the Agency would enter into an agreement known as a "Section 218 Agreement" with the Social Security Administration. Once the agreement is adopted, Agency employees' pay would be subject to SS taxes regardless of 457(b)/401(a) contribution levels.	Employees generally would be entitled to Social Security benefits for Agency employment	Increased costs—the Agency and employee would each have to pay the 6.2% SS tax (up to the wage cap) on the employee's pay. Section 218 Agreements are permanent. Once the agreement is executed, the Agency can never opt out of SS taxes.

* If the Board chooses Option 1, the 7.5% contributions will be funded by a combination of both employer and employee contribution types totaling at least 7.5%.

FISCAL IMPACT

There are no direct costs related to implementing the Agency's 401(a) and 457(b) plans because these costs are a component of the salary and benefit costs approved for the full-time employee positions. Actions taken by the Board to implement the plans and contributions to the 401(a) plan do not increase the salary and benefit costs for the positions. These costs are captured in the Agency's annual budget for salary and benefits. If the Board chooses to establish a policy that would exempt the Agency and its employees from SS taxes, there is no fiscal impact; however, if the Board should choose to participate in a Section 218 Agreement to participate in Social Security benefits for its employees, the Agency would be subject to pay the required 6.2% SS tax (up to the wage cap) based on employee's salary.

PREPARED BY: Marlo Duncan, Project Manager



SCOTT L. SHAPIRO
GENERAL COUNSEL

SLS:MD

RESOLUTION NO. SJAFCA 19-25

SAN JOAQUIN AREA
FLOOD CONTROL AGENCY

=====

**RESOLUTION AUTHORIZING ADOPTION AND IMPLEMENTATION OF
401(A) AND 457(B) RETIREMENT PLAN AND PLAN CONTRIBUTIONS AND
ESTABLISHING POLICY ON SOCIAL SECURITY TAXES**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN
AREA FLOOD CONTROL AGENCY, AS FOLLOWS:

1. Effective January 1, 2019, the Board approves SJAFCA's adoption of two defined-contribution retirement plans for the benefit of the agency's eligible employees: an "eligible deferred compensation plan" within the meaning of section 457(b) of the Internal Revenue Code ("457(b) Plan"), and a plan qualified under section 401(a) of the Internal Revenue Code ("401(a) Plan").

2. Any employer contributions for retirement benefits made by SJAFCA will be allocated to the 401(a) Plan.

3. Subject to the Executive Director's written consent, any employer contributions for retirement benefits that are owed by SJAFCA to the Executive Director under the terms of his employment agreement will be allocated to the 401(a) Plan.

4. Legal Counsel is authorized to (i) take any actions deemed necessary or appropriate to effectuate the intent and purposes of the foregoing resolutions, including but not limited to preparing, executing, and delivering all documents necessary for the implementation of the 457(b) Plan and 401(a) Plan, and (ii) adopt any amendment to the 457(b) Plan or 401(a) Plan that either is necessary to conform the relevant plan's terms with governing law, or is ministerial in nature and does not increase SJAFCA's costs.

5. [Legal Counsel is directed and authorized to, on SJAFCA's behalf, enter into a "Section 218 Agreement" with the Social Security Administration, providing for Social Security coverage of all SJAFCA employees.]

- or -

5. [Contributions totaling at least 7.5% of SJAFCA employees' base pay will be allocated to employees' accounts under the 457(b) Plan and 401(a) Plan. In approving such contributions, it is the Board's intent that SJAFCA employees' compensation be exempt from Social Security taxes.]

PASSED, APPROVED AND ADOPTED this 16th day of May 2019.

JESUS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

CHRIS ELIAS, Secretary
of the San Joaquin Area
Flood Control Agency

APPROVED AS FO FORM:

SCOTT SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

Agenda Item 5.1

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **PUBLIC HEARING TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF O&M ASSESSMENTS WITHIN THE DISTRICT FOR FISCAL YEAR 2019/20**

RECOMMENDATION

It is recommended the Board of Directors of the San Joaquin Area Flood Control Agency conduct a public hearing and adopt a resolution to approve the Annual Engineer's Report for the operations and maintenance for the Flood Protection Restoration Assessment District and order the levy and collection of operations and maintenance assessments within the Flood Protection Restoration Assessment District for fiscal year 2019/20.

DISCUSSION

Background

By approving the formation of the Flood Protection Restoration Assessment District 96-1 (AD 96-1) on February 28, 1996, the Board also approved the levying of annual Operations and Maintenance (O&M) assessments to provide for the maintenance of levee improvements and detention basins constructed by SJAFCA. Each year, the Board must approve the O&M budget for the upcoming fiscal year (FY) and approve the levying of assessments as provided for in the Annual Engineer's Report for AD 96-1/Reassessment and Refunding of 2002. The annual O&M budget report was filed and available for public review on May 6, 2019. A notice of the public hearing was published in The Record on May 6, 2019.

The maintenance of SJAFCA improvements is performed by the San Joaquin County Flood Control and Water Conservation District (District) under the O&M agreement approved by the SJAFCA Board on April 1, 1998, and the San Joaquin County Board of Supervisors on April 14, 1998. The Agency's Aquatic Weed Control Program (AWCP) in Five Mile Slough has been contracted out since its implementation with the exception of fiscal years 16/17 and 17/18 because the District performed this work.

The AWCP in Five Mile Slough was implemented in 2002 to remove water hyacinth blooms (invasive species) from the slough because these blooms impede full inspection of the levees making it difficult, or nearly impossible in some cases, to identify burrowing holes and eroded areas. During that time, a spray program was implemented and required federal and state regulatory permits as well as continuous monitoring and reporting activities to satisfy the various permit conditions of the regulatory agencies. A spray program has not been conducted since FY 05/06 and only mechanical removal has been performed. The cost for mechanical removal of water hyacinth has increased tremendously over the last several years and is due in part to a lack of a spray program to control invasive plants, but also to weather

AGENDA ITEM 5.1

PUBLIC HEARING TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF O&M ASSESSMENTS WITHIN THE DISTRICT FOR FISCAL YEAR 2019/20 (Page 2)

and its effect on the temperature of the water causing hyacinth blooms to rapidly multiply. Last year the Agency removed 5,000 cubic yards of water hyacinth from the Five Mile Slough. Recognizing the large amounts of invasive hyacinth that were removed from the slough and considering the cost associated with mechanical removal, it was suggested that re-implementing a spray program could help curb these costs. The Board asked staff to look into alternatives to mitigate costs associated with this program. Staff reached out to vendors who have experience with the removal of invasive species from the water using both mechanical and spray methods. During this process, informal bids were obtained to implement a spray program. The Agency has contracted with Clean Lakes, Inc. to develop an Aquatic Pesticide Application Plan and Notice of Intent for portions of Five Mile Slough which is required by the Division of Water Quality, State Water Resources Control Board to obtain coverage under the Statewide General National Pollutant Discharge Elimination System (NPDES) permit for residual aquatic pesticide discharges. Staff will keep the Board informed of this process.

The proposed O&M budget covers expected costs for materials, equipment, consultants, contractors, personnel, and administration. These costs include channel maintenance such as levee inspection, erosion repair, weed and rodent control, herbicide spraying, graffiti removal from floodwalls and other structures, maintenance of detention basin no. 1 pumps, maintenance of levee patrol and access roads, Five Mile Slough AWCP, annual administration, consultant charges to prepare the Engineer's and Annual Levy reports, and charges by the San Joaquin County Auditor for including the assessment on the annual tax roll. The budget also includes annual allowances for items that are expected to occur over the life of the improvements, but not every year (i.e., floodwall replacement, bridge flood proofing repair, levee patrols, repair levee improvements damaged by floods, etc.).

O&M proceeds are set aside annually as follows:

- i) Floodwall replacement fund: This fund accumulates the proceeds (without interest) that are set aside annually for the future replacement of the floodwalls. Any interest generated in this fund is accumulated in the O&M surplus fund. As of April 30, 2019, the amount accumulated in this fund is \$934,426.
- ii) O&M surplus fund: This fund is primarily used to replace and repair levee improvements damaged by flooding and to provide patrols during high water events. With the exception of funds set aside for floodwall replacement, all unexpended funds in the O&M budget are accumulated in the surplus fund. As of April 30, 2019, the amount accumulated in the surplus fund is \$5.2 Million. This includes interest generated by the floodwall replacement fund.

To apportion the costs of the O&M activities to those parcels which benefit, a method of assigning Maintenance Benefit Unit(s) (MBU) was developed. MBU are assigned to each parcel based upon the relative benefits the property receives from the SJAFCA project. For example, a typical single-family residence is rated at 1.25 MBU, while a grocery store on one acre is rated at 12.30 MBU. The cost per MBU is established each year by dividing the annual O&M budget by the total number of MBU in the SJAFCA assessment district.

The annual assessment rate approved each year may not exceed the adjusted theoretical

PUBLIC HEARING TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF O&M ASSESSMENTS WITHIN THE DISTRICT FOR FISCAL YEAR 2019/20 (Page 3)

maximum assessment of \$3.59 per MBU adjusted for annual inflation equal to the National Consumer Price Index. This base rate of \$3.59 was established by dividing the original O&M budget of \$450,000 by the total number of MBU in fiscal year 1996 (125,474 MBU).

Present Situation

The District submitted their proposed O&M budget to SJAFCA for FY 19/20 (Attachment 1). This proposal does not include aquatic weed removal costs because this work is being contracted out. The District's request of \$985,500 is the same level of budget that was requested last year. The District's expenditures for the last few years have been less than budgeted amounts because drought conditions have allowed them to reduce their O&M activities. In addition, the high flows of 2017 caused some minor erosion, which required additional effort, but the Army Corps of Engineers is repairing the more serious erosions under Public Law 84-99 (PL 84-99), which helps reduce costs.

It should be noted that the District's request does not include the normal increases in actual labor and equipment operating costs and reflects the minimum amount needed to ensure adequate maintenance of the flood control facilities. As in past years, budgeted maintenance costs continue to exceed revenue from annual O&M assessments. The District and staff continue to work towards increasing maintenance assessment revenue through a Proposition 218 process.

The proposed O&M budget for FY 19/20 is \$1,084,000 and covers the anticipated materials, equipment, consultants, contractors, personnel, and administration (see detail in the attached Engineer's Report, pages 6 and 7, Attachment 2). The FY 19/20 budget does not include funds for floodwall replacement. Previous amounts set aside for the floodwall replacement fund have averaged \$44,000 annually. This will be the sixth year in which funds have been omitted for floodwall replacement in order to reduce the amount appropriated from surplus to cover annual maintenance expenses.

The proposed budget utilizes the maximum assessment rate allowed for FY 19/20. The maximum assessment rate allowed has been used for the last several years. The maximum assessment rate for FY 19/20 is equal to the base rate of \$5.9209 adjusted for annual inflation equal to the National Consumer Price Index (CPI). The CPI for FY 19/20 is 1.6%, therefore, the maximum assessment rate is \$6.01.

Applying the maximum assessment rate of \$6.01 to the estimated 152,578.97 MBU, will yield \$915,933 in O&M revenue. This revenue falls short of meeting the operating costs in the proposed \$1,084,000 O&M budget. Therefore, an appropriation in the amount of \$168,067 (\$1,084,000 - \$915,933) from the O&M surplus fund is needed to cover the proposed expenses in the FY 19/20 budget.

It is also requested that the Board approve a \$100,000 appropriation from the O&M surplus fund to authorize the Executive Director to use these funds (up to \$100,000) to promptly deal with emergencies, or to authorize additional work needed, but not included in the O&M

PUBLIC HEARING TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF O&M ASSESSMENTS WITHIN THE DISTRICT FOR FISCAL YEAR 2019/20 (Page 4)

budget. As done annually since FY 09/10, any unused portion of appropriations are returned to the O&M surplus fund at the end of each FY.

In summary, the FY 19/20 O&M budget includes two appropriation requests:

- 1) A one-time \$168,067 appropriation from the O&M surplus fund to cover operating costs in the proposed budget;
- 2) A \$100,000 appropriation from the O&M surplus fund authorizing the Executive Director to use these funds (up to \$100,000) to promptly deal with emergencies, or to authorize additional work needed, but not included in the O&M budget.

These appropriations will not affect the proposed FY 19/20 assessment rate. There are sufficient funds in the O&M surplus to cover these appropriations. The following table displays a partial history of the annual assessment rates (theoretical maximum rate allowed and actual assessed) and some typical annual O&M assessments:

HISTORY OF THE ANNUAL SJAFCA O&M ASSESSMENTS								
PROPERTY TYPE	FISCAL YEARS							
	1996/9 7	2000/0 1	2004/0 5	2008/0 9	2012/1 3	2017/1 8	2018/1 9	2019/2 0
Theoretical Maximum Base Rate allowed	\$3.59	\$3.99	\$4.42	\$5.03	\$5.40	\$5.79	\$5.92	\$6.01
Actual Base Rate assessed	\$3.59	\$3.54	\$3.95	\$5.03	\$5.40	\$5.79	\$5.92	\$6.01
Single Family Home between 1000 and 2000 sf (1.25 MBU)	\$4.49	\$4.43	\$4.94	\$6.29	\$6.75	\$7.24	\$7.40	\$7.51
Grocery Store on 1 acre parcel (12.30 MBU)	\$44.16	\$43.54	\$48.59	\$61.87	\$66.42	\$71.22	\$72.82	\$73.92
Office Building on 2 acre parcel (18.375 MBU)	\$65.97	\$65.05	\$72.58	\$92.43	\$99.23	\$106.39	\$108.78	\$110.43

May 16, 2019

PUBLIC HEARING TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF O&M ASSESSMENTS WITHIN THE DISTRICT FOR FISCAL YEAR 2019/20 (Page 5)

By adopting the proposed resolution at the conclusion of the public hearing, the Board will approve the Annual Report for the Flood Protection Restoration Assessment District and order the levy and collection of annual O&M assessments for FY 19/20.

PREPARED BY: Marlo Duncan

A handwritten signature in blue ink, appearing to read "Chris", is written over a horizontal line.

APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR

CE:MD

Attachments



SAN JOAQUIN
—COUNTY—
Greatness grows here.



Department of Public Works

Kris Balaji, Director of Public Works

Fritz Buchman, Deputy Director/Development

Alex Chetley, Interim Deputy Director/Engineering

Jim Stone, Deputy Director/Operations

Kristi Rhea, Manager of Strategic Initiatives

March 27, 2019

Mr. Chris Elias, Executive Director
San Joaquin Area Flood Control Agency
22 East Weber Avenue, Suite 301
Stockton, California 95202-2317

SUBJECT: SAN JOAQUIN AREA FLOOD CONTROL AGENCY 2019-20 PROPOSED OPERATIONS
& MAINTENANCE BUDGET

Dear Mr. Elias:

The San Joaquin County Public Works Department (County) is pleased to submit the attached Fiscal Year 2019-20 budget proposal for your consideration. The proposed 2019-20 Operations and Maintenance (O&M) Budget for cost-shared flood protection facilities reflects no change in the level of maintenance or budget request.

As shown on the attached table, total expenditures for the past several years have been significantly less than our budget request because the drought allowed us to reduce our operation and maintenance activities. The high flows of 2017 caused some minor erosions, which have required extra effort, but the Army Corps of Engineers is repairing the more serious erosions under PL84-99, which is helping to reduce costs. We are aware that budgeted maintenance costs continue to exceed the O&M revenue available from annual assessments. Therefore, the County's request for FY 2019-20 does not even include normal increases in actual labor and equipment operating costs.

This request is the absolute minimum amount of resources that allows us to adequately maintain the facilities. Public Works staff looks forward to continuing cooperation with your staff to coordinate our efforts to undertake a Proposition 218 process to increase maintenance assessment revenue.

Please feel free to call me at 468-3031, if you have any questions in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Stone".

JIM STONE
Deputy Director/Operations

JS:bd

LETTER - SJAFCA REQUEST_2019-20 Proposed O-M Budget.doc

Attachment

c: Kris Balaji, Director of Public Works
Brandon Nakagawa, Engineering Services Manager - Flood Management
Eric Ambriz, Channel Maintenance Superintendent



COUNTY OF SAN JOAQUIN 2018-19 PROPOSED BUDGET
Assessment District No. 96-1 Flood Protection System

Fund - 21116

Department - 2910000000

	BUDGET 2016-17	ACTUAL 2016-17	BUDGET 2017-18	ACTUAL 2017-18	BUDGET 2018-19	EST-ACT 2018-19	RECOMMENDED 2019-20
EXPENDITURES							
Services & Supplies							
6214000000 RENTS & LEASES -EQUIPMENT	2,000	0	2,000	0	0		0
6214000200 EQUIPMENT RENTAL-COUNTY OWNED	236,200	94,512	236,200	107,634	260,500	105,000	260,500
6220001000 AUDITOR'S PAYROLL & A/P CHARGES	500	0	500	0	500	0	500
6221004000 PROFESSIONAL SVS-COUNTY	10,000	0	50,000	0	10,000	0	10,000
6221004900 REFUSE DISPOSAL CHARGES	2,000	0	2,000	0	0	0	0
6226003000 MATERIALS	28,500	51,058	28,500	54,741	28,500	100,000	28,500
6226003100 LABOR	690,800	569,132	687,800	702,599	686,000	700,000	686,000
6238000000 MISCELLANEOUS EXPENSE	5,000	0	5,000	0	0	80,000	0
TOTAL SERVICES AND SUPPLIES	975,000	714,701	1,012,000	864,974	985,500	985,000	985,500
Capital Expenditures							
6501400000 DIR-CHG BOS DISTRICT	0		0	0	0	0	0
TOTAL COST REIMBURSEMENTS	0	0	0	0	0	0	0
TOTAL EXPENDITURES	975,000	714,701	1,012,000	864,974	985,500	985,000	985,500



San Joaquin Area Flood Control Agency

**FLOOD PROTECTION RESTORATION
ASSESSMENT DISTRICT
(REASSESSMENT AND REFUNDING OF 2002)**

**2019/2020 ENGINEER'S ANNUAL REPORT
FOR THE OPERATION AND MAINTENANCE**

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I. OVERVIEW

A. INTRODUCTION

The San Joaquin Area Flood Control Agency (“Agency”) is authorized to annually levy and collect special assessments in order to provide and maintain the facilities, improvements and services within Flood Protection Restoration Assessment District (Reassessment and Refunding of 2002) (“District”). The District was formed in 1996 and the Agency annually levies and collects assessments to maintain the improvements installed and constructed within the District pursuant to the Municipal Improvement Act of 1913, Division 12 of the California Streets and Highways Code §10000 (the “1913 Act”).

This Engineer’s Annual Report (“Report”) describes the District, any changes to the District, the method of apportionment established at the time of formation, and the proposed assessments for Fiscal Year 2019/2020. The proposed assessments are based on the estimated cost to maintain the improvements that provide a special benefit to properties assessed within the District. Each parcel within the District is assessed proportionately for the special benefits provided to the parcel from the improvements.

The word “parcel” for the purposes of this Report refers to an individual property assigned its own Assessment Number by the San Joaquin County Assessor’s Office. The San Joaquin County Auditor/Controller uses Assessment Numbers and specific Fund Numbers to identify on the tax roll properties assessed for special district benefit assessments.

Following consideration of all public comments and written protests at an annual noticed public hearing, and review of the Engineer’s Annual Report, the Board of Directors for the Agency may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report, and confirmation of the assessments, the Board will order the levy and collection of assessments for Fiscal Year 2019/2020. In such case, the assessment information will be submitted to the San Joaquin County Auditor/Controller, and included on the property tax roll for each parcel in Fiscal Year 2019/2020.

B. COMPLIANCE WITH CURRENT LEGISLATION

The Agency has reviewed the provisions of the California Constitutional Article XIID (established by the passage of Proposition 218 in November 1996) and has made the following findings and determinations:

Pursuant to Article XIID Section 5 of the California Constitution, certain property related assessments existing on July 1, 1997 (“the effective date”) are exempt from the substantive and procedural requirements of Article XIID Section 4 and property owner balloting for the assessments is not required until such time that the assessments are increased. Specifically, Section 5 of Article XIID reads:

“...the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or

vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.”

Since, the improvements and the annual assessment for maintaining the District improvements are exclusively for flood control purposes, the method of assessment and maximum assessment rate formula, as established by the Agency prior to the effective of the article (July 1, 1997), are exempt from the procedural requirements of Article XIID Section 4 of the California Constitution.

The proposed assessment for Fiscal Year 2019/2020 may be less than or equal to the maximum assessment rate previously approved and adopted by the Agency. Future assessments that exceed the previously approved schedule of adjustments, including the clearly defined formula for inflation adjustment that was adopted by the Agency prior to November 6, 1996, will be subject to the substantive and procedural requirements of the California Constitution Article XIID Section 4.

// ANNUAL ASSESSMENT

When the District was formed, pursuant to Section 10100.8 of the Streets and Highways Code, the Board approved the levy of assessments to pay in whole or in part: a.) The costs and expenses of constructing or acquiring the Improvements; b.) The estimated annual costs and expenditures required during the ensuing years for the operation and maintenance of those improvements. The assessments so approved are collected through special assessment levied on the County tax rolls upon all lots, parcels and subdivisions of land within the District that benefit from the improvements.

Since the improvements are to be funded by the levying of assessments, the law requires and the statutes provide that assessments levied pursuant to the “1913 Act”, must be based on the special benefit that the properties receive from the works of improvement. However, the statute does not specify the method or formula that should be used in any special assessment district proceedings. The responsibility for apportioning the costs to properties which special benefit from the improvements rests with the Assessment Engineer, who is appointed to make an analysis of the facts and to determine the apportionment of the assessment obligation to properties proportionate to the special benefit which each will receive from the improvements.

To apportion the assessment to each parcel in direct proportion to the special benefit it will receive from the improvements, an analysis was made to initially identify the special benefit that the public improvements would render to the properties within the boundaries of the District. In making the analysis to levy an assessment on a specific parcel, it is necessary that the parcel receive a special benefit distinguished from a benefit to the general public.

A. DEFINITION OF OPERATION AND MAINTENANCE

The costs and expenses for “Operation and Maintenance” include all applicable operation, maintenance and repair costs incurred annually, or that may not be reasonably collected in a single annual assessment to maintain the level of benefit to the assessed parcels in the District. Operation and Maintenance, as determined by the Board of the San Joaquin Area Flood Control Agency, may include, but is not limited to:

- Personnel costs;
- Utilities (water, electric and other);

- Maintenance equipment (purchase and repair);
- Weed abatement (herbicide spraying, mowing, debris burning);
- Rodent control;
- Road maintenance (Access Roads);
- Stream bed and detention basin clearing;
- Sedimentation removal;
- Erosion control;
- Patrolling and inspecting improvements and facilities;
- Pump station operation (including maintenance and repair);
- Flood wall repairs;
- Graffiti removal;
- Administration expenses; and
- Providing for an “Emergency Repair/Replacement Fund”.

B. OPERATION AND MAINTENANCE BENEFIT

The District assessments were established to provide funding and financing for the design construction, maintenance and operation of flood control facilities (improvements) that benefit parcels within the District. Properties within the District have been designated within the 100-year flood plain by the Federal Emergency Management Agency (FEMA)—according to the preliminary revised Flood Insurance Rate Maps (FIRM’s), dated February 28, 1995. The District’s flood control facilities restore flood protection to properties that are subject to flooding during a storm of 100-year intensity and thereby preserve the ability to use and develop the properties within the District without the requirements placed on parcels located within Special Flood Hazard Areas. Therefore, the improvements and the maintenance and operation of those improvements are a special benefit to the properties within the District.

The following outlines the special benefits properties within the District receive from the construction and maintenance of the flood protection improvements:

- Reduction in the risk of loss that would occur if a flood were to damage the improvements on the property: i.e., structural damage and/or damages affecting the revenue-producing environment.
- Removal of the flood plain disclosure required during the sale of a property.
- Removal of the requirement for properties that are removed from Special Flood Hazard Areas (as designated by FEMA) to adhere to the building and design “flood plain management” criteria required by FEMA for communities participating in the Flood Insurance Program (FIP). These criteria apply to new construction, as well as renovations and additions in most circumstances, and increase the costs of development.
- Removal of the mortgage/lender requirement to purchase flood insurance if a property is within a designated Special Flood Hazard Area shown on the preliminary revised FIRM’s, or providing the ability to purchase flood insurance at a reduced cost.
- Protection of public improvements required to provide access and service to properties.

- Enhanced ability to develop property to its “highest and best use” in accordance with existing zoning and land use regulations.

C. CALCULATION OF ANNUAL MAINTENANCE AND OPERATION ASSESSMENT

The benefit formula used for calculating the annual operation and maintenance benefit to each property within the District is based on the Benefit Units (BU's) used to calculate the original benefits and assessments each parcel received from the construction of the District improvements and facilities. However, when the development or land use of a property changes the special benefits the parcel receives from the operation and maintenance of the District improvements also changes. The Maintenance Benefit Units (MBU's) for each parcel is recalculated each year utilizing the same methodology and formula established in the District's original Engineers Report and outlined in Part III of this report (Method of Apportionment) to accurately reflect each parcel's current special benefit from the improvements. Therefore, if the development status or land use of a particular parcel has changed since the previous year, the MBU's and the resulting operation and maintenance portion of the parcel's assessment will likely change.

The assessment rate per MBU is calculated by dividing the total annual Operation and Maintenance Budget by the total number of MBU's in the District each year. The number of MBU's will vary year to year based upon development and land use changes in the District.

In the year the District was formed (Fiscal Year 1996-97), the maximum annual assessment rate (“maximum rate”) for Operation and Maintenance was established at \$3.59 per MBU, plus an annual inflation escalator equal to the National Consumer Price Index (CPI). This maximum rate of \$3.59 was established using an estimated annual operation and maintenance cost of \$450,000 for the first full year of maintenance, and the total number of Maintenance Benefit Units in Fiscal Year 1996-97 (125,474.396 MBU's).

The first assessments for Operation and Maintenance were collected in Fiscal Year 1996-97 pursuant to resolution of the Agency Board approved after a duly noticed public hearing, as provided in the Act. Annual assessments for Operation and Maintenance are anticipated to be levied and collected each fiscal year and shall be approved by resolution at an annual public hearing on the matter. The annual assessment approved each year may not exceed the CPI adjusted maximum assessment (\$3.59 plus the annual inflation escalator) approved, without approval of the property owners subject to the assessment through a property owner protest ballot procedure pursuant to the California Constitution Article XIID.

Based on the initial Annual Assessment Rate of \$3.59 per MBU and the annual CPI inflation factor, the following table summarizes the application of the annual inflation escalator allowed to the assessment rate for the operation and maintenance assessments since Fiscal Year 1996-97. The “Maximum Assessment Rate” reflects the assessment rate per MBU that may be applied for the respective fiscal year without constituting an increased assessment or once again obtaining property owner approval in accordance with the provisions of the California Constitution Article XIID. The “CPI” applied each year is the National Consumer Price Index (CPI) from January 1st of the previous year to January 1st of the current year (or similar period). (Example—the CPI applied for Fiscal Year 1997-98 is based on the CPI calculated from January 1, 1996 to January 1, 1997 to the first decimal place 0.0).

Fiscal Year	Base Year Rate	Calendar Year CPI	CPI Adjustment	Maximum Assessment Rate	Assessment Rate Applied
1996-97	N/A	N/A	N/A	\$3.5900	\$3.59
1997-98	\$3.5900	3.30%	\$0.1185	\$3.7085	\$3.59
1998-99	\$3.7085	1.70%	\$0.0630	\$3.7715	\$3.60
1999-00	\$3.7715	2.95%	\$0.1113	\$3.8828	\$3.56
2000-01	\$3.8826	2.70%	\$0.1048	\$3.9874	\$3.54
2001-02	\$3.9874	3.90%	\$0.1555	\$4.1429	\$3.53
2002-03	\$4.1429	3.50%	\$0.1450	\$4.2879	\$3.51
2003-04	\$4.2879	1.10%	\$0.0472	\$4.3351	\$3.49
2004-05	\$4.3351	1.90%	\$0.0824	\$4.4174	\$3.95
2005-06	\$4.4174	3.00%	\$0.1325	\$4.5500	\$3.95
2006-07	\$4.5500	4.00%	\$0.1820	\$4.7320	\$4.25
2007-08	\$4.7320	2.10%	\$0.0994	\$4.8314	\$4.36
2008-09	\$4.8314	4.30%	\$0.2078	\$5.0392	\$5.03
2009-10	\$5.0392	0.00%	\$0.0000	\$5.0392	\$5.03
2010-11	\$5.0392	2.60%	\$0.1310	\$5.1702	\$5.17
2011-12	\$5.1702	1.60%	\$0.0827	\$5.2529	\$5.25
2012-13	\$5.2529	2.90%	\$0.1523	\$5.4052	\$5.40
2013-14	\$5.4052	1.60%	\$0.0865	\$5.4917	\$5.49
2014-15	\$5.4917	1.60%	\$0.0879	\$5.5796	\$5.57
2015-16	\$5.5796	0.00%	\$0.0000	\$5.5796	\$5.57
2016-17	\$5.5796	1.40%	\$0.0781	\$5.6577	\$5.65
2017-18	\$5.6577	2.50%	\$0.1414	\$5.7991	\$5.79
2018-19	\$5.7991	2.10%	\$0.1218	\$5.9209	\$5.92
2019-20	\$5.9209	1.60%	\$0.0947	\$6.0157	\$6.01

The Fiscal Year 2019/2020 Maximum Assessment Rate allowed is \$6.0157.

The Fiscal Year 2019/2020 Assessment Rate proposed is \$6.01.

The "Base Rate" equals the prior year's "Maximum Assessment Rate" allowed.

The "Maximum Assessment Rate" is calculated to four decimal places, however, the actual assessment applied to each parcel is rounded down to the nearest even penny when applied to the tax rolls.

D. PROPOSED BUDGET FOR FISCAL YEAR 2019/2020

Item Descriptions		
<u>San Joaquin County Operation and Maintenance Budget:</u>		
Office Expense-Postage		\$0
Rents & Leases – Equipment Use of San Joaquin County Flood Control and Water Conservation District equipment to perform operation and maintenance activities and provide emergency services if needed. Equipment Rental County Owned	\$260,500	\$260,500
Auditor's Payroll and A/P Charges Charges by the County Auditor for Payroll processing and accounts payable support.	\$500	\$500
Professional Services – County Services provided for bridge parapet wall accident repair.	\$10,000	\$10,000
Materials Includes expenses for vegetation management materials, rodent control materials, and materials and supplies unique to operation and maintenance activities.	\$28,500	\$28,500
Labor Costs Services provided by San Joaquin County Flood Control and Water Conservation District for operation and maintenance activities and to provide emergency activities if needed. Operation and Maintenance	\$686,000	\$686,000
Emergency Expenditure	\$0	\$0
Fixed Asset Funds needed to acquire additional equipment needed by the Agency.	\$0	\$0
SUB-TOTAL SAN JOAQUIN COUNTY OPERATION AND MAINTENANCE BUDGET		\$985,500
Aquatic Weed Control Program – Five Mile Slough The weed control program is conducted over an approximately 11,000 ft lineal section of Five Mile Slough. The program is managed by SJAFCA and for fiscal year 2019/2020 the work will be carried out by a professional contractor. Contractor – mechanical weed removal	\$75,000	\$75,000
SUB-TOTAL SJAFCA OPERATION AND MAINTENANCE BUDGET		\$75,000

Item Descriptions		
<u>SJAFCA Administration Budget:</u>		
Contribution To Capital Outlay Reserve (future floodwall replacement) Property Tax Administration Charges Charges by the County Tax Collector for the collection of property assessments. Administration Costs Annual administration and Engineer's Report	\$0 \$9,000 \$14,500	
SUB-TOTAL SJAFCA ADMINISTRATION BUDGET		\$23,500
TOTAL OPERATION AND MAINTENANCE BUDGET FY 2019/2020		<u>\$1,084,000</u>
For FY 2019/2020, there are \$1,084,000 of appropriations available to the district as follows: FY 2019/2020 Assessment to be levied FY 2019/2020 Agency Surplus Appropriation for FY 2019/2020⁽¹⁾ FY 2019/2020 Agency Surplus Appropriation⁽²⁾		\$915,933 \$168,067 \$100,000
TOTAL FY 2019/2020 APPROPRIATION		<u>\$1,184,000</u>

(1) The surplus appropriation of \$168,067 is needed to cover the difference between the amount collected by the O&M assessments and the additional amount requested by the District in the proposed FY 2019/2020 budget.

(2) The surplus appropriation of \$100,000 will allow the Executive Director, without additional Board Authorization, to promptly deal with emergencies, or to authorize additional work not included in the budget.

The appropriations in the budget are funded from the unexpended balance in the O&M reserve, carried forward from previous year's O&M assessments. No increase in the current annual assessment charge is either required or made. The result of this request to the Engineer's Report will not affect the proposed FY 2019/2020 assessment rate of \$6.01 per Maintenance Benefit Unit.

E. CALCULATION OF ASSESSMENT RATE FOR FISCAL YEAR 2019/2020

The assessment rate per MBU is calculated by dividing the total amount to be funded "O&M Budget" by the total "MBU's" estimated for the District.

**O&M Budget-Surplus Appropriations/Maintenance Benefit Units (MBU's) =
Assessment Rate**

- The Total Maintenance Benefit Units (MBU's) that are estimated for the District in Fiscal Year 2019/2020 are 152,578.97 **MBU's**.
- Based on the estimated budget and the surplus appropriation for Fiscal Year 2019/2020, the assessment rate for Fiscal Year 2019/2020 is a approximately \$6.01 per Maintenance Benefit Unit.

III. METHOD AND FORMULA OF ASSESSMENT SPREAD

A. CALCULATION OF BENEFIT UNITS

To apportion the costs of the improvements to parcels that benefit, a method of assigning Benefit Units to each parcel was developed and approved when the District was formed. Benefit Units (BUs) were assigned to each parcel based upon the benefits to real property that the District improvements (levee system and other flood control improvements) provided to each parcel in proportion to the estimated benefit the parcel receives relative to the other parcels in the District from the flood protection facilities.

The specific number of Benefit Units assigned to each parcel was calculated based upon the formula shown below:

Improvement BUs + Land BUs = Total BUs

The single-family residence (SFR) was used as a basis of comparison since it represented approximately 70 percent of the assessable parcels of land in the District. BUs assigned to other parcels and land uses were based upon the relative benefit they receive as compared to a single-family residence. The total number of BU's for all assessable parcels in the District were then divided into the total cost to fund the District to determine the assessment rate per Benefit Unit.

The BUs assigned or calculated for each parcel for construction and installation of the improvements was based on the land use for the parcel as shown on the records of the San Joaquin County Assessor's office at the time of formation. Recognizing that under the 1913 Act, the assessment on each parcel may not be increased once it has been levied without further public hearings and property owner approval, the District was formed and the assessments approved provided for annual adjustments to the assessments for operation maintenance of the improvements. The annual operation and maintenance assessment rate was established at \$3.59 per Maintenance Benefit Unit (MBU) plus an annual escalator equal to the National Consumer Price Index (CPI). However, the assessment formula approved also established that the operation and maintenance assessment applied to each parcel would be recalculated annually based on the current development status or land use of each parcel. Therefore, if the development status or land use of a particular parcel changed from the previous year, the MBU's

and the resulting assessment would change to more accurately reflect the parcel's current proportional benefit from the District improvements.

The methodology used to calculate the original BUs for the construction and installation of the improvements as well as the Maintenance Benefit Units calculated for future operation and maintenance of the improvements are assigned to each parcel based on land use. The method of apportionment for each land use is described in the following sections, with sample calculations provided in Appendix A.

B. IMPROVEMENT BENEFIT

Since the primary benefit to parcels from the construction, operation and maintenance of the flood control improvements is to remove them from the proposed new Special Flood Hazard Areas (new areas of the 100-year flood plain as identified by FEMA), the risk of loss or damage to improvements installed or constructed on developed parcels of land is significantly reduced.

The construction, operation and maintenance of the flood control improvements within the District significantly reduce the risk of damage and loss of real property, particularly to developed parcels of land. The improvements also facilitate the removal of properties from the proposed new Special Flood Hazard Areas (new areas of the 100-year flood plain as identified by FEMA). As a result, the special benefits to be enjoyed by property owners include:

- elimination of the requirements to purchase flood insurance in order to obtain financing;
- ability to purchase flood insurance at a reduced cost in comparison to parcels which are located within a Special Flood Hazard Area as designated by FEMA; and
- reduction of a flood event occurring and the probability of loss or damage to the property and improvements on the property.

The degree to which each developed property will benefit in relationship to any other property is based upon the intensity of development on the parcel (i.e., the percentage of the total parcel area which has or is allowed to have improvements constructed thereon) and the relative risk of loss of those improvements in relation to other land uses. The following describes the benefit relationship rational established in the original Engineer's Report.

Intensity of Development — Based upon an average parcel size of 1/6 acre for single-family development and a typical building footprint of about 1,600 sq. ft., the intensity of development on single-family residential parcels is approximately 20 percent. By comparison, a review of land use data within the Agency's sphere of influence showed that on retail/service commercial parcels of one acre or less, the average intensity of development is approximately 40 percent of the parcel area. This means that for each acre of land used for single-family residential, on average approximately 20 percent of the area (or about 9600 square feet per acre) is covered by improvements; whereas, on each acre of land used for retail/service commercial, over 40 percent is covered by improvements (or about 19,500 square feet per acre). Since an acre of land developed for retail/service commercial use has a higher intensity of development than an acre of land used for single-family residential, it receives a greater benefit because there is more that would be damaged should a flood occur. Based upon a review of parcel area and intensity

of development by land use for over 2,500 parcels, the following represents the average intensity of development per acre relative to single-family residential development within the District. The average intensity of development, by land use category (retail/service commercial, office/professional, personal care/recreational, manufacturing/industrial, institutional), was calculated by computing the average building coverage on the parcels analyzed after excluding those parcels that were significantly underdeveloped. Underdeveloped parcels were defined as those parcels within each land use category, which had the lowest 20th percentile current improvement density.

Unlike non-residential parcels, SFR parcels do not have a strong correlation between parcel size and the area which can be covered by improvements; therefore, they are assessed according to the size of the building footprint based on adjusting the improvement density factor for single-family residential as a function of the area of the structure footprint. A review of the available data showed that approximately 25 percent of the homes have a building footprint that would be 1,000 square feet or less, approximately 50 percent of the homes would fall in the 1-2,000 square foot range and the remainder would be over 2,000 square feet. Considering the number of houses in each category and the relative amount of replacement necessary should flooding occur, the improvement density factor reflects a 20% differentiation in replacement costs for the three categories of SFR, as shown in the table below.

Land Use	Improvement Density Factor
Single-Family Residential	
Less than 1,000 SF	0.8
1,000 to 2,000 SF	1.0
More than 2,000 SF	1.2
Multi-Family Residential	1.0
Retail/Service Commercial	2.0
Office/Professional	2.0
Personal Care/Recreational	2.0
Manufacturing/Industrial	2.0
Institutional	1.5

Risk of Loss — In determining the benefit that a parcel receives, it was also necessary to look at the relative replacement costs of the improvements constructed on the parcel relative to other land uses since the relative risk of loss in the event of a flood is directly proportional to the relative cost of the improvements at risk. For example, a review of published building construction cost data showed that the average cost range per square foot for single-family residential improvements was \$45-60/square foot while the average cost range per square foot for industrial improvements was \$25-45/square foot. Therefore, each developed single-family residential parcel receives a greater benefit than developed manufacturing/industrial parcels per unit of improvement since the loss or damage would be significantly higher should a flood occur. Also, since the cost of flood insurance is based on the value of improvements to be insured, it would cost the single-family property owner more to purchase flood insurance per 100 square feet of single-family residential improvements in comparison to 100 square feet of manufacturing/industrial improvements; therefore, the single-family residential property would receive a greater benefit.

Based upon an analysis of the average cost per square foot for structures allowed under existing land use regulations for each land use, the table below shows the relative benefit per unit (i.e.,

square foot) for improvements by land use relative to single-family residential development within the District:

Land Use	Risk Factor
Single-family Residential	1.0
Multi-Family Residential	0.9
Retail/Service Commercial	0.9
Office/Professional	1.1
Personal Care/Recreational	1.2
Manufacturing/Industrial	0.7
Institutional	1.1

Therefore, it was determined that developed properties benefit differently from the flood protection facilities depending on the type of land use on the property and the average intensity of development; the potential damage to the structure, its contents, and/or the financial loss in revenues in the event of a flood would be different for the different types of land use based upon the relative cost per unit of improvement within the different land use categories.

In order to allocate benefit fairly between the land uses, an Equivalent Dwelling Unit (EDU) methodology was established that equated different residential and non-residential land uses to each other, thereby allowing a uniform method of assessment.

Therefore, the improvement benefit formula is summarized as:

$$(\text{EDU's}) \times (\text{Improvement Density Factor}) \times (\text{Risk Factor}) = \text{Improvement Benefit Units}$$

C. EQUIVALENT DWELLING UNITS

Land use as shown on the San Joaquin County Assessor's records is used to assign Equivalent Dwelling Units (EDU's) to each improved parcel based on the following methodology.

- **Single-family Residential** — Since the single-family residential (SFR) parcel is the most common land use and represents over 70 percent of the assessable parcels within the District, it is used as the standard and is assigned one (1) EDU. Other improved land uses are converted to EDU's by comparing them to the SFR. Included in the SFR category are condominiums, mobile homes not in mobile home parks and agricultural-residential parcels.
- **Multi-Family Residential** — Multi-family residential improved land uses are equated to the SFR land use based upon the number of dwelling units per parcel. Studies have consistently shown that the average apartment unit's relative size and population density compared to the typical size and impacts of single-family units is approximately 80 percent as much as a single-family residence. By virtue of their reduced size, each multi-family residential unit receives a lesser benefit or enhancement per unit to property values and therefore benefits less per unit than a single-family residence. Also, a review of parcel data finds that flood protection benefits do not increase proportionately as the number of units increase on a Multi-Family Residential (MFR) parcel, due to the nature of the building layouts and the fact that the value per unit generally decreases as the number of unit's increases.

EDU's for Multi-Family Residential parcels are calculated based upon the actual number of dwelling units as shown below:

Number of Dwelling Units	Equivalent Dwelling Unit Formula
Four (4) Units or less	0.8 EDU/DU for the first 4 DU's
More than four (4) but less than or equal to twenty (20)	0.6 EDU/DU for each DU over 4 and up to 20
More than twenty (20)	0.4 EDU/DU for each DU over 20

- **Non-Residential** — All Non-Residential improved land uses are equated to the SFR based upon parcel size. A review of the County land use records showed that the average SFR parcel size in the City of Stockton is 1/6 acre. Therefore, the factor of 6 EDU's per acre is used as the basis of comparison, and each Non-Residential parcel will be assigned 6 EDU's per acre or fraction thereof.

To more accurately reflect the benefit that some parcels receive from the flood control improvements, an additional adjustment in the EDU's assigned to the parcel is required. The data used to develop the density factors for each land use indicated that, on the larger parcels of land, the average density of development was significantly lower than on parcels that were less than one (1) acre in size. Even if it is assumed that the owner of land will ultimately develop that land to receive the maximum economic return from the land based upon allowed intensities of development and other land use regulations, there are a number of factors that limit the density of development on larger parcels of land. These include requirements based upon the specific land use which may include the need to provide large areas for the storage of materials or goods, to provide internal circulation roadways, to provide open areas or extensive buffer zones, to provide increased areas for employee/customer parking and other similar requirements.

Therefore, based upon an analysis of data relating the development intensity and parcel size for different types of land uses the number of EDU's assigned to non-residential parcels is adjusted on parcels which are larger than one (1) acre as shown below:

Parcel Size	Equivalent Dwelling Unit Formula
One (1) Acre or less	6.0 EDU/Acre
More than one (1) acre but less than or equal to four (4) acres	1.5 EDU/Acre for each acre over one (1) acre up to four (4) acres
More than four (4) acres	0.5 EDU/Acre for each acre over four (4) acres

Parcel area for non-residential condominiums will be calculated based on the individual parcel size and a proportional share of the common area attributed to the condominium complex.

- **Vacant** — Vacant properties have no improvements constructed on them; therefore, vacant properties are assigned zero (0) Improvement Benefit Units per parcel.

- **Vacant-like Developed Property** — This includes those parcels with land uses that closely resemble vacant property in that they have large land areas comprised of mostly park-like open space or vacant land and only a few buildings. These properties have very low land utilization and almost no potential for additional development; therefore, these land uses are assigned 1.0 BU per parcel for the ancillary structures on the property. These land uses include radio and television transmission facilities or towers, mineral processing, parcels with only parking lots, airports, mobile home parks, cemeteries, golf courses and other miscellaneous recreational uses.

A list of Land Use Classifications used in this report, with the corresponding County Assessor's use codes, is provided in Appendix B.

D. LAND BENEFIT

In addition to benefits that improvements on a property will receive, parcels within the District are assigned Land Benefit Units in proportion to the benefits that they receive by virtue of:

- Having the ability to economically use or fully develop a property consistent with zoning and land use regulations.
- Not having to adhere to the "Flood Plain Management" requirements for building and design of new construction, as well as renovations and additions, required for parcels in Special Flood Hazard Areas; and
- Not having to disclose during the sale of a property that it is located in a Special Flood Hazard Area of the 100-year flood plain.

Based on the benefits previously described, the benefit to the land is preserved whether it is improved or not, and the benefit to each parcel is directly related to the size of the land. In addition, if the land were to remain in the flood plain, the cost of elevating the building pad area by filling the land would be proportional to the size of the parcel and the intensity of development allowed upon it based upon current land use and development standards. Therefore, the benefit received by the parcel varies as land varies in size.

For the City of Stockton, the San Joaquin County Assessor's Roll indicates that over 70 percent of the parcels of land are single-family residences (SFR's) and that the average land value for an average SFR located on 1/6 acre is between 20 and 30 percent of the total value of property. Therefore, 0.25 BU is assigned to each single-family residential parcel of land. Since the development potential of a SFR parcel is restricted to one house, no matter how big the parcel, the Benefit Units assigned to the land will not vary as parcel size increases for single-family residential parcels of land.

Benefit Units for all other land uses are based upon the size of the parcel at the rate of 0.25 BU for each 1/6 acre (1.5 BU/acre) to estimate the benefit to the land, since the amount of development which could occur is directly related to the size of the parcel. Each parcel of land, both developed and undeveloped and having no development restrictions on it, will be assigned Benefit Units at the rate of 1.5 BU/Acre to reflect the benefit that the land receives. Since the level of development or the potential for development would be similar for developed parcels of a similar size, the BU's assigned to the land for parcels larger than one (1) acre in size will be

reduced in the same manner as the EDU's are reduced for the improvements on developed non-residential parcels as shown below:

Parcel Size	Land Benefit Unit
One (1) Acre or less	1.5 per Acre
More than one (1) acre but less than or equal to four (4) acres	0.375 per Acre
More than four (4) acres	0.125 per Acre

Parcel area for non-residential condominiums will be calculated based on the individual parcel size and a proportional share of the common area attributed to the condominium complex.

E. EXEMPT

Several land uses have been determined to be exempt because they would not benefit from the proposed flood control facilities, or they have a supporting use to a land use already being charged. Examples of exempt land uses are as follows:

- Common areas associated with residential condominiums, open spaces and green belts.
- Parcels with total property values of less than one dollar per the San Joaquin County Assessor's Roll.
- Properties owned by public agencies, such as cities, the County, the State or the Federal government, are exempt except when such property is not devoted to a public use.
- Rights-of-way owned by utilities and railroads.
- Agricultural parcels under the Williamson Act or within a General Plan area designated, as "Agricultural" has no potential for immediate development. By contrast, the Williamson Act parcels remain agricultural to take advantage of special tax treatments. The Williamson Act agricultural parcels and the General Plan Agricultural parcels are not assigned any benefit. If these parcels develop in the future, then the appropriate benefit will be collected under the "Flood Control Facilities Fee" mechanism. (Agricultural parcels that are not within the General Plan designated areas and which do not have Williamson Act contracts are assessed as Vacant.)
- Parcels which are designated as Special Flood Hazard Areas on the Preliminary Revised FIRM's, dated February 28, 1995, and which were previously designated as Special Flood Hazard Areas on the previous FIRM's; these parcels are considered to have no benefit and will not be assessed.

F. ASSESSMENT DISTRICT BOUNDARY FACTOR

Parcels that are bisected by the flood line, as delineated on the preliminary Revised FIRM's, would have the total BUs for the property reduced by the percentage of the parcel within the proposed flood plain since they would receive a reduced benefit. The BUs for the parcel are reduced based on the following:

- If a parcel has less than 1/3 its area in the flood plain, the BU's for that parcel would be multiplied by 0.17.
- If a parcel has more than 1/3 but less than 2/3 its area in the flood plain, the BU's for that parcel would be multiplied by 0.50.
- If a parcel has more than 2/3 its area in the flood plain, the BU's for that parcel would be multiplied by 83.

IV. DESCRIPTION OF WORKS OF IMPROVEMENTS

Section 10102 of the Act provides for the legislative body of any agency authorized under the Act to finance certain capital facilities and services. The following is a list of improvements as allowed under the Act to be constructed, installed, maintained, repaired or improved under the provisions of the Act. The facilities diagram, on file in the Office of the Secretary, shows the general location of the improvements. Copies are also on file at the Office of the Clerk of the Board of Supervisors of the County of San Joaquin and at the Office of the City Clerk of the City of Stockton.

The improvements consist of, but are not limited to:

- A. Flood protection improvements including the construction, strengthening and/or raising the height of levees, flood walls and wing levees; construction and/or improvements to detention basins and reservoirs; improvements to bridges, roadways and access ways; channel improvements; and related improvements along, but not limited to, the following waterways:
 - Bear Creek - confluence with Disappointment Slough to Tully Road.
 - Paddy Creek - confluence with Bear Creek to approximately Jack Tone Road.
 - Bear Creek - approximately 700 downstream of Interstate 5 to confluence with Paddy Creek.
 - Paddy Creek - confluence with Bear Creek to confluence with South Paddy Creek.
 - South Paddy Creek - confluence with Paddy Creek to approximately Jack Tone Road.
 - Mosher Creek & Mosher Creek Diversion - confluence with Bear Creek to approximately 6300 feet upstream of Highway 88.
 - Mosher Slough - 2,000 feet upstream of Interstate 5 to approximately 150 feet upstream of Thornton Road.
 - Calaveras River - confluence with the San Joaquin River to approximately Solari Ranch Road.
 - Stockton Diverting Canal - confluence with the Calaveras River to Mormon Slough.
 - Mormon Slough - confluence Stockton Diverting Canal to approximately 500 upstream of confluence with Potter Creek.
 - Potter Creek A - confluence with Mormon Slough to approximately Jack Tone Road.

- Potter Creek B - confluence with Mormon Slough to 1,500 feet east of Fine Avenue.
 - Mosher Slough Detention Basins No.1 & 2.
 - Little Bear Creek - confluence with Mosher Slough to Davis Road.
 - Pixley Slough - confluence with Bear Creek to Lower Sacramento Road.
 - Five Mile Slough – confluence with Fourteen Mile Slough to the north/south land levee at the east boundary line of Shima Tract.
- B. The acquisition of all interest in real property necessary or useful for the above described improvements or other improvements constructed by the District; and,
- C. The acquisition and/or construction of any other work, auxiliary to any of the above and necessary or useful to complete the same and to reduce the risk of flooding within the District.

Appendix A — SAMPLE BENEFIT UNIT CALCULATIONS

Land – Use	Land Benefit	Improvement Benefit (EDU) x (Imp. Density Factor) x (Risk Factor)	Total MBU's
Single-family Res. footprint < 1000sf	All parcels = .25 BU	$(1\text{DU} \times 1\text{EDU/BU}) \times .8 \times 1 = 0.8 \text{ BU}$	1.05
Single-family Res. 1000 > footprint > 2000	All parcels = .25 BU	$(1\text{DU} \times 1\text{EDU/BU}) \times 1 \times 1 = 1.0 \text{ BU}$	1.25
Single-family Res. footprint > 2000 sf	All parcels = .25 BU	$(1\text{DU} \times 1\text{EDU/BU}) \times 1.2 \times 1 = 1.2 \text{ BU}$	1.45
Agricultural Res.	All parcels = .25 BU	$(1\text{DU} \times 1\text{EDU/BU}) \times 1 \times 1 = 1.0 \text{ BU}$	1.25
3-Unit Apartment 1/2 acre parcel	.5ac x 1.5BU/ac = .75 BU	$(3\text{DU} \times .8\text{EDU/BU}) \times 1 \times .9 = 2.16 \text{ BU}$	2.91
11 Unit Apt. 3/4 acre parcel	.75ac x 1.5BU/ac = 1.125BU	$[(4\text{DU} \times .8\text{EDU/BU}) + (7\text{DU} \times .6\text{EDU/BU})] \times 1 \times .9 = 6.66 \text{ BU}$	7.785
41 Unit Apt. 3 acre parcel	3ac x 1.5BU/ac = 4.5 BU	$[(4\text{DU} \times .8\text{EDU/BU}) + (16\text{DU} \times .6\text{EDU/BU}) + (21\text{DU} \times .4\text{EDU/BU})] \times 1 \times .9 = 19.8 \text{ BU}$	23.58
Grocery Store 1 acre parcel	1ac x 1.5BU/ac = 1.5 BU	$(1\text{ac} \times 6\text{EDU/ac}) \times 2 \times .9 = 10.8 \text{ BU}$	12.3
Regional Shopping 5 acre parcel	1ac x 1.5BU/ac + 3ac x .375BU/ac + 1ac x .125BU/ac = 2.75BU	$[(1\text{ac} \times 6\text{EDU/ac}) + (3\text{ac} \times 1.5\text{EDU/ac}) + (1\text{ac} \times 0.5\text{EDU/ac})] \times 2 \times .9 = 19.8 \text{ BU}$	22.55
Service Station 1/4 acre parcel	.25ac x 1.5BU/ac = .375BU	$(1/4\text{ac} \times 6\text{EDU/ac}) \times 2 \times .9 = 2.7 \text{ BU}$	3.075
Office Building 2 acre parcel	1ac x 1.5BU/ac + 1ac x .375BU/ac = 1.875BU	$[(1\text{ac} \times 6\text{EDU/ac}) + (1\text{ac} \times 1.5\text{EDU/ac})] \times 2 \times 1.1 = 16.5 \text{ BU}$	18.375
Church 2 acre parcel	1ac x 1.5BU/ac + 1ac x .375BU/ac = 1.875BU	$[(1\text{ac} \times 6\text{EDU/ac}) + (1\text{ac} \times 1.5\text{EDU/ac})] \times 1.5 \times 1.1 = 12.375\text{BU}$	14.25
Industrial Building 10 acre parcel	1ac x 1.5BU/ac + 3ac x .375BU/ac + 6ac x .125BU/ac = 3.375BU	$[(1\text{ac} \times 6\text{EDU/ac}) + (3\text{ac} \times 1.5\text{EDU/ac}) + (6\text{ac} \times 0.5\text{EDU/ac})] \times 2 \times .7 = 18.9 \text{ BU}$	22.275
Vacant SFR	All parcels = .25 BU	No imp. benefit = 0 BU	0.25
Vacant 1 acre parcel	1ac x 1.5BU/ac = 1.5 BU	No imp. benefit = 0 BU	1.5
Mobile Home Park 2 acre parcel	1ac x 1.5BU/ac + 1ac x .375BU/ac = 1.875BU	All parcels = 1 BU	2.875
Golf Course 20 acre parcel	1ac x 1.5BU/ac + 3ac x .375BU/ac + 16ac x .125BU/ac = 4.625 BU	All parcels = 1 BU	5.625
Vacant 40 acre parcel	1ac x 1.5BU/ac + 3ac x .375BU/ac + 36ac x .125BU/ac = 7.125 BU	No imp. benefit = 0 BU	7.125
Agricultural (Williamson Act or General Plan)	Not assessed	Not assessed	0.0

Note: For those properties that are bisected by the flood line, the Total BU's are multiplied by the appropriate Boundary Factor.

Appendix B — LAND USE CLASSIFICATIONS

Assessor's Use Codes	San Joaquin County Assessor's Use Descriptions
10-17, 51, 56, 94, 96, 401, 421, 451, 461, 463, 471, 481, 501, 511, 521	Single-Family Residential SFR, condominium, Agricultural Residential, Mobile home not in mobile home park
21, 22, 31-32, 34-35, 41-48, 52	Multi-Family Residential Duplex, triplex, four-plex Apartments
110-114, 120-121, 130-132, 140-144, 150-155, 201-203, 210-214, 250-252, 255-256, 260-263, 270-272, 280-285, 290-291, 771	Retail and Service Commercial Stores & store combos, Department stores & super markets, Community & regional shopping centers, Restaurants, Service shops & service stations, Equipment sales and service, Misc. commercial
170-173, 190-197, 240	Office/Professional Professional & office buildings, Medical and dental offices, Banks, savings and loans
55, 59-65, 68, 70-71, 78, 180-184, 189, 204, 230, 231, 610-615, 620, 630-632, 640, 650, 651, 740-742, 750-752, 760	Care/ Personal Recreational Hospitals & nursing homes, Rooming houses, Homes for the aged, Day care facility, Hotels/motels, Theaters & bowling alleys & skating rinks, Clubs, lodge halls
253-254, 310-314, 320-324, 330-332, 340-342, 350-355, 360-363, 370-371, 381-382, 391, 392, 811, 812	Manufacturing/Industrial Manufacturing outlets, Misc. industrial, Warehousing, Distribution and Storage, Lumber yards, Truck Terminal, Bulk Plants, Winery
710-711, 720-722, 730	Institutional Institutional & Churches, Private schools & colleges
90-93, 380, 393, 660-664, 670, 681, 690, 691, 772, 810, 813, 814, 820, 830, 890-892	Vacant-Like Developed Golf Courses & Driving Ranges, Parking Lots, Drive-in Theaters, Swimming Pools, Airports, Mineral Processing, Mobile Home Park, Cemeteries, Radio/TV Transmission Sites, Privately Owned Race Track, Privately Own Camps
1-7, 20, 30, 40, 50, 53-54	Vacant Residential Vacant Residential Lots
100-102, 107, 300-302, 307	Vacant Vacant Lots
80-82, 95, 156, 200, 390, 400, 420, 450, 460, 462, 470, 480, 490, 500, 510, 520, 530, 550, 551, 590, 591, 770, 780, 815, 821-824, 840-841, 850-851, 860-862, 900-951	Exempt Common Areas, Right of Ways, Agricultural Parcels, Public Agency Properties

Appendix C – DIAGRAM OF ASSESSMENT DISTRICT

Full-sized copies of the Assessment Diagram are on file in the Office of the Secretary, of the San Joaquin Area Flood Control Agency. Copies are also on file at the Office of the Clerk of the Board of Supervisors of the County of San Joaquin and at the Office of the City Clerk of the City of Stockton.

As required by the Act, the Assessment Diagram shows the exterior boundaries of the Assessment District and the assessment number assigned to each parcel of land corresponding to its number as it appears in the Assessment Roll contained in Appendix D. (The assessment number for each parcel is the San Joaquin County Assessor's Parcel Number.)

The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of San Joaquin for the year in when this Report is prepared. The Assessor's maps and records are incorporated by reference herein and made part of this report.

Appendix D — 2019/2020 COLLECTION ROLL

Parcel identification, for each lot or parcel within the District, shall be the parcel as shown on the San Joaquin County Assessor's map for the year in which this Report is prepared.

The Assessments have been levied in proportion to the estimated benefit that each parcel receives from the improvements in accordance with the method and formula of assessment as presented and approved upon formation of the District.

A listing of parcels of land, and the proposed assessment amount to each parcel for the Operation and Maintenance of the improvements is provided under a separate cover and by reference is made part of this report. For current ownership of each parcel of land, reference is made to the most recent equalized tax roll for the County of San Joaquin, which is by reference also made part of this report. The assessment amount for each parcel pursuant to approval of this report shall be submitted to the San Joaquin County Tax Collector for collection on the property tax bill for Fiscal Year 2019/2020.

RESOLUTION NO. SJAFCA 19-26

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

=====

**RESOLUTION TO APPROVE THE ANNUAL ENGINEER'S REPORT FOR THE
OPERATIONS AND MAINTENANCE (O&M) FOR THE FLOOD PROTECTION
RESTORATION ASSESSMENT DISTRICT, AND ORDER THE LEVY AND
COLLECTION OF OPERATIONS AND MAINTENANCE ASSESSMENTS WITHIN
THE FLOOD PROTECTION RESTORATION ASSESSMENT DISTRICT
FOR FISCAL YEAR 2019-2020**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN
AREA FLOOD CONTROL AGENCY, AS FOLLOWS:

1. That the Annual Engineer's Report (Report) as presented, is hereby approved, and is ordered to be filed in the Office of the Secretary of the Board as a permanent record and to remain open to public inspection.

2. That the following notice duly given, the Board of Directors has held a full and fair public hearing regarding the San Joaquin Area Flood Control Agency's Assessment District (District), the levy and collection of assessments, the Report prepared in connection therewith, and considered all oral and written statements, protests and communications made or filed by interested persons regarding these matters.

3. That based upon its review of the Report, a copy of which has been presented to the Board of Directors and which has been filed with the Secretary of the Board, the Board of Directors hereby finds and determines that:

- i. The land within the District will be benefited by the operation, maintenance and servicing of the improvements located within the boundaries of the District;
- ii. The District includes all of the lands so benefited; and,
- iii. The net amount to be assessed upon the lands within the District for the fiscal year commencing July 1, 2019, and ending June 30, 2020, is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the benefits to be received by each parcel from the improvements and services.

4. That the maintenance and operation of the improvements shall be performed pursuant to the *Municipal Improvement Act of 1913, being Part 2 Division 12, of the Streets and Highways Code of the State of California, beginning with Section 10000 (Act)*

and shall include costs for personnel, utilities (water, electric, and other), purchase of maintenance equipment, weed abatement (herbicide spraying, mowing, and debris burning), rodent control, Aquatic Weed Control Program on Five Mile Slough, maintenance of levee patrol and access roads, sedimentation removal, erosion control, patrolling and inspecting of facilities, maintenance of detention basin No. 1 pumps, pump station operation and maintenance, flood wall repairs, graffiti removal, providing an “emergency repair fund” and other applicable operation, maintenance and repair costs to be incurred annually as determined by the Board of the San Joaquin Area Flood Control Agency to maintain the level of benefit to the assessed parcels in the District.

5. That the County of San Joaquin Auditor-Controller shall enter on the County Assessment Roll, opposite each eligible parcel of land, the amount of levy so apportioned by the formula and method outlined in the Report, and such levies shall be collected at the same time and in the same manner as the County taxes are collected, pursuant to *Chapter 2, Section 10100.8* of the Act.

6. That the County of San Joaquin Auditor-Controller shall deposit all money representing assessments collected by the County for the District to the credit of a fund for the District and such money shall be expended only for the maintenance, operation and servicing of the improvements described in Section 4.

7. That the adoption of this Resolution constitutes the District levy for the fiscal year commencing July 1, 2019, and ending June 30, 2020.

8. That the Secretary of the Board, or their designate, is hereby authorized and directed to file the levy with the County of San Joaquin Auditor-Controller upon adoption of this Resolution.

9. That the adoption of this Resolution approves the following appropriations:

- a. A one-time \$168,067 transfer from the O&M surplus fund to cover the additional funding requested by the District in the proposed FY 2019-2020 budget.
- b. A \$100,000 appropriation from the O&M surplus fund authorizing the Executive Director to use these funds (up to \$100,000) to promptly deal with emergencies, or to authorize additional work needed, but not included in the O&M budget.

These appropriations will not affect the proposed fiscal year 2019-2020 assessment rate and will be funded from the unexpended balance in the O&M surplus fund carried forward from the previous years’ O&M assessments.

PASSED, APPROVED AND ADOPTED this 16th day of May, 2019.

JESUS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

CHRIS ELIAS, Secretary
of the San Joaquin Area
Flood Control Agency

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

Agenda Item 5.2

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **PUBLIC HEARING TO APPROVE THE TECHNICAL MEMORANDUM AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE SMITH CANAL AREA ASSESSMENT DISTRICT FOR FISCAL YEAR 2019/20**

RECOMMENDATION

It is recommended the Board of Directors of the San Joaquin Area Flood Control Agency conduct a public hearing and adopt a resolution to approve the Technical Memorandum for the Smith Canal Area Assessment District and order the levy and collection of assessments within the District for fiscal year (FY) 2019/20.

DISCUSSION

Background

On July 10, 2013, after the conclusion of a voter approved Proposition 218 election, the Board adopted SJAFCA Resolution No. 13-13 approving the Final Engineer's Report and authorizing the formation of the Smith Canal Area Assessment District (District). The District was created to provide the local cost share for constructing and maintaining improvements to remove the Smith Canal area from a Federal Emergency Management Agency Special Flood Hazard Area. Assessments are levied annually on all parcels within the District, commencing FY 2014/15, through the submittal of an assessment roll to the San Joaquin County Tax Collector.

Funding of the Smith Canal Gate project is based on a financing plan that splits costs between the District and the State of California Department of Water Resources (DWR). When the assessment district was formed, it was assumed the cost share would be split 55% DWR and 45% District based on cost sharing guidelines in effect at that time. Under DWR's updated cost sharing guidelines for urban flood control projects, SJAFCA has an approved cost share of 63%. To date, SJAFCA has secured funding for both the design and construction of the project from DWR totaling more than \$38.283 million.

Project design is nearly complete, and SJAFCA anticipates advertising the project for construction bidding and awarding a contract by September 2019.

In compliance with Proposition 218, parcels within the District are assessed for the improvements and services that specially benefit each parcel. The special benefit provided to properties within the District is based on avoidance of flood damage to

**PUBLIC HEARING TO APPROVE THE TECHNICAL MEMORANDUM AND ORDER
THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE SMITH CANAL
AREA ASSESSMENT DISTRICT FOR FISCAL YEAR 2019/20** (Page 2)

structures, contents of structures, and land. Project costs are distributed across the properties within the District in proportion to the flood protection benefits (flood damages avoided) provided by the improvements. These flood damage reduction benefits are relative to i) depth of flooding; ii) type of land use (residential, commercial, industrial, etc.); iii) parcel acreage; and iv) building square footage. Reference is made to the Fiscal Year 2018/19 Engineer's Report, Addendum 1 to the Fiscal Year 2018/19 Engineer's Report, and the attached Technical Memorandum for the benefit calculation and assessment methodology for the District for Fiscal Year 2019/20. These documents are available for public inspection in the office of the Secretary of the Board.

The assessment is made up of two components – a Capital component and an Operations and Maintenance (O&M) component. The average annual assessment for a single-family residence is approximately \$174.

The Capital portion of the assessment will be collected for 30 years from the point in time when bonds are issued, which is expected to take place in 2019, while the O&M portion of the assessment will be collected in perpetuity so long as the flood protection system and services are in place.

It should be noted that the O&M portion of the assessment includes the annual administrative expenses for the District. Administrative expenses include the annual calculation and preparation of the Technical Memorandum and assessment roll as well as the actual cost of collecting the assessments and responding to inquiries, including the review and processing of property owner appeals, if any. The collection of O&M proceeds for FY 19/20 will be used to fund environmental, design, and construction related expenses as well as the administrative costs described above.

The Board has the authority, pursuant to Government Code Section 53739 (b), to levy the assessment within a designated range on an annual basis. The designated range can be from no assessment, up to and including the authorized maximum assessment, adjusted annually based on changes in the Consumer Price Index (CPI). Only the O&M portion of the assessment is subject to an annual adjustment based on CPI. The Board could authorize, in any year, an increase to the authorized maximum assessment which could include cumulative CPI increases that were not implemented in prior years. The CPI escalator during FY 18/19 was 3.81%.

There are 51 parcels within the District that are not included on the County's annual tax roll. These parcels are handbilled for their assessment. Willdan Financial Services, the Agency's Assessment District Administrator, provides invoicing and monitors the progress of payments for parcels not included on the County's tax roll. Based on previous years' assessment collections, approximately 98% of the handbilled assessments are received each year.

**PUBLIC HEARING TO APPROVE THE TECHNICAL MEMORANDUM AND ORDER
THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE SMITH CANAL
AREA ASSESSMENT DISTRICT FOR FISCAL YEAR 2019/20**

(Page 3)

Present Situation

The FY 19/20 assessment collection will assess 8,098 parcels and will generate \$1,690,832 for the District. This assessment collection includes the current year's CPI escalator of 3.29% (based on February to February CPI for Urban Wage Earners for the San Francisco Bay Area). The table below provides an example of the range of annual assessment rates (combined Capital and O&M) over the parcels within the District and the number of parcels in each rate range:

SMITH CANAL AREA ASSESSMENT DISTRICT FY 19/20					
Assessment Range	\$5 - \$100	\$100 - \$200	\$200 - \$300	\$300 - \$400	> \$400
No. of Parcels	2,918	2,215	1,816	659	490

By adopting the proposed resolution at the conclusion of the public hearing, the Board will adopt a resolution to approve the Technical Memorandum for the Smith Canal Area Assessment District and order the levy and collection of assessments within the District for FY 19/20.

PREPARED BY: Marlo Duncan



APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR

CE:MD

Attachment

Technical Memorandum

To: SJAFCA Board of Directors

From: Willdan Financial Services

Date: May 7, 2019

Re: FY 19/20 Smith Canal Area Assessment District Assessment

Assessment District History

The Smith Canal Area Assessment District (the "District") was formed in 2013 to levy a special benefit assessment to fund a local cost share for the design and construction as well as for long term operations and maintenance (collectively the "Services").

Since the formation of the District and the initial levy of assessments beginning in Fiscal Year 2014/2015 up to and including the Fiscal Year 2018/19 levy, all assessment revenue has been used to directly fund the design, environmental review, permitting and construction expenses on a pay-as-you go basis as well as the administration of District as authorized by the Smith Canal Area Assessment District Final Engineer's Report dated July 10, 2013, SJAFCA Resolution No. 13-13 and subsequent Annual Engineer's Reports. The design of the authorized facility is now complete and ready for the construction phase.

The first year of collecting assessments was Fiscal Year 2014/15. Assessment Revenue collected while the project is being designed and constructed is used to directly fund design and construction expenses on a pay-as-you-go basis, the administration of the district. Commencing Fiscal Year 2019/20, assessment revenue will be used to pay debt service payments for the bonds issued to finance the authorized facilities. After the completion of the facilities and the commencement of O&M, assessment revenues will be collected to first pay the administrative costs district and O&M up to the revised estimate of Administration and O&M costs prepared by the Agency and documented in Addendum No. 1 to the Fiscal Year 2018/19 Engineer's Report. The revised estimate for Administration and O&M will be subject to and be the new basis for annual escalation. The remainder of assessment revenues can and will be used to fund the authorized facilities and services and pay debt service on bonds issued and secured by the assessment revenues

Improvement and Services

Improvements to be funded by the assessment district will be those improvements that will maintain flood protection services provided by SJAFCA to the Smith Canal Area. A feasible set of improvements has been evaluated by SJAFCA for purposes of processing a CLOMR with FEMA, applying for grant funding from DWR and provisioning for local funding through this proposed assessment district. The feasible improvements include constructing a gate structure at the mouth of Smith Canal.

A gate structure at the mouth of Smith Canal would consist of a fixed sheet pile wall structure with an opening gate structure allowing for navigation into and out of the canal. The concept is for the Smith Canal gate structure to be closed during tide events forecasted to approach or exceed the design operating water surface elevation. The Smith Canal gate structure would be operated as needed during these times to prevent water in the Delta from entering into Smith Canal. The gate would be closed at the lowest tide prior to the forecasted high tide, and remain closed until the high tide begins to recede. The gate would then be opened to allow any interior drainage that accumulated in Smith Canal during the closure period, to flow out.

SJAFCA has had extensive discussions with FEMA on the use of a gate structure to provide flood protection for the Smith Canal area. SJAFCA prepared conceptual engineering design plans and geotechnical evaluation of the gate structure and submitted a request to FEMA for a CLOMR. FEMA completed their review of SJAFCA's CLOMR request and concurred that the gate structure meets FEMA standards.

The services to be funded by the assessment district will include but are not limited to the routine and annual operation and maintenance of the gate structure to provide flood protection for the Smith Canal Area.

District Budget

Table 1 shows the budget for and effective cost share of the Improvements.

Table 2 shows the planned future expenditures and SJAFCAs plan for financing the future stream of costs overtime.

Table 3 shows the budget for the District for FY 2019/20.

Table 1

SJAFCA Smith Canal Gate Project
Capital Cost Estimate & Cost Share

Item		Local	State	
		<i>Effective Cost Share for Phase</i>		
Design Phase Costs (Updated per Actuals)		69%	31%	[1]
<i>Prior In-Eligible Expenses</i>	\$249,459	\$249,459	\$0	[1A]
1. Program Management (Design Phase)	\$1,902,639	\$1,284,698	\$617,941	
2. Engineering Design	\$2,840,979	\$1,847,796	\$993,183	
3. Independent Review	\$143,668	\$49,385	\$94,283	
4. Environmental Review & Permitting	\$1,270,975	\$621,325	\$649,650	
5. Real Estate Planning & Acquisition	\$125,806	\$96,158	\$29,648	
6. Public Outreach	\$81,705	\$53,910	\$27,795	
7. Financing/Funding Costs (Application)	\$57,128	\$57,128	\$0	[2]
Total Design Phase	\$6,672,358	\$4,259,858	\$2,412,500	
		<i>Cost Share by Phase</i>		
Construction Phase Costs		37%	63%	[3]
1. Credit for Design Phase Work	\$0	-\$1,589,991	\$1,589,991	[4]
2. Supplemental Engineering	\$2,801,431	\$1,036,529	\$1,764,902	[4]
3. Program Management	\$818,766	\$302,943	\$515,822	[4]
4. Construction	\$49,578,500	\$18,344,045	\$31,234,455	
5. Construction Management	\$5,669,000	\$2,097,530	\$3,571,470	
6. Real Estate Acquisition	\$360,000	\$133,200	\$226,800	[5]
7. Real Estate Contingency	\$90,000	\$33,300	\$56,700	[5A]
8. Public Outreach	\$70,000	\$25,900	\$44,100	[6]
9. Environmental Mitigation	\$835,000	\$308,950	\$526,050	[6]
A1. Recreational Enhancements	\$487,500	\$487,500	\$0	
Total Construction Phase	\$60,710,197	\$21,179,906	\$39,530,290	
Total Project	\$67,382,555	\$25,439,765	\$41,942,790	[5]
DWR Funding Limit (EIP & UFRR)			\$38,283,428	[6]
Additional Local Funding (reduced State Funding)		\$3,659,362	-\$3,659,362	
Resulting Cost Share Split	\$67,382,555	\$29,099,127	\$38,283,428	

Source: KSN, PBI, LWA & SJAFCA

[1] The Design Phase costs were funded at a 50/50 Cost Share under the EIP Program (DWR Contract No. 4600009799) up to the funding agreement limit of \$2,412,500. The effective cost share is shown based on the agreement limit.

[1A] Represents ineligible design phase costs incurred before eligibility period.

[2] Costs are not eligible for State Cost Sharing. Updated to reflect actual costs incurred.

[3] Construction Phase costs are cost shared at the Recommended Cost Share for the UFRR Program up to the funding agreement limit. State Cost sharing is 50%, plus 5% for one State Facility, plus 1% for Recreation Objective, plus 7% for DAC (63% total).

[4] Includes credit for Design Phase costs at the increment between 50% and 63% of the funded costs, plus all unfunded costs due to the agreement limit. Updated based on revised request.

[5] \$0,000 for Fishing Platforms, Item 67 on 100% Opinion of Probable Costs as a recreation enhancement for the Project (not cost shared but included as a cost sharing increase). Contingency on this item has been added at 25%.

[5A] Includes \$0,000 for Construction Management, \$0,000 for Engineering Services provided by the Designer during Construction, \$0,000 for Testing, Monitoring, Surveying, Outreach and Other Direct Costs during Construction. All Items total \$57,456.

[6] The Real Estate Acquisition costs have been updated based upon the latest Real Estate Plan - "Smith Canal Real Estate Plan 6.4.18 Redline JFA LCM," A 25% contingency is used on the updated Real Estate Acquisition Fee Amount.

Table 2									
SJAFCA Smith Canal Gate Project									
Capital Financing Plan Cash Flow Analysis									
Fiscal Year	2019/2020	2019/2020	2019/2020	2019/2020	2020/2021	2020/2021	2020/2021	2020/2021	Total
Quarter	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	(Includes prior years)
REVENUES									
State EIP Funding	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,412,500
State UFFR Funding	3,652,715	10,794,885	0	11,784,467	0	5,558,900	0	3,428,094	36,681,437
Local Assessment Revenue	0	887,526	0	803,306	0	891,963	0	810,869	11,621,972
Internal Funding	0	0	0	0	0	0	0	0	1,175,262
TOTAL REVENUES	\$3,652,715	\$11,682,411	\$0	\$12,587,774	\$0	\$6,450,863	\$0	\$4,238,962	\$51,891,171
EXPENDITURES									
Prior In-Eligible Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$249,459
Program Management (Design Phase)	0	0	0	0	0	0	0	0	1,902,639
Engineering Design	0	0	0	0	0	0	0	0	2,840,979
Independent Review	0	0	0	0	0	0	0	0	143,668
Environmental Review & Permitting									
CEQA/NEPA Costs	0	0	0	0	0	0	0	0	1,270,975
Real Estate Planning	0	0	0	0	0	0	0	0	125,806
Public Outreach	0	0	0	0	0	0	0	0	81,705
Financing / Funding (Application)	0	0	0	0	0	0	0	0	57,128
Supplemental Engineering (Construction Phase)	0	0	0	0	0	0	0	0	2,801,431
Project Management (Construction Phase)	45,794	45,794	45,794	45,794	45,794	45,794	45,794	45,794	818,766
Construction (Including Rec Enhancements)	3,304,356	7,159,438	8,361,022	6,808,976	11,765,510	7,159,438	3,905,148	1,602,112	50,066,000
Construction Management	374,154	810,667	946,723	770,984	1,332,215	810,667	442,182	181,408	5,669,000
Real Estate Acquisition	0	0	0	0	0	0	0	0	360,000
Real Estate Contingency	0	0	0	0	0	0	0	0	90,000
Public Outreach	7,310	7,310	7,310	7,310	7,310	2,437	0	0	70,000
Environmental Mitigation	835,000	0	0	0	0	0	0	0	835,000
TOTAL EXPENDITURES	\$4,566,614	\$8,023,209	\$9,360,849	\$7,633,064	\$13,150,829	\$8,018,336	\$4,393,124	\$1,829,314	\$67,382,555
FINANCING									
Net Financing Activities	\$20,215,000	\$0	(\$512,842)	\$0	\$0	(\$693,388)	(\$429,488)	(\$1,466,486)	
Net Financing Activities	\$20,215,000	\$0	(\$512,842)	\$0	\$0	(\$693,388)	(\$429,488)	(\$1,466,486)	
Net Change in Fund Balance - Increase/(Decrease)	\$19,301,101	\$3,659,202	(\$9,873,691)	\$4,954,710	(\$13,150,829)	(\$2,260,860)	(\$4,822,611)	\$943,163	
Estimated Starting Fund Balance	\$2,338,130	\$21,639,231	\$25,298,433	\$15,424,742	\$20,379,451	\$7,228,622	\$4,967,762	\$145,151	
Projected Ending Balance	\$21,639,231	\$25,298,433	\$15,424,742	\$20,379,451	\$7,228,622	\$4,967,762	\$145,151	\$1,088,314	

Table 3
SJAFCA Smith Canal Gate Project
Smith Canal Area Assessment District
Budget
Fiscal Year 2019/20

REVENUES

State EIP Funding	\$0
State UFFR Funding	26,232,067
Local Assessment Revenue	1,690,832
Internal Funding	0
TOTAL REVENUES	\$27,922,899

ADMINISTRATION

Assessment Administration	\$20,000
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CAPITAL EXPENDITURES [1]

Project Management (Construction Phase)	183,175
Construction (Including Rec Enhancements)	25,633,792
Construction Management	2,902,528
Real Estate Acquisition	0
Real Estate Contingency	0
Public Outreach	29,241
Environmental Mitigation	835,000
TOTAL EXPENDITURES	\$29,603,736

FINANCING

Bond Proceeds [2]	\$20,215,000
Debt Service	(512,842)
Net Financing Activities	\$19,702,158

Net Change in Fund Balance	
- Increase/(Decrease)	\$18,021,321

Estimated Starting Fund Balance	\$2,338,130
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Projected Ending Balance	\$20,379,451
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[1] All prior unexpended budgeted expenses for capital projects carries over to the following fiscal year.

[2] Assumed fund deposit after expenses and underwriter discount

Annual Assessment

Assessment Methodology

The special benefit conferred to the property in the proposed assessment district is the combined benefit of flood damage avoidance and/or reduction to (1) structures and their contents, and (2) land. The benefit calculation derived by the engineer considers these two factors independently. The benefit calculation can be summarized as follows:

$\text{Benefits} = \text{Damages Avoided}$ $\text{Damages Avoided} = \text{Structure and Content Damage} + \text{Land Damage}$
--

The damage avoided to structures and their contents is derived by determining the amount of flood depth reduction experienced by each particular parcel in the benefit area as a result of the Smith Canal Area improvements and associated O&M.

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

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

Several factors contribute to the flood damage reduction benefit to land, both vacant and improved. These include avoidance of physical damage to the land during a flood, reduced cost of improvements, the ability to secure financing for building projects, reduced cost of flood insurance, changes in highest and best land use for the parcel, preservation of land values, and the ability to maintain access to property.

The factors that impact the land damage calculation include these:

- Relative Land Damage Factor
- Parcel Size

Reference is made to the Fiscal Year 2018/19 Engineer's Report for the tables depicting structures and content damage factors and land damage factors.

Assessment Rate

The maximum proportional assessment rate for parcels within the District is shown below.

Table 4
SJAFCA Smith Canal Area Assessment District
Assessment Rate Calculation

Item	Amount	Units
Total Annual Assessment District Budget	\$1,690,832	(\$'s)
Total Benefit Amount in SJAFCA Smith Canal Benefit Area	\$435,370,039	Benefit \$'s
Maximum Proportional Assessment Rate	\$0.00388	Assessment \$/ Benefit \$

Assessment Calculation

To determine the maximum proportional assessment rate for an individual parcel, the flood damage reduction benefits for the parcel are calculated as described in the procedures above and then multiplied by the assessment rate shown in Table 4 above. The following example is based on the single-family residential example used previously.

General Formula

$$\text{Maximum Proportional Assessment} \\ = \text{Total Flood Damage Reduction Benefit} \times \text{Assessment Rate}$$

Example:

Single Story Single-Family Residence

Parcel Acreage: 0.18 acres

Building Square Feet: 1,500

Flood Depth 5 Feet

$$\text{Total Flood Damage Reduction Benefit} = \$73,530 + \$1,350 = \$74,880$$

$$\text{Assessment Rate} = \$0.00388$$

$$\text{Maximum Not-To-Exceed Assessment} = \$74,880 \times \$0.00388 = \$290.53$$

In future years, as land use changes occur and the benefits to parcels change, parcels may be reclassified and their assessments modified accordingly.

Summary of Assessments

The average assessment for all parcels in the District by general land use category for fiscal year 2019/20 is shown in table 5 below.

Table 5
Summary of FY 2019/20 Average Rates

Land Use Type	Number of Parcels	Average Rate	Minimum Rate	Maximum Rate	Share of Total Assessment
Single-Family	7,290	\$174.36	\$5.00	\$1,299.28	75.17%
Multi-Family	335	\$205.90	\$5.00	\$7,768.34	4.08%
Mobile Home	3	\$88.73	\$12.62	\$144.28	0.02%
Commercial	80	\$1,908.46	\$5.00	\$18,807.60	9.03%
Industrial	32	\$2,874.39	\$20.38	\$17,173.04	5.44%
Government and Utilities	61	\$1,638.70	\$5.00	\$29,089.62	5.91%
Vacant	297	\$19.83	\$5.00	\$1,397.28	0.35%
All Parcels	8,098	\$208.80			100.00%

Annual Escalation

The maximum proportional assessment rate, as shown in Table 4 is made up of two distinct components. These components, as described above are the Capital Component and Administration/Operation and Maintenance (O&M) Component. The Administration/O&M component is comprised primarily of labor costs that are subject to rising costs beyond the control of SJAFCA. In order to ensure that SJAFCA can provide the needed services over time, it is important to increase this component of the assessment overtime subject to the rising costs of labor over time. The engineer has determined that an appropriate escalation factor is a factor that is reflective of labor (not consumption) in

the locale the services are provided. The February to February CPI-W for San Francisco-Oakland-San Jose, All Items with base year 1982-84-100 has been chosen as the escalation factor.

Table 6
SJAFCA Smith Canal Area Assessment District
Assessment Rate Escalation

Item	Amount (\$)
Initial Maximum Proportional Assessment Rate FY 2013/14	0.00373
Maximum Proportional Assessment Rate FY 2014/15	0.00375
Maximum Proportional Assessment Rate FY 2015/16	0.00376
Maximum Proportional Assessment Rate FY 2016/17	0.00378
Maximum Proportional Assessment Rate FY 2017/18	0.00381
Maximum Proportional Assessment Rate FY 2018/19	0.00384
Maximum Proportional Assessment Rate FY 2019/20	0.00388

Minimum Assessment

The minimum annual assessment will be \$5.00 to reflect SJAFCA's direct cost to collect the assessment. All annual assessments calculated to be less than \$5.00 will be raised to the \$5.00 minimum.

Duration of the Assessment

The Capital Component of the assessment will be collected for 30 years from point in time when a permanent takeout financing is completed. The Administrative/O&M Component of the assessment will be collected in perpetuity so long as the flood protection service is provided by the authorized facilities, and may be adjusted each year to reflect the authorized annual escalation for inflation described herein. The assessment may be periodically adjusted within the authorized range of assessment based on annual budgeting needs as determined by the SJAFCA Board.

Appeal Process

Any property owner who believes his or her property should be reclassified and the assessment adjusted may file a written appeal with the Executive Director of SJAFCA or his or her designee. The appeal must include a statement of reasons why the property should be reclassified, and may include supporting evidence. Any such appeal is limited to correction of an assessment during the then-current fiscal year. On the filing of any such appeal, the Executive Director or his or her 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 Executive Director or his or her designee finds that the 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 respective county for collection, the Executive Director or his or her designee is authorized to refund the property owner the amount of any approved reduction to the assessment. If a landowner disputes the decision of the Executive Director or his or her designee, a secondary appeal may be made to the SJAFCA Board. Any decision made by the Board shall be final. In order to administer an effective appeals process, from time to time, the Executive Director and/or SJAFCA Board may adopt certain policies and procedures related to the administration of the assessment.

District Boundary

The Assessment District Boundary will encompass all property that receives benefit from the avoided floodplain of a 100-Year flood event, i.e. that area generally bound by the 9.4 feet NAVD-88 elevation. This Boundary is on file at SJAFCAs office.

Assessment Roll

The Assessments have been levied in proportion to the estimated benefit that each parcel receives from the improvements in accordance with the method and formula of assessment as presented and approved upon formation of the District.

A listing of parcels of land, and the proposed assessment amount to each parcel is provided under a separate cover and by reference is made part of this Memorandum. For current ownership of each parcel of land, reference is made to the most recent equalized tax roll for the County of San Joaquin. The assessment amount for each parcel pursuant to approval of this Memorandum shall be submitted to the San Joaquin County Tax Collector for collection on the property tax bill for Fiscal Year 2019/20.

RESOLUTION NO. SJAFCA 19-27

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

=====

**RESOLUTION TO APPROVE THE TECHNICAL MEMORANDUM FOR THE SMITH CANAL
AREA ASSESSMENT DISTRICT, AND ORDER THE LEVY AND COLLECTION OF
OPERATIONS AND MAINTENANCE ASSESSMENTS WITHIN THE SMITH CANAL AREA
ASSESSMENT DISTRICT FOR FISCAL YEAR 2019-2020**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA
FLOOD CONTROL AGENCY, AS FOLLOWS:

1. That the Technical Memorandum ("Memorandum") as presented, is hereby approved, and is ordered to be filed in the Office of the Secretary of the Board as a permanent record and to remain open to public inspection.

2. That the following notice duly given, the Board of Directors has held a full and fair public hearing regarding the San Joaquin Area Flood Control Agency's Assessment District (District), the levy and collection of assessments, the Report prepared in connection therewith, and considered all oral and written statements, protests and communications made or filed by interested persons regarding these matters.

3. That based upon its review of the Memorandum, a copy of which has been presented to the Board of Directors and which has been filed with the Secretary of the Board, the Board of Directors hereby finds and determines that:

- i. The land within the District is specially benefited by the improvements and operation, maintenance and servicing of the improvements financed by the District;
- ii. The District includes all of the lands so specially benefited; and,
- iii. The net amount to be assessed upon the lands within the District for the fiscal year commencing July 1, 2019, and ending June 30, 2020, is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefits received by each parcel from the improvements and services.

4. That while the project is being designed and constructed, assessment revenue collected will be used to;

- i. Directly fund design and construction expenses on a pay-as-you-go basis; and,
- ii. Fund the administrative costs of the District; and,

- iii. Pay the cost of all debt service (interest and principal) secured by a pledge of the assessment revenues of the District.

5. That the County of San Joaquin Auditor-Controller shall enter on the County Assessment Roll, opposite each eligible parcel of land, the amount of levy so apportioned by the formula and method outlined in the Memorandum, and such levies shall be collected at the same time and in the same manner as the County taxes are collected, pursuant to *Chapter 2, Section 10100.8* of the Act.

6. That the County of San Joaquin Auditor-Controller shall deposit all money representing assessments collected by the County for the District to the credit of a fund for the District and such money shall be expended only for the items described in Section 4.

7. That the adoption of this Resolution constitutes the District levy for the fiscal year commencing July 1, 2019 and ending June 30, 2020.

8. That the Secretary of the Board, or their designate, is hereby authorized and directed to file the levy with the County of San Joaquin Auditor-Controller upon adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 16th day of May, 2019.

JESÚS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

Chris Elias, Secretary
of the San Joaquin Area
Flood Control Agency.

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

Agenda Item 6.1

May 16, 2019

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 2019/20 BUDGET FOR THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

RECOMMENDATION

It is recommended the Board of Directors of the San Joaquin Area Flood Control Agency adopt a resolution to approve the proposed fiscal year (FY) 2019/20 budget for the San Joaquin Area Flood Control Agency.

DISCUSSION

Background

On May 29, 2018, the Board adopted SJAFCA Resolution No. 18-10 approving the Agency's proposed budget for FY 18/19 (Exhibit A). Also, shown on Exhibit A is an updated budget with revised beginning fund balances, revenues, and the following modification:

- Shifted \$30,000 from SJAFCA Employee Services to Other Services to cover costs for assistance with development of a recruitment and benefit package for the Director of Engineering Services position

As of March 31, 2019, with 75 percent of the FY lapsed, the Agency has spent about 62% of the operating budget (see table below). Overall operating costs are expected to come in under budget and this is mainly due to vacant positions in SJAFCA.

FY 18/19 To-Date Operating Expenses and Year-End Estimate

	FY 18/19 Budget	18/19 Expenses As of 3/31/19*	Year-End Estimated Operating Expenses
SJAFCA Employee Services	\$ 914,000	\$ 468,393 (51%)	\$ 628,000 (69%)
City Employee Services	75,000	8,347 (11%)	12,000 (16%)
Other Services	458,000	344,040 (75%)	458,000 (100%)
Materials & Supplies	23,000	10,651 (46%)	17,000 (74%)
Other Expenses	60,000	43,012 (72%)	50,000 (72%)
Approved Operating Budget:	\$1,530,000	\$874,443 (62%)	\$1,165,000 (76%)

* 75% of FY Lapsed

The proposed FY 19/20 budget (Exhibit B) presents the Agency's anticipated expenditures for general administration, operations, and support costs for existing capital improvement projects. The Agency's activities are supported by the following resources: SJAFCA Reserve Fund Balances, the Operations and Maintenance Fund, the Smith Canal Assessment District

**RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 19/20 BUDGET FOR THE
SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

(Page 2)

Fund, the Mossdale Tract Fund, and Cost-Share Agreements. These resources are described below:

SJAFCA Reserve Fund Balances. The SJAFCA reserve fund balances are assets that were derived from the Flood Protection Restoration Project (FPRP) completed in 1998, the unexpended bond proceeds for that project, fees collected by both the City of Stockton and County of San Joaquin for the Agency's former equalization fee program, and reimbursement received from the U.S. Army Corps of Engineers for the original flood control improvements. In addition to earned interest, some funding from in-County local agencies was received to help pay the local share of costs for the Lower San Joaquin River Feasibility Study, and reimbursement from a Funding Agreement with the Department of Water Resources (DWR) for Regional Flood Management Planning. Revenues received from local agencies and through Funding Agreements reimbursed the Agency for some the costs it incurred to support projects.

Over the last several years, the Reserve Fund balances have been used to pay for the Agency's operating costs and work that supported the Agency's capital improvement projects, such as the Lower San Joaquin River Feasibility Study (LSJRFS), the recertification of the Bear Creek and Calaveras River levee reaches, and to advance funds for the Smith Canal Gate project before assessments were established to support project costs. Although the Agency advanced a considerable amount of funding for the Smith Canal Gate project (approximately \$2 million) it is anticipated the Agency and other in-County local contributors will be repaid for project advances at project completion.

Operations and Maintenance (O&M) Fund. The O&M Fund accounts for money collected annually through the Agency's O&M assessment. The levy of this assessment provides resources for ongoing maintenance of the Agency's FPRP improvements. Each year, the Board reviews the Annual Engineer's Report and establishes the O&M assessments. The O&M budget for FY 19/20 is presented to the Board separately as Agenda Item 5.1.

Smith Canal Area Assessment District Fund. This fund accounts for money collected annually through the Smith Canal Area Assessment District to fund the Smith Canal Gate project. Assessment collection began in FY 14/15. The levy will assess 8,098 benefited parcels and will generate \$1.69 million during FY 19/20 that will be used to fund the local share of the project. The FY 19/20 Technical Memorandum for the Smith Canal Area Assessment District is presented to the Board separately as Agenda Item 5.2.

Mossdale Tract Fund. This fund was created as part of a Board-approved action through SJAFCA Resolution 18-06 on February 26, 2018, to address flood protection for the Mossdale Tract Area. The sources of funding/loans are from member agencies: City of Stockton, San Joaquin County, City of Lathrop and City of Manteca. This fund is used to pay for activities to advance the Mossdale Tract Program. During FY 17/18 the Board approved a 2-year budget totaling \$2.16 million which is attached to this staff report as Exhibit C. There is no additional budget request for FY 19/20 because allocated funding to carry out Board-approved actions is adequate, thus far. If the need for additional funding should arise during FY 19/20, staff will bring a scope of work before the Board for its consideration and approval.

Cost-Share Agreements. The Agency collaborates with local reclamation districts and other governmental agencies for funding support via cost-share agreements. As an example, the

**RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 19/20 BUDGET FOR THE
SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

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Agency collaborated with 11 reclamation districts, 4 cities, and the County of San Joaquin to fund the local cost share of the LSJRFS. The Agency also cost-shared with Reclamation Districts 828 and 1614 to help fund the costs of preliminary studies and the formation of the Smith Canal Area Assessment District.

Funding Agreements with DWR have reimbursed the Agency for its efforts with the 2017 Central Valley Flood Protection Plan (CVFPP) update and the Basin-Wide Feasibility Study. Currently, the Agency receives funding from DWR for the Smith Canal Gate project through its Urban Flood Risk Reduction (UFRR) program to fund construction activities. The Agency continues to pursue State funding programs to supplement its capital improvement projects.

Present Situation

Operating Budget. The Agency's Operating Budget for FY 19/20 (Exhibit B) totals \$1,638,000, and consists of the following categories described below:

- **SJAFCA Employee Services.** This category includes salary and benefits for 6 SJAFCA positions: Executive Director, Director of Engineering Services, Senior Civil Engineer, Associate Civil Engineer, Project Manager, and Administrative support staff. Four positions are City of Stockton positions and two positions, Executive Director and Director of Engineering Services, are Agency positions. The increase to Employee Services for FY 19/20 is due to normal increases in salary and benefit costs. The total allocation of resources to support 6 full-time positions is **\$980,000**.
- **Other Employee Services.** This category segregates SJAFCA staff positions from City of Stockton and temporary staff costs. City of Stockton costs include an allocation of salary and benefits for administration and city payroll services. Temporary staff costs include professional services received by the Agency for bookkeeping. The estimated cost for Other Employee Services is **\$75,000**.
- **Other Services.** These expenses include professional services such as legal counsel, lobbying efforts, technical consultants, and annual auditing services. General liability, insurance premiums, equipment rental, computer technology support, postage, mailing, duplicating services, and file storage are included. Rental for building space from the City of Stockton is also included. The total allocation for Other Services is **\$478,000**.
- **Materials and Supplies.** This category includes expenses for general office supplies, computer software, the maintenance of the Agency's office scanner/copier equipment, and vehicle maintenance. The anticipated cost for Materials and Supplies is **\$20,000**.
- **Other Expenses.** This category includes costs for travel, such as lobbying trips to Washington, D.C., parking, training and staff development, professional memberships, permits/certifications, and web site development and maintenance. This category also includes the indirect costs incurred from the City of Stockton. The total anticipated cost for Other Expenses is **\$85,000**.

RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 19/20 BUDGET FOR THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY

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During prior fiscal years, all of the Agency's operating costs were budgeted against the Agency's reserve fund balances. This is a conservative approach given that the Agency implements a process where its direct operating costs in support of specific programs (e.g., Smith Canal and Mossdale Tract) are directly allocated to those programs based on actual staff hours spent in support of those services. Not only does this reduce the burden to the Agency's reserve fund balances, it allows the Agency to better track expenses by, and for, SJAFCA's cost share partners, including DWR.

The Operating Budget illustrated in Exhibit B includes the full costs for the proposed positions. There will be a true-up towards the end of the year which will result in a reduction of the costs that are anticipated to impact the reserve fund balance. Budgets for the Smith Canal Project and the Mossdale Tract Program reflect allocated estimates for SJAFCA staff time.

Capital Improvement Program (CIP) Budget. The Agency has 4 capital programs that support flood protection projects, each with its own funding resources:

	Smith Canal	Mossdale Tract	Lwr. San Joaquin River Project	Regional Planning
Funding Sources	- Assessments - EIP Grant - UFRF Grant - Bond Revenues*	- Local Funding Agreements - UFRF Feasibility Grant	- SJAFCA Fund Reserves - Local Funding Agreements* - Federal Reimbursement*	- RFMP Grant - RFMAP Grant*

**Asterisk denotes funding mechanisms to support the programs but have not yet taken place.*

At this time, there is no additional CIP budget request. The Agency continues to move forward with actions that were previously approved to provide long-term funding plans to support the programs. A brief re-cap of the programs and status are provided below.

Smith Canal. The issuance and sale of revenue assessment bonds to finance improvements for the Smith Canal project was approved at the March 28, 2019 Board meeting. The Smith Canal project will be financed by local assessment revenues, the issuance of bonds and Funding Agreements with the State to support project costs estimated to be \$67.38 million.

Mossdale Tract. The Mossdale Tract Program has been supported by advanced funding from Member Agencies and by Regional Development Impact Fees. To further accomplish the goal of achieving an Urban Level of Flood Protection for the Mossdale Tract Area, other local funding mechanisms, such as an Overlay Assessment District and Enhanced Infrastructure Financing District, are being explored to support project costs that will exceed (the original estimate of) \$137 million. A Request for Proposals for Assessment District Formation Services is expected to be released in June.

Lower San Joaquin River Project. The estimated design cost for the Recommended Plan is \$165 million. The non-Federal share of \$3.1 million for the first phase of design (estimated at \$8.84 million) will be split with the State (70/30) bringing SJAFCA's total local cost share to \$930,000. In September 2018, the Board authorized the Executive Director to execute cost share agreements for the project. Successful funding agreements with benefiting agencies

**RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 19/20 BUDGET FOR THE
SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

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will reduce cost burden to the Agency. In addition, staff has been working diligently to obtain the \$10.6 million reimbursement from the Army Corps of Engineers for previous flood control improvements.

Regional Planning. Money received from the State for Regional Flood Management Planning (RFMP) reimbursed the Agency for its efforts to provide critical information about local flood management needs and priorities as part of the 2017 Central Valley Flood Protection Plan (CVFPP) update. As an extension of RFMP efforts, DWR released draft guidelines for funding under its Regional Flood Management Assistance Program (RFMAP) to encourage activities that support implementation of the CVFPP. Staff will continue to work with the State with the eventual goal of submitting a successful solicitation package to leverage RFMAP funding to support the Agency's projects.

FISCAL IMPACT**Discussion**

With exception of the Mossdale Tract Program, the local share of CIP costs have been funded from the Agency's reserves with some reimbursement coming from local cost share partners. Apart from funds received for the various CIP programs, there is no sustained long-term funding in place to support Agency operations indefinitely.

The Agency's shrinking reserves and lack of revenue stream has been communicated to the Board over the last few years. Since new members have been appointed to the Board of Directors, staff would like to re-state that previous financial analyses prepared by Kjeldsen Sinnock Neudeck, Inc. (KSN), during FY 14/15, forecasted that the Agency would exhaust its reserves and would not be able to support operations beyond 2020.

As a result of the KSN report, SJAFCA and the San Joaquin County Flood Control and Water Conservation District (District) executed a cost-share agreement, approved by the Board in 2015, to evaluate funding alternatives and implement a plan to secure future funding for both the District and the Agency for the services it provides. The District, as the lead agency for this effort, has been working with Agency staff to finalize an assessment methodology and implement a public outreach plan. Prior to initiating a Proposition 218 balloting process, the District will present the scope of work and cost to the SJAFCA Board for consideration and approval. The current schedule would have District staff sending out ballots to voters in the Fall of 2019.

Without other sources of financing, the Agency may have to rely on program resources to support more of its operational costs. It should be noted that the various program resources cannot cover all operating costs due to restricted use of certain revenue sources.

Summary

The estimated Agency Reserve Fund Balance at the beginning of FY 19/20 is \$1,941,133 (Exhibit B). The proposed FY 19/20 budget anticipates total operating costs to be \$1,638,000. Total operating costs will be trued-up at fiscal year-end to account for direct expenses allocated against other sources of funding based on the level of effort for those specific

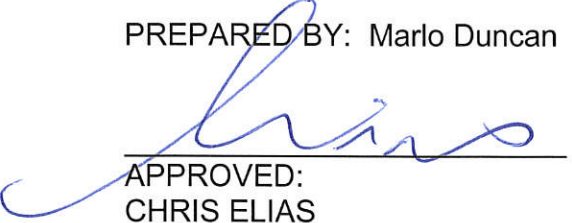
**RESOLUTION TO APPROVE THE PROPOSED FISCAL YEAR 19/20 BUDGET FOR THE
SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

(Page 6)

programs. There is no request for additional CIP budget at this time. The Agency anticipates some reimbursements from State and Federal partners which the Board may use to restore its reserve fund balances which will help pay for future CIP projects. If the Agency does not receive its Federal reimbursement, the reserve fund balance will be nearly depleted at fiscal year-end 2020.

By approving the Resolution attached to this staff report, the Board will adopt and approve the Agency's proposed FY 19/20 budget. Additional appropriations or adjustments to the proposed FY 19/20 budget will be brought before the Board for consideration and approval.

PREPARED BY: Marlo Duncan



APPROVED:
CHRIS ELIAS
EXECUTIVE DIRECTOR

CE:MD

Attachments

Exhibit A – FY 18/19 Updated Budget and Year-End Estimate
Exhibit B – FY 19/20 Operating Budget
Exhibit C – Mossdale Tract Fund Budget

EXHIBIT A

RESERVE FUNDS

FY 18/19 ADOPTED BUDGET (MAY 29, 2018)			
	Federal Reimb. Fund	SJAFCA Fund	Combined Estimated Fund Balances 7/1/2018
	\$ 465,831	\$ 2,605,637	\$ 3,071,468
Revenues			
Interest	\$ 2,000	\$ 13,000	\$ 15,000
Federal reimbursement	-0-		-0-
Total Estimated Revenues:	\$ 2,000	\$ 13,000	\$ 15,000
Expenses			
<u>OPERATING BUDGET</u>			
SJAFCA Employee Services	\$ 188,800	\$ 755,200	\$ 944,000
City Employee Services	15,000	60,000	75,000
Other Services	207,335	220,665	428,000
Materials & Supplies	23,000	-0-	23,000
Other Expenses	33,696	26,304	60,000
Total Estimated Operating Expenses:	\$ 467,831	\$ 1,062,169	\$ 1,530,000
<u>CAPITAL IMPROVEMENT PROGRAM</u>			
TBD			\$ -0-
Total Capital Improvement Expenses:	\$ -0-	\$ -0-	\$ -0-
Total Estimated Expenses:	\$ 467,831	\$ 1,062,169	\$ 1,530,000
Estimated Fund Balance June 30, 2019:	\$ -0-	\$ 1,556,468	\$ 1,556,468

FY 18/19 UPDATED BUDGET (MAY 16, 2019)			
	Federal Reimb. Fund	SJAFCA Fund*	Combined Reserve Fund Balances 7/1/2018
<i>Revised Beginning Balances (Un-Audited)</i>	\$ 485,290	\$ 2,600,843	\$ 3,086,133
Revenues			
Interest	\$ 5,000	\$ 15,000	\$ 20,000
Federal reimbursement			-0-
Total Estimated Revenues:	\$ 5,000	\$ 15,000	\$ 20,000
Expenses			
<u>OPERATING BUDGET</u>			
SJAFCA Employee Services	\$ 211,259	\$ 702,741	\$ 914,000
City Employee Services	15,000	60,000	75,000
Other Services	207,335	250,665	458,000
Materials & Supplies	23,000	-0-	23,000
Other Expenses	33,696	26,304	60,000
Total Estimated Operating Expenses:	\$ 490,290	\$ 1,039,710	\$ 1,530,000
<u>CAPITAL IMPROVEMENT PROGRAM</u>			
	\$ -0-	\$ -0-	\$ -0-
Total Estimated Expenses:	\$ 490,290	\$ 1,039,710	\$ 1,530,000
Estimated Balance June 30, 2019:	\$ -0-	\$ 1,576,133	\$ 1,576,133

* The SJAFCA Fund Balance includes a reimbursement for advanced costs related to the Smith Canal project.

EXHIBIT B

SJAFCA OPERATING & CIP BUDGET FY 2019/20

REVENUES

Reserve Fund	
Federal Reimbursement	\$0
Local Funding Agreements	0
Program Funds	
(R) State UFRR Funding /1	\$26,232,067
(R) Local Assessments	2,606,765
(R) Bond Proceeds /1	19,702,158
(R) Internal Funding	168,067
Local Funding Agreements	0
Member Agency Loans	0

TOTAL REVENUES	\$48,709,057
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Operating Budget

SJAFCA Employee Services	\$980,000
Other Employee Services	75,000
Other Services	478,000
Material & Supplies	20,000
Other Expenses	85,000

Subtotal Operating Budget	\$1,638,000
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Operations & Maintenance Services	\$1,084,000
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Capital Improvement Program

Mossdale Tract	\$0
Smith Canal	29,603,736
Regional Planning	0

Total Capital Improvement Program	\$29,603,736
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TOTAL EXPENDITURES	\$32,325,736
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Net Change in Fund Balance	\$16,383,321
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COMBINED FUND BALANCES

Estimated Beginning Reserve Fund Balance /2	\$1,941,133
Estimated Restricted Program Fund Balances	7,538,130

BEGINNING BALANCES JULY 1, 2019	\$9,479,263
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ESTIMATED ENDING FUND BALANCE

Estimated Ending Reserve Fund Balance	\$303,133
Estimated Restricted Program Fund Balances	25,559,451

ESTIMATED BALANCE JUNE 30, 2020	\$25,862,584
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/1 Reflects anticipated funding for the Smith Canal Gate project.

/2 The Estimated Beginning Reserve Fund Balance is the combined balances of the Agency's unrestricted Funds and includes a projected cost-savings of \$365,000 from FY 18-19 Budget.

(R) Restricted Program Funding

EXHIBIT C

Mossdale Tract Fund (Previously-Approved Budget)

	FY 17/18	FY 18/19	Combined 2-Yr Budget
REVENUES			
Restricted Revenues			
Intergovernmental Funding (State DWR UFRR Feasibility Study)	\$523,956	\$0	\$523,956
Unrestricted Revenues			
Member Agency Loans	\$376,947	\$1,261,399	\$1,638,346
TOTAL REVENUES	\$900,903	\$1,261,399	\$2,162,302
EXPENDITURES			
Program Management			
Allocated Staff Support & Overhead	\$ 147,658	\$ 1,021,137	\$ 1,168,796
Consulting Support	\$ 57,667	\$ 95,333	\$ 153,000
Legal Support	\$ 11,100	\$ 7,200	\$ 18,300
Sub-total Program Management	\$ 216,425	\$ 1,123,671	\$ 1,340,096
UFRR Feasibility Study			
Peterson Brustad	\$523,956	\$0	\$523,956
Sub-total UFRR Feasibility Study	\$523,956	\$0	\$523,956
Local Funding Implementation			
Assessment District Support	\$16,667	\$33,333	\$50,000
Development Fee Transition to SJAFCA	\$19,000	\$19,000	\$38,000
Development Fee Advanced Funding & Crediting	\$21,895	\$21,895	\$43,790
EIFD Support / Formation	\$63,500	\$63,500	\$127,000
ULOP Adequate Progress Report (1 Yr)	\$31,960	\$0	\$31,960
JPA Budgeting Amendment & Seed Funding	\$7,500	\$0	\$7,500
Sub-total Local Funding Implementation	\$160,522	\$137,728	\$298,250
TOTAL EXPENDITURES	\$ 900,903	\$ 1,261,399	\$ 2,162,302

RESOLUTION NO. SJAFCA 19-28

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

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**RESOLUTION TO APPROVE THE PROPOSED 2019/20 BUDGET FOR
THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN JOAQUIN AREA
FLOOD CONTROL AGENCY, AS FOLLOWS:

1. That the San Joaquin Area Flood Control Agency's 2019-2020 Proposed Budget is hereby approved and adopted, a copy of which is attached as Exhibit "A" and incorporated by this reference.
2. That any new appropriations and/or adjustments to the Agency's 2019-2020 fiscal year budget will be brought back before the Board for consideration and approval.

PASSED, APPROVED AND ADOPTED this 16th day of May, 2019.

JESÚS ANDRADE, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

CHRIS ELIAS, Secretary
of the San Joaquin Area
Flood Control Agency

APPROVED AS TO FORM:

SCOTT L. SHAPIRO, Legal Counsel
for the San Joaquin Area
Flood Control Agency

EXHIBIT A

SJAFCA OPERATING & CIP BUDGET FY 2019/20

REVENUES

Reserve Fund	
Federal Reimbursement	\$0
Local Funding Agreements	0
Program Funds	
(R) State UFRR Funding ^{/1}	\$26,232,067
(R) Local Assessments	2,606,765
(R) Bond Proceeds ^{/1}	19,702,158
(R) Internal Funding	168,067
Local Funding Agreements	0
Member Agency Loans	0

TOTAL REVENUES	\$48,709,057
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Operating Budget

SJAFCA Employee Services	\$980,000
Other Employee Services	75,000
Other Services	478,000
Material & Supplies	20,000
Other Expenses	85,000

Subtotal Operating Budget	\$1,638,000
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Operations & Maintenance Services	\$1,084,000
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Capital Improvement Program

Mossdale Tract	\$0
Smith Canal	29,603,736
Regional Planning	0

Total Capital Improvement Program	\$29,603,736
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TOTAL EXPENDITURES	\$32,325,736
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Net Change in Fund Balance	\$16,383,321
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COMBINED FUND BALANCES

Estimated Beginning Reserve Fund Balance ^{/2}	\$1,941,133
Estimated Restricted Program Fund Balances	7,538,130

BEGINNING BALANCES JULY 1, 2019	\$9,479,263
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ESTIMATED ENDING FUND BALANCE

Estimated Ending Reserve Fund Balance	\$303,133
Estimated Restricted Program Fund Balances	25,559,451

ESTIMATED BALANCE JUNE 30, 2020	\$25,862,584
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^{/1} Reflects anticipated funding for the Smith Canal Gate project.

^{/2} The Estimated Beginning Reserve Fund Balance is the combined balances of the Agency's unrestricted Funds and includes a projected cost-savings of \$365,000 from FY 18-19 Budget.

(R) Restricted Program Funding

**End of Agenda
Packet**