

BOARD OF DIRECTORS

<u>City of Stockton</u> Kimberly Warmasley Dan Wright, Chair Alt. Susan Lenz	<u>Public Member</u> Mike Morowit	<u>San Joaquin County</u> Katherine M. Miller Chuck Winn Alt. Tom Patti
<u>City of Manteca</u> Gary Singh, Vice-Chair Charlie Halford	<u>Executive Director</u> Chris Elias	<u>City of Lathrop</u> Paul Akinjo Diane Lazard

BOARD MEETING – In Person

NEW LOCATION
San Joaquin Council of Governments
Board Conference Room
555 E. Weber Ave, Stockton, CA

THURSDAY, DECEMBER 15, 2022

1. CALL TO ORDER / ROLL CALL

2. PLEDGE TO FLAG

3. CONSENT ITEMS

3.1) Approve Minutes from the October 20, 2022, Board Meeting

4. NEW BUSINESS

4.1) SJAFCA Regular Board Meeting Schedule for 2023

4.2) Amendment to Agreement with Edelstein Gilbert Robson & Smith LLC to extend services for advocacy on State Legislations and Regulations of Interest to San Joaquin Area Flood Control Agency

4.3) Adopt a Resolution Approving a Memorandum of Understanding for Funding from Participating Member Agencies for the Mossdale 200-year Project and Delegating Authority to the Executive Director to Issue the 2022 Adequate Progress Report

5. BRIEFINGS

5.1) Staff to provide update on the proposed Levee Construction and Maintenance Assessment (LCMA) District benefit area pursuant to the Memorandum of Understanding with the San Joaquin County Flood Control and Water Conservation District to fund levee Operations and Maintenance and the Lower San Joaquin River Phase 1 Project

5.2) Update on the Strategic Plan Priority Actions

5.3) Selection of Public Board Member

a. Supplemental Materials – Attachments 1, 2, 3

6. ORAL REPORT FROM EXECUTIVE DIRECTOR

a. Advocacy trip to Washington DC by SJAFCA Delegation

7. PUBLIC COMMENTS

8. BOARD QUESTIONS, COMMENTS, ACTIONS

9. CLOSED SESSION

9.1) Conference with Legal Counsel: Public Employment Evaluation Pursuant to Government Code Section 54957(b)(1)
Title: Executive Director

10. 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 OCTOBER 20, 2022**

STOCKTON, CALIFORNIA

1. CALL TO ORDER / ROLL CALL 9:00 AM

Roll Call

Present:

Director Akinjo
Director Halford
Director Miller
Director Morowit
Director Singh
Director Wright

Absent:

Director Lazard
Director Warmesley
Director Winn

Director Akinjo was not present for Roll Call but arrived at approx. 9:01 AM

2. PLEDGE TO FLAG 9:00 AM

3. CLOSED SESSION 9:01 AM

3.1) ANTICIPATED LITIGATION Pursuant to Government Code Section 54956.9(d)(2):
One Case (Shimmick Construction Company, Inc.)

3.2) ANTICIPATED LITIGATION Pursuant to Government Code Section 54956.9(d)(2):
One Case

PUBLIC COMMENT:

- Dominick Gulli submitted comments in writing and shared comments during the meeting for all to hear.

Return from closed session and REPORT OUT FROM CLOSED SESSION: 9:59 AM
No direction to staff and nothing to report.

4. CONSENT ITEMS 9:59 AM

4.1) Approve Minutes from the August 18, 2022, Board Meeting.

PUBLIC COMMENT:

- Dominick Gulli submitted comments in writing.

Motion: To approve Minutes from the August 18, 2022, Board meeting

Moved by: Director Miller, Seconded by Director Halford

Vote: Motion carried 6-0

Yes: Director Akinjo, Director Halford, Director Miller, Director Morowit, Director Singh,
Director Wright

Absent: Director Lazard, Director Warmesley, Director Winn

5. NEW BUSINESS 10:00AM

- 5.1) Adopt a Resolution authorizing Amendment No. 5 to Task Order No. 6 of the Consultant Agreement with Peterson Brustad, Inc., for additional engineering services during construction of the Smith Canal Gate Project

PUBLIC COMMENT:

- Dominick Gulli submitted comments in writing and shared comments during the meeting for all to hear.

Motion: To adopt a Resolution authorizing Amendment No. 5 to Task Order No. 6 of the Consultant Agreement with Peterson Brustad, Inc., for additional engineering services during construction of the Smith Canal Gate Project

Moved by: Director Akinjo, Seconded by Director Singh

Vote: Motion carried 6-0

Yes: Director Akinjo, Director Halford, Director Miller, Director Morowit, Director Singh, Director Wright

Absent: Director Lazard, Director Warmesley, Director Winn

- 5.2) Amendment No. 4 to the Contractual Services Agreement for Professional Environmental Services by Environmental Service Associates (ESA) for extended scope of work on the Lower San Joaquin River Project-Phase 1, TS30L Mitigation Site Design and CEQA/NEPA Support

PUBLIC COMMENT:

- Dominick Gulli shared comments during the meeting for all to hear.

Motion: To authorize Amendment No. 4 to the Contractual Services Agreement for Professional Environmental Services by Environmental Service Associates (ESA) for extended scope of work on the Lower San Joaquin River Project-Phase 1, TS30L Mitigation Site Design and CEQA/NEPA Support

Moved by: Director Akinjo, Seconded by Director Morowit

Vote: Motion carried 6-0

Yes: Director Akinjo, Director Halford, Director Miller, Director Morowit, Director Singh, Director Wright

Absent: Director Lazard, Director Warmesley, Director Winn

- 5.3) Authorization to execute a funding agreement with the Department of Water Resources for engagement in the Governor's Water Resilience Portfolio Action 25.4

Motion: To authorize execution of a funding agreement with the Department of Water Resources for engagement in the Governor's Water Resilience Portfolio Action 25.4

Moved by: Director Halford, Seconded by Director Singh

Vote: Motion carried 6-0

Yes: Director Akinjo, Director Halford, Director Miller, Director Morowit, Director Singh, Director Wright

Absent: Director Lazard, Director Warmesley, Director Winn

6. ORAL REPORT FROM EXECUTIVE DIRECTOR 10:38 AM

- a. Flood Preparedness Week (October 22-29), 2022: Briefing by the San Joaquin County Office of Emergency Services on coordination of efforts to increase public awareness of flood threats and inviting them to take action to "Get Flood Ready" with tagline: "Be Aware. Be Prepared. Take Action."

Presentation by: Glenn Prasad of San Joaquin Area Flood Control Agency and Lowell Allen with the San Joaquin County Office of Emergency Services.

Director Miller left the meeting at approx. 10:55 AM.

The opportunity for public comment on Agenda items 5.3 and 6.a were given at this time.

PUBLIC COMMENT:

- Dominick Gulli verbally shared comments for Agenda items 5.3 and 6.a for all in the meeting to hear.

A new motion and re-vote were taken at this time due to the omission of Public Comments on Agenda item 5.3

Re-vote for 5.3): Authorization to execute a funding agreement with the Department of Water Resources for engagement in the Governor's Water Resilience Portfolio Action 25.4:

Motion: To authorize execution of a funding agreement with the Department of Water Resources for engagement in the Governor's Water Resilience Portfolio Action 25.4
Moved by: Director Singh, Seconded by Director Halford
Vote: Motion carried 5-0
Yes: Director Akinjo, Director Halford, Director Morowit, Director Singh, Director Wright
Absent: Director Lazard, Director Miller, Director Warmesley, Director Winn

Public Comments were taken for all items under Agenda item 6, at the end of the oral report.

- b. Smith Canal Gate Project: An update on construction of the Smith Canal Gate Project
Update presented by Chris Neudeck, KSN.
- c. Feasibility Cost Share Agreement to Protect Mossdale Tract
- d. Advocacy trip to Washington DC by SJAFCA Delegation

PUBLIC COMMENT:

- Dominick Gulli submitted comments in writing for agenda item #b and verbally shared comments on agenda items #6a-d during the meeting for all to hear.

7. PUBLIC COMMENTS 11:24 AM

PUBLIC COMMENT

- Dominick Gulli submitted written comments and shared comments during the meeting for all to hear.

8. BOARD QUESTIONS, COMMENTS, ACTIONS 11:27 AM

- Director Wright verbally shared comments for all in the meeting to hear.
- Scott Shapiro verbally shared comments for all in the meeting to hear.

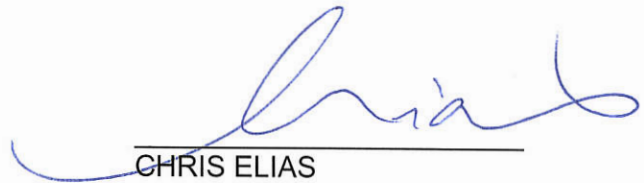
PUBLIC COMMENT

- Dominick Gulli verbally shared comments for all in the meeting to hear.

9. ADJOURNMENT 11:35 AM

The meeting adjourned at 11:35 AM. The next meeting is scheduled for December 15, 2022 at 9:00 AM.

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.



CHRIS ELIAS
EXECUTIVE DIRECTOR
SAN JOAQUIN AREA FLOOD
CONTROL AGENCY

October 20, 2022, SJAFCA Meeting Minutes

Agenda Item 4.1

December 15, 2022

TO: San Joaquin Area Flood Control Agency
FROM: Chris Elias, Executive Director
SUBJECT: **SJAFCA REGULAR BOARD MEETING SCHEDULE FOR 2023**

RECOMMENDATION

It is recommended that the Board of Directors of the San Joaquin Area Flood Control Agency accept the 2023 monthly meeting schedule.

DISCUSSION

Background

On January 26, 2011, the SJAFCA Board approved a resolution setting future regular Board meeting on a bi-monthly basis. The resolution also states that future Board meetings schedules will be presented no later than January of each year, and that Special Board meetings will be held, as necessary.

Throughout the course of 2020 and 2021, SJAFCA Board meetings were held monthly via video conferencing.

During 2022, all meetings were held monthly in person, except for the month of February 2022, when the Board of Directors found that due to conditions of danger to the safety of persons, warranted and necessitated the proclamation of a local emergency throughout the boundary of the San Joaquin Area Flood Control Agency, due to the COVID-19 pandemic.

The Board of Directors reviewed the need for continuing this emergency proclamation within thirty (30) days and determined conditions safe to return to in-person meetings.

Present Situation

It is recommended the Board of Directors of the San Joaquin Area Flood Control Agency accept and approve the resolution for the 2023 Board Meeting Schedule.

PREPARED BY: Leanne Randall

APPROVED BY:



CHRIS ELIAS
EXECUTIVE DIRECTOR

Attachment:

1. Draft SJAFCA's Board Meeting Schedule

2023

SJAFCA's PROPOSED Board Meeting Schedule

- January 26, 2023
- February 16, 2023
- March 16, 2023
- April 20, 2023
- May 18, 2023
- June 15, 2023
- July 20, 2023
- August 17, 2023
- September 21, 2023
- October 19, 2023
- November 2023 – Off/No Meeting
- December 14, 2023

RESOLUTION NO. SJAFCA 22-23

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

RESOLUTION SETTING THE BOARD MEETING SCHEDULE FOR 2023

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

Regular Board meetings for 2023 are scheduled at 9:00 a.m. to be held at 555 E. Weber Ave, Stockton, CA, San Joaquin Council of Governments, on the following dates:

- | | | |
|---------------------|-------------------|--|
| • January 26, 2023 | • May 18, 2023 | • September 21, 2023 |
| • February 16, 2023 | • June 15, 2023 | • October 19, 2023 |
| • March 16, 2023 | • July 20, 2023 | • November 2023 –
<i>Off/No Meeting</i> |
| • April 20, 2023 | • August 17, 2023 | • December 14, 2023 |

PASSED, APPROVED AND ADOPTED this 15th day of December 2022

DAN WRIGHT, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

CHRIS ELIAS, EXECUTIVE DIRECTOR
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 4.2

TO: Board of Directors

December 15, 2022

FROM: Chris Elias, Executive Director

SUBJECT: **Amendment to Agreement with Edelstein Gilbert Robson & Smith LLC to Extend Services for Advocacy on State Legislations and Regulations of Interest to San Joaquin Area Flood Control Agency**

RECOMMENDATION

1. Authorize the Executive Director to negotiate and execute Agreement with Edelstein Gilbert Robson & Smith LLC (EGRS) for advocacy services on state legislation and regulations of interest to San Joaquin Area Flood Control Agency (SJAFCA) for 12-month period starting January 1, 2022 at a not-to-exceed amount \$120,000;
2. Authorize renewal of the Agreement with EGRS for the same fee and scope of services for two more years if presented as part of the annual Agency budget.

SUMMARY

The current agreement with EGRS for state advocacy services expires on December 31, 2022. EGRS has represented SJAFCA for three years. Since 2020, EGRS has successfully advocated on a number of legislative initiatives on behalf of SJAFCA. Staff desires to renew and extend the duration of the Agreement for state advocacy services by 12 months, ending December 2023. Additional renewal of the Agreement for two more years of services subject to approval of the Annual SJAFCA budget by the Board of Directors. Approval of the recommended action will allow EGRS to continue to provide critical legislative advocacy services with a focus on elected and appointed officials.

DISCUSSION

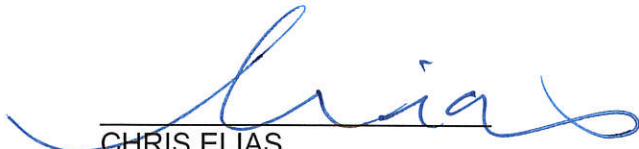
The Agency's legislative and regulatory advocacy program remains active at the state level. The program includes participation in industry efforts sponsored by the California Central Valley Flood Control Association and legislative advocacy services provided by EGRS. The current Agreement was approved in May 2020, and with subsequent amendments, is scheduled to expire on December 31, 2022. Since the retainer fee has increased to an amount that exceeds signatory authority of the Executive Director, staff would like to request the Board to consider authorizing extension of the terms and retainer fees as part of the amendment to the Agreement with EGRS for advocacy services on state legislation and regulations of interest to SJAFCA

FISCAL IMPACT

Since the Agreement was entered into in May 2020, and following a couple of amendments, the retainer fee by EGRS has increased from \$8,333 per month. After negotiations with EGRS, staff recommends the Board authorize amending the Agreement for a retainer fee at a not-to-exceed rate of \$10,000 per month through December 31, 2023, for state advocacy services on legislation and regulations of interest to SJAFCA. The retainer fee is already baked into the Agency's FY 22/23 budget. Staff is also requesting Board authorization for renewal of the Agreement with EGRS for the same fee and scope of services for two more years if presented as part of the annual Agency budget.

STRATEGIC PLAN CONSISTENCY ANALYSIS

Consideration of this request for authorization for amending the Agreement with EGRS is consistent with the Mission and Goals of the Board-adopted Strategic Plan. Specifically, it is consistent with the Agency mission statement of "Reduce and Manage the Region's Flood Risk", Goal #1, Plan for and Implement System Resiliency; Goal #3, Facilitate Funding Structures That Are Most Beneficial to Local Interests; and Goal #4, Support Appropriate, Mutually Beneficial Partnerships.


CHRIS ELIAS
EXECUTIVE DIRECTOR

Attachment:

1. EGRS Proposed Scope of Work for SJAFCA

RESOLUTION NO. SJAFCA 22-24

**SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

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**AUTHORIZATION TO EXECUTE AMENDMENT TO AGREEMENT WITH
EDELSTEIN GILBERT ROBSON & SMITH LLC TO EXTEND SERVICES FOR
ADVOCACY ON STATE LEGISLATIONS AND REGULATIONS OF
INTEREST TO SAN JOAQUIN AREA FLOOD CONTROL AGENCY**

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

Authorize the Executive Director to:

1. Authorize the Executive Director to negotiate and execute Agreement with Edelstein Gilbert Robson & Smith LLC (EGRS) for advocacy services on state legislation and regulations of interest to San Joaquin Area Flood Control Agency (SJAFCA) for 12-month period starting January 1, 2022 at a not-to-exceed amount \$120,000;
2. Authorize renewal of the Agreement with EGRS for the same fee and scope of services for two more years if presented as part of the annual Agency budget.

PASSED, APPROVED AND ADOPTED this 15 day of December 2022.

DAN WRIGHT, Chair
of the San Joaquin Area
Flood Control Agency

ATTEST:

CHRIS ELIAS, Executive Director
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



EGRS 2023 Scope of Work for SJAFCA

- Work with other flood control agencies to pass legislation providing for, among other things, an additional extension of the SB 5 deadline for completion of the Mossdale Tract project. We expect the other flood control agencies to be the primary face of the effort while we perform key advocacy work underpinning and advancing the effort.
- Continue to review all legislation introduced in the Legislature and identify legislation that may be pertinent to SJAFCA, send that legislation to SJAFCA, and work to address the legislation in the manner required by SJAFCA.
- Continue to help SJAFCA develop productive relationships with key legislators and staff in the Legislature and the Administration.
- Continue to provide political advice and counsel to SJAFCA.



Agenda Item 4.3

December 15, 2022

TO: Board of Directors of the San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director
Scott Shapiro, General Counsel

SUBJECT: **EXECUTION OF A MEMORANDUM OF UNDERSTANDING RELATED TO FUNDING FOR THE MOSSDALE TRACT AREA PROJECT AND THE ISSUANCE OF THE 2022 ADEQUATE PROGRESS REPORT**

RECOMMENDATION

Delegate authority to the Executive Director to execute a Memorandum of Understanding related to funding for the Mossdale Tract Area Project and to issue the 2022 Adequate Progress Report.

SUMMARY

From 2018 through 2021, the San Joaquin Area Flood Control Agency ("SJAFCA") issued an annual Adequate Progress Report for the Mossdale Tract Area in accordance with Senate Bill 5 and based upon a previously approved financing plan. Today's action updates the financing plan and authorizes the issuance of the 2022 Adequate Progress Report.

BACKGROUND

SJAFCA has been designated as the Local Flood Management Agency ("LFMA") for the Mossdale Tract Area since 2018 and, consistent with Government Code 65007(a)(5), prepared and issued reports on an annual basis to the Central Valley Flood Protection Board regarding the efforts underway to achieve 200-year level of protection for the Mossdale Tract Area. SJAFCA, as the LFMA, continues to make significant progress toward 200-year protection for the Mossdale Tract as detailed in the Adequate Progress Reports, through an effort referred to as the Mossdale Tract Area Project.

SJAFCA's financing plan as reflected in the each of the previous annual Adequate Progress Reports for the Mossdale Tract Area Project contemplates revenues from the following sources:

- Early contributions from member agencies;
- Enhanced infrastructure financing district (EIFD);
- Development impact fee (DIF); and
- Overlay Assessment District (OAD).

Each of the first three elements of the financing plan have been implemented according to schedule. However, in June of this year SJAFCA staff reported to the Board that preliminary polling and interviews strongly suggested that the formation of the OAD could fail at the funding levels included in the financing plan. Staff therefore suggested to the Board that SJAFCA elect to delay the formation of the OAD from its current timeline of late 2022/23 to late FY 2023/24 to allow time to resize the OAD with the expectation that assessments can commence being levied in FY 2024/25. Staff reported that in the interim it would work to identify the best additional funding sources and the Board concurred with that recommendation.

MEMORANDUM OF UNDERSTANDING

(Page 2)

DISCUSSION

SJAFCA has been developing an alternative financing plan to ensure adequate and complete funding for the Mossdale Tract Area Project. The most beneficial alternative financing plan requires a Federal feasibility study conducted by the U.S. Army Corps of Engineers (USACE) followed by Congressional authorization that can then result in a significant infusion of Federal funds to the basin. The Mossdale Tract is unique among urban areas in the Central Valley seeking significant increases in flood protection in that it is the only such urban basin which is not receiving Federal funds by partnering with the USACE. The Parties agree that obtaining such Federal funds is a significant benefit to the region and the State and should be the Parties' highest priorities.

SJAFCA's cash flow scenarios related to the Mossdale Tract Area Project indicate that it has adequate funds on hand to meet its cash flow demands through 2023. The USACE is developing its feasibility study and SJAFCA is moving forward to form an OAD. At the same time, SJAFCA has worked with the three Cities who rely on the issuance of annual Adequate Progress Reports to develop the attached MOU by which those cities commit to negotiate and consider execution of an agreement in 2023 which will backstop any funding needs of SJAFCA that may exist after 2023 (called an "Advanced Funding Agreement"). In addition to backstopping SJAFCA's funding needs, that Advanced Funding Agreement will provide that prior to providing such funds, the Participating Cities will confirm that they can provide the funds without materially harming existing programs. The Advanced Funding Agreement will also acknowledge that a failure to provide such funds may result in SJAFCA's inability to take certain actions regarding the Mossdale Tract Area Project. The Advanced Funding Agreement will also recognize certain repayment obligations made in the Amended Agreement for Collection of SJAFCA Mossdale Tract Area Regional Urban Level of Flood Protection Development Impact Fee and will also state the Parties' intention to seek to use future revenue sources (e.g., OAD, EIFD, Development Impact, etc.) to reimburse any funding provided by the Participating Cities under the MOU.

NEXT STEPS

While the MOU has been negotiated with the three Cities, it is possible that minor changes may be needed for the MOU to address grammatical or non-substantive issues. Therefore, the Board is requested to delegate authority to the Executive Director to execute the MOU subject to minor conforming and clarifying changes and upon review and approval of Agency Counsel. Following execution of the MOU by the four Parties, the SJAFCA Executive Director would issue the 2022 Adequate Progress Report. In 2023, SJAFCA and the three Cities would work together to advance the OAD and to develop the Advance Funding Agreement. SJAFCA will continue to partner with the State and USACE to advance the Federal feasibility study for the Mossdale Tract Area.

FISCAL IMPACT

There is no cost associated with this item.

MEMORANDUM OF UNDERSTANDING

(Page 3)

STRATEGIC PLAN CONSISTENCY ANALYSIS

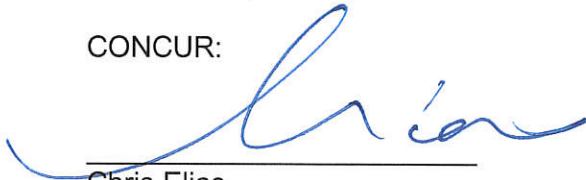
Consideration of this request is consistent with the Agency mission statement of "Reduce and Manage the Region's Flood Risk", Goal #1, "Plan for and Implement System Resiliency"; Goal #3, "Facilitate Funding Structures That Are Most Beneficial to Local Interests"; and Goal #4, "Support Appropriate, Mutually Beneficial Partnerships."

SUBMITTED BY:



Scott L. Shapiro, Legal Counsel

CONCUR:



Chris Elias
Executive Director

Attachments

1. Memorandum of Understanding Regarding the Development of Additional Funding Sources for the Mossdale Tract Area as Between the San Joaquin Area Flood Control Agency and the Cities of Lathrop, Manteca, and Stockton.

RESOLUTION NO. SJAFCA 22-25

SAN JOAQUIN AREA
FLOOD CONTROL AGENCY

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**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A
MEMORANDUM OF UNDERSTANDING RELATED TO FUNDING FOR THE
MOSSDALE TRACT AREA PROJECT AND THE ISSUANCE OF THE 2022
ADEQUATE PROGRESS REPORT**

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

The Executive Director has been authorized to execute the memorandum of
understanding related to funding for the Mossdale Tract Area Project and the issuance of
the 2022 Adequate Progress Report.

PASSED, APPROVED AND ADOPTED this 15th day of December 2022.

DAN WRIGHT, 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

**MEMORANDUM OF UNDERSTANDING
REGARDING THE DEVELOPMENT OF ADDITIONAL FUNDING SOURCES
FOR THE MOSSDALE TRACT AREA AS BETWEEN THE
SAN JOAQUIN AREA FLOOD CONTROL AGENCY AND
THE CITIES OF LATHROP, MANTECA, AND STOCKTON**

This Memorandum of Understanding (the “MOU”) is entered into by and between the San Joaquin Area Flood Control Agency (“SJAFCA”), the City of Lathrop (“Lathrop”), City of Manteca (“Manteca”), and the City of Stockton (“Stockton”) (three listed Cities referenced hereinafter collectively as “Participating Cities.”) This MOU shall be effective upon execution by SJAFCA and the Participating Cities (the “Effective Date”).

RECITALS

- A. SJAFCA has been designated as the Local Flood Management Agency (“LFMA”) for the Mossdale Tract Area since 2018 and, consistent with Government Code 65007(a)(5), prepared and issued reports on an annual basis to the Central Valley Flood Protection Board regarding the efforts underway to achieve 200-year level of protection for the Mossdale Tract Area (“Adequate Progress Reports”).
- B. SJAFCA, as the LFMA, continues to make significant progress toward 200-year protection for the Mossdale Tract as detailed in the Adequate Progress Reports (“Mossdale Tract Area Project”).
- C. SJAFCA’s current financing plan reflected in each of the annual Adequate Progress Reports for the Mossdale Tract Area Project contemplates revenues from the following sources:
 - Early contributions from member agencies;
 - Enhanced infrastructure financing district (EIFD);
 - Development impact fee (DIF); and
 - Overlay Assessment District (OAD).
- D. Each of the first three elements of the financing plan have been implemented according to schedule. However, SJAFCA elected to delay the formation of the OAD from its current timeline of late 2022/23 to late FY 2023/24 with the expectation that assessments can commence being levied in FY 2024/25.
- E. In addition, SJAFCA has been developing an alternative financing plan to ensure adequate and complete funding for the Mossdale Tract Area Project. The most beneficial alternative financing plan requires a Federal feasibility study conducted by the U.S. Army Corps of Engineers (USACE) followed by Congressional authorization that can then result in a significant infusion of Federal funds to the basin. The Mossdale Tract is unique among urban areas in the Central Valley seeking significant increases in flood protection in that it is the only such urban basin which is not receiving Federal funds by partnering with the USACE. The Parties agree that obtaining such Federal funds is a significant benefit to the region and the State and should be the Parties’ highest priorities.

- F. SJAFCA's cash flow scenarios related to the Mossdale Tract Area Project indicate that it has adequate funds on hand to meet its cash flow demands through 2023. While the USACE is developing its feasibility study, and while SJAFCA works to form an OAD, the Parties have agreed to execute this MOU by which the Participating Agencies commit to negotiate and execute an agreement which will backstop any funding needs of SJAFCA that may exist after 2023 ("Advanced Funding Agreement") provided, however, that prior to providing such funds, the Participating Cities shall confirm that they can provide the funds without materially harming existing programs and the Participating Cities acknowledge that a failure to provide such funds may result in SJAFCA's inability to take certain actions regarding the Mossdale Tract Area Project.
- G. Subject to Section 10 of the "Amended Agreement for Collection of SJAFCA Mossdale Tract Area Regional Urban Level of Flood Protection Development Impact Fee," it is the intention of the Parties to seek to use future revenue sources (e.g., OAD, EIFD, Development Impact, etc.) to reimburse any funding provided by the Participating Cities under this MOU.

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

- 1. Commitment for an Advanced Funding Agreement.** Parties agree to negotiate and then use good faith to consider execution of an Advanced Funding Agreement during calendar year 2023 whereby Participating Cities shall agree to make sufficient funds available to SJAFCA to meet operational shortfalls for the Mossdale Tract Area Project net of revenues from all other funding sources.
- 2. No Third-Party Beneficiaries.** This MOU is intended solely for the benefit of the Parties and shall not be construed to create any rights for any other person or entity.
- 3. Term.** This MOU shall be effective upon execution by the last of the Parties (the "Effective Date"). This MOU shall remain in effect from the Effective Date until such time as terminated by the written agreement of all of the Parties.
- 4. Notices.** Notices to the Parties shall be sufficient if delivered as follows:

For City of Lathrop:

City of Lathrop
ATTN: Teresa Vargas, City Clerk
390 Towne Centre Drive
Lathrop, CA 95330

For City of Manteca:

City of Manteca
ATTN: City Clerk; City Engineer; City Manager's Office
1001 W. Center Street
Manteca, CA 95337

For City of Stockton:

City of Stockton Community Development Department
ATTN: Community Development Director
424 N. El Dorado Street
Stockton, CA 95202

For San Joaquin Area Flood Control Agency:

San Joaquin Area Flood Control Agency
ATTN: Executive Director
22 East Weber Avenue, Room #301
Stockton, Ca 95202

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates specified in the signature block below.

CITY OF LATHROP

By: _____
Stephen Salvatore, City Manager

CITY OF MANTECA

By: _____
Toni Lundgren, Interim City Manager

SAN JOAQUIN AREA FLOOD CONTROL AGENCY

By: _____
Chris Elias, Executive Director

Approved as to form:

Scott L. Shapiro

CITY OF STOCKTON

HARRY BLACK
CITY MANAGER

APPROVED AS TO FORM:

LORI ASUNCION
CITY ATTORNEY

ATTEST:

ELIZA GARZA
CITY CLERK

AUTHORIZING ACTION:

Agenda Item 5.1

December 15, 2022

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director
Seth Wurzel, LWA – Assessment Engineering Consultant

SUBJECT: **BRIEFING REGARDING THE PROPOSED LEVEE CONSTRUCTION AND MAINTENANCE ASSESSMENT (“LCMA”) DISTRICT**

RECOMMENDATION

It is recommended that the Board of Directors of the San Joaquin Area Flood Control Agency receive an informational briefing from SJAFCA Staff and Consultants regarding the proposed Levee Construction and Maintenance Assessment District (“LCMA”). The LCMA is the name of the proposed assessment district being advanced pursuant to the Memorandum of Understanding (MOU) with the San Joaquin County Flood Control and Water Conservation District (District) for a combined assessment district to fund levee operations and maintenance, the Lower San Joaquin River Phase 1 Project and related flood control improvements.

DISCUSSION

In July 2022 the District and SJAFCA executed an MOU that combines individual efforts to form an assessment to fund operations, maintenance, repair, replacement and rehabilitation (OMRR&R or O&M) of the District maintained levees in Zone 9 as well as flood risk reduction projects, including the Lower San Joaquin River Phase 1 Project, being advanced by SJAFCA. That effort described in the MOU has been underway for several months and the current schedule for the formation of the LCMA district is targeting balloting in the spring of 2023.

The schedule for the formation starts with several Board briefing to ensure Board members have a strong understanding of principles behind the assessment as well as the key messaging about why the assessment is needed and the importance of the services to be funded. The following matrix outlines some of the timeline and key Board and Public interaction timeframes that staff and consultants plan to execute in the coming months.

<u>Timeframe</u>	<u>Item</u>
December 2022	Board Briefing on Benefit Area
January 2023	Board Briefing on Assessment Methodology
March 2023	Board Approval of Engineer’s Report / Call for Ballot Proceeding
April 2023	Ballot Mailing
April / May 2023	Public Workshops
June 2023	Public Hearing

As noted above, the first briefing that staff and consultants plan to provide for the Board will cover the approach for defining the benefit area, or boundary, of the LCMA. At the Board meeting, Larsen Wurzel & Associates, Inc. (LWA), the firm that has been engaged by the District to advance the assessment district and provide assessment engineering services, will provide a briefing on how the boundary of the assessment district has been defined.

Memorandum of Understanding for Assessment District Formation

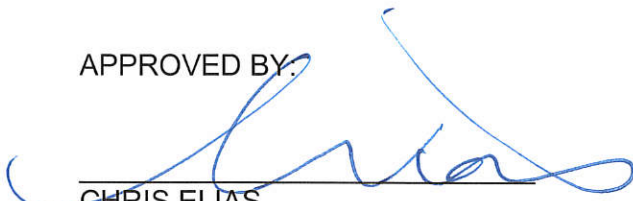
FISCAL IMPACT

This is an informational briefing only with no Fiscal Impact to the Agency.

Strategic Plan Consistency Analysis

The material found in this report is consistent with the Mission and Goals of the Board-adopted Strategic Plan, specifically Goal 1 to Plan for and Implement System Resiliency and Goal 3 Facilitate Funding Structures that are Most Beneficial to Local Interests.

APPROVED BY:



CHRIS ELIAS
EXECUTIVE DIRECTOR

Agenda Item 5.2

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **ORGANIZATIONAL PLANNING – PRIORITY ACTION REVIEW 2022**

RECOMMENDATION

Receive an informational update on the status of and progress toward the Priority Actions.

DISCUSSION

Background

SJAFCA adopted the Strategic Plan at the September 2019 Board of Director's meeting, updated in March 2022, and published in September 2022. It is available on the [website](#)¹. SJAFCA's Strategic Plan sets the framework for the Agency's actions and decisions. It contains the Agency's mission statement, goals, objectives, and priority actions. SJAFCA's work directly supports each priority action and in turn its overall mission.

As presented in the Strategic Plan, the figure below illustrates the interconnections between SJAFCA's Goals and Objectives.

FIGURE 4. Goals & Objectives

		1	2	3	4	5
		Plan for and Implement System Resiliency	Drive for Operational Transparency	Facilitate Funding to Structures most Beneficial to Local Interests	Support Appropriate, Mutually Beneficial Partnerships	Promote Public and Institutional Awareness
OBJECTIVES	1. Deliver projects and programs consistent with State and Federal regulatory requirements.	✓			✓	
	2. Identify and implement local and/or regional funding mechanisms; maximize State and Federal investment in the region for flood risk reduction efforts.			✓	✓	
	3. Develop public outreach programs to maximize public and institutional awareness and involvement.		✓			✓
	4. When appropriate, optimize partnerships and integrate flood risk reduction efforts with local maintaining agencies.		✓		✓	✓
	5. Identify and include system resiliency needs in project development.	✓				
	6. Monitor potential impacts to the system and advocate for Agency's needs.	✓	✓			✓
	7. Pursue multi-benefit approaches to incentivize investments from non-traditional funding sources and promote system resiliency and resource mitigation.			✓	✓	

As part of the Strategic Planning process, SJAFCA identified thirteen Priority Actions, as amended, which define specific accountability measures that tie directly back to the listed Goals and Objectives.

¹ <https://www.sjafca.org/projects/strategic-plan>

Priority Action Review

In September 2020, the Board of Directors received an update on the progress toward the each of the Priority Actions, including efforts completed, upcoming activities and a red-yellow-green progress rating.

Throughout 2021, staff made several detailed presentations on its programs and project that make up these Priority Actions, defining the background and actions toward achieving them. In those reports, staff laid out successes, risks, opportunities, and upcoming efforts within SJAFCA's overall program.

In January 2022, staff presented a status update and proposed revision to the priority actions found in the Strategic Plan. Following BOD feedback and at the March 2022 BOD meeting, staff proposed updates to the Strategic Plan, which were published to the website in September 2022.

Present Situation

As SJAFCA looks back at 2022 and forward to the year ahead, staff has considered its achievements and remaining efforts for each element of its program. This staff report seeks to present the current situation and where efforts are likely to advance for the Agency in 2023.

The attachment to this staff report presents the current state of SJAFCA's Priority Actions, including a summary of accomplishments and misses. It also contains a snapshot of upcoming activities for the coming year. Each Priority Action or subcomponent contains a red-yellow-green rating, denoting its progress toward the original commitments.

This material is informational to ensure the SJAFCA Board and community has the latest status on activities within the Agency and an understanding of how they directly correlate back to the adopted strategy. Further, staff anticipates, as it has in the past, on providing project-level detailed presentations as certain milestones and significant events unfold throughout the coming year.

FISCAL IMPACT

This is an informational item with no fiscal impact.

Priority Action Review

Strategic Plan Consistency Analysis

The material found in this report is consistent with the Mission and Goals of the Board-adopted Strategic Plan, whereby each priority action directly links back to the components of SJAFCA's strategy.

SUBMITTED BY:



CHRIS ELIAS
EXECUTIVE DIRECTOR

Attachments:

1. Priority Action Status ("ProgramUpdateScorecard_Nov2022_15Dec2022.pdf")



Strategic Plan - Priority Action Status Snapshot

PA	Short Description	Status	% Complete	Current Target
Action 1	LSJRP Implementation:	Red	79%	1-Apr-24
	1. Start Construction at TS30L by 2022	Green	Continuous	
Action 2	1. Complete construction of SCG by 2022	Red	79%	30-Dec-23
	2. Submit LOMR by 2023	Red	54%	30-Dec-24
Action 3	Submit SCG credit to USACE	Green	88%	30-Dec-23
Action 4	Initiate Phase 2 of Federal LSJRP FS in Mossdale Tract	Green	100%	30-Sep-22
Action 5	Implement UFRF Recommendation in Mossdale Tract:			
	1. Complete 65% design by Dec 2023	Yellow	46%	30-Dec-23
	2. Complete CEQA documentation by Dec 2023	Yellow	46%	30-Dec-23
	3. Complete restoration concepts by Dec 2022	Yellow	79%	28-Feb-23
Action 6	1. Achieve 200-yr protection in Mossdale Tract by 2028	Yellow	51%	30-Dec-28
	2. Present adequate progress reporting yearly	Yellow	0%	1-Jul-22
Action 7	Refine Mossdale project(s) considering climate information	Green	Continuous	
Action 8	Complete formation of OA and EIFD in Mossdale Tract by Aug 2022	Yellow	54%	30-Aug-25
Action 9	Update CIP planning	Green	Continuous	
Action 10	Implement public outreach program(s)	Green	Continuous	
Action 11	Enhance strategic relationships through various partnership opportunities	Green	Continuous	
Action 12	Advance actions in RFMP			
	1. Complete preferred project for Paradise Cut by June 2022	Yellow	35%	31-Jul-24
	2. Support local efforts for flood and water supply benefits	Green	Continuous	
Action 13	Formulate assessment district for LSJRP by Aug 2023.	Green	55%	30-Aug-23

GREEN	Work is on schedule
YELLOW	Work is trending off schedule
RED	Work missed significant scheduled milestone(s)

Goals	Plan for and Implement System Resiliency		Facilitate Funding Structures that are Most Beneficial to Local Interests		Promote Public and Institutional Awareness	
	Drive for Operational Transparency		Support Appropriate, Mutually Beneficial Partnerships			
Objectives	Deliver projects and programs consistent with State and Federal regulatory requirements.	Identify and implement local and/or regional funding mechanisms; maximize State and Federal investment in the region for flood risk reduction efforts.	Identify and include system resiliency needs in project development.		Pursue multi-benefit approaches to incentivize investments from non-traditional funding sources and promote system resiliency and resource mitigation.	
	Develop public outreach programs to maximize public and institutional awareness and involvement.	When appropriate, optimize partnerships and integrate flood risk reduction efforts with local maintaining agencies.	Monitor potential impacts to the system and advocate for Agency's needs.			

Priority Actions		Accomplishments, Misses & Upcoming Key Activities as of November 2022			
North/Central Stockton	Priority Action 1 Red 79%	Implement the Lower San Joaquin River Project in accordance with the authorized Federal Project by: 1) Supporting USACE in the completion of design, environmental permitting, real property acquisition and award of construction for the first reach at Tenmile Slough, TS30L, in 2022. 2) Planning for future reaches of the project based on USACE implementation schedule and the availability of project funds and local cost-share match.	Key Advances: TS30L Design Completed; Admin draft #1 CEQA prepared; rights-of-entry secured for geotechnical explorations at Shima Tract (RD 2115) and Duck Creek (Van Buskirk Park - RD 404); Shima Tract hydraulics reviewed and USACE updating; DWR completed phase 1 env site assessment at 14-mile slough mitigation site. Upcoming: TS30L amendment for mitigation site detail and permitting for CA Dept of Fish and Wildlife and Regional Water Quality Control Board; USACE mitigation plan identification; Obtain real estate rights for TS30L construction by Oct 1, 2023; Kickoff construction with tree/veg removal in Fall 2023 and heavy civil construction start in spring 2024 through 2025; Shima Tract geotechnical reporting due to non-Federal Sponsor in January 2023; Other reaches will go into design upon completion of geotechnical basis of design. Misses: Construction start delayed due to incomplete mitigation plan; local partners (SJAFCA and DWR) working with USACE on plan ahead. Risks: Availability of and acquisition of mitigation sites; USACE design resources; SJAFCA program funding; USACE re-initiation of consultation with US Fish and Wildlife Service.		
	Priority Action 2 Red 79%	Complete construction of the Smith Canal Gate Structure to achieve flood risk reduction for the area by 2022 and submit Letter of Map Revision (LOMR) package to FEMA by 2023.	Key Advances: In-water gate structure made significant progress in 2022. Upcoming: Construction completion of project anticipated in 2023 Misses: Construction of the gate structure saw slower than expected progress due to several in-situ conditions, constructability challenges, and technical evaluations; regulatory constrains limited further advancement at the end of the 2022 construction season. Risks: Regulatory constraints and continued in-situ uncertainty.		
	Priority Action 3 Green 88%	Complete submittal request to USACE for credit associated with Smith Canal Gate Project construction within six months of project close-out.	Key Advances: As costs are incurred, credit requests are submitted to USACE; SJAFCA and DWR have submitted \$40.5M to date. Upcoming: Continue to submit credit requests		
	Priority Action 13 Green 55%	Formulate an assessment district for the local share of the Lower San Joaquin River Project by August 2023.	Key Advances: Executed MOU in July 2022 with SJCFC&WCD for combined capital and O&M assessment. Upcoming: Assessment engineering ongoing; draft report near completion; outreach in full planning; target AD formation by Aug 2023. Risks: Assessment methodology and associated rates to implement program may not be acceptable to community/failure of an assessment vote.		

		Reduce and Manage the Region's Flood Risk		ATTACHMENT 1
Goals	Plan for and Implement System Resiliency Drive for Operational Transparency		Facilitate Funding Structures that are Most Beneficial to Local Interests Promote Public and Institutional Awareness Support Appropriate, Mutually Beneficial Partnerships	
Objectives	Deliver projects and programs consistent with State and Federal regulatory requirements.	Identify and implement local and/or regional funding mechanisms; maximize State and Federal investment in the region for flood risk reduction efforts.	Identify and include system resiliency needs in project development.	Pursue multi-benefit approaches to incentivize investments from non-traditional funding sources and promote system resiliency and resource mitigation.
	Develop public outreach programs to maximize public and institutional awareness and involvement.	When appropriate, optimize partnerships and integrate flood risk reduction efforts with local maintaining agencies.	Monitor potential impacts to the system and advocate for Agency's needs.	

Priority Actions		Accomplishments, Misses & Upcoming Key Activities as of November 2022		
Mossdale Tract Program	Priority Action 4 Green 100%	Support USACE in initiating Phase 2 of the Federal Lower San Joaquin River Feasibility Study for Mossdale Tract through annual budget cycle data requests, appropriation processes, and congressional outreach.	Key Advances: \$200,000 was made available in FY 22 for USACE to develop and sign feasibility cost share agreement (FCSA), Project Management Plan (which includes study scope, schedule and budget) and Review Plan; FCSA signed in Sept 2022. Upcoming: Alternatives Milestone Meeting scheduled for mid-January 2023. Ongoing work to complete project management plan (PMP), review plan, and milestone meeting materials by end of December 2022.	
	Priority Action 5 Yellow 46%	Complete design and environmental documentation toward the implementation of the UFRR recommended plan for Mossdale Tract: complete CEQA documentation and 65% designs by December 2023. Complete conceptual designs of restoration by December 2022.	Key Advances: DWR/SJAFCA agreed on an updated UFRR grant, releasing remaining funding under \$10M UFRR grant for CEQA and preliminary design. Advanced funding provided by DWR and extension to work given through Feb 2023. CEQA and design efforts continue to advance. Upcoming: 35% levee designs completed in Dec 2022; administrative (non-public) draft CEQA and 35% restoration due in February 2023. Misses: Timeline limitations always communicated as very challenging given amount of work required. Risks: Funding and timeline subject to Prop 1E limitations; without additional time under the grant, work toward the project will stall until other arrangements are made.	
	Priority Action 6 Yellow 51%	Achieve 200-year level of protection in the Mossdale Tract Area by 2028 and present adequate progress reporting until improvements are complete.	Key Advances: Project designs advance through the UFRR grant; USACE kickoff feasibility study momentum for potential Fed interest/investment. Upcoming: Continue coordination with member agencies on status and opportunities associated with adequate progress; working with multiple agencies on legislative changes. Misses: Feasibility of an overlay assessment district at \$7.5M/yr resulting in lack of identified funding. As a result adequate progress report cannot be Risks: Member agency ability to validate ULOP; project development milestones and funding; legislative change uncertainty and timeline.	
	Priority Action 7 Green Continuous	Refine project development plans considering emerging climate information in accordance with the Mossdale Climate Change Adaptation Policy.	Key Advances: CVFPP defines ranges of climate possibilities for region; Consideration of climate scenarios continued component of planning. Upcoming: Staff considering implications of climate change on N/C Stockton and development of similar adaptation policy. Risks: Range of climate change hydrology significant and high-end estimate would require a much broader regional flood approach, which staff currently considering with help of RFMP funding; urban levee limitations on size to pre-plan for possible climate changes (i.e. can't make taller/wider levees due to limitations on adjacent homes).	

Goals	Plan for and Implement System Resiliency Drive for Operational Transparency		Facilitate Funding Structures that are Most Beneficial to Local Interests	Promote Public and Institutional Awareness Support Appropriate, Mutually Beneficial Partnerships
Objectives	Deliver projects and programs consistent with State and Federal regulatory requirements.	Identify and implement local and/or regional funding mechanisms; maximize State and Federal investment in the region for flood risk reduction efforts.	Identify and include system resiliency needs in project development.	Pursue multi-benefit approaches to incentivize investments from non-traditional funding sources and promote system resiliency and resource mitigation.
	Develop public outreach programs to maximize public and institutional awareness and involvement.	When appropriate, optimize partnerships and integrate flood risk reduction efforts with local maintaining agencies.	Monitor potential impacts to the system and advocate for Agency's needs.	

Priority Actions		Accomplishments, Misses & Upcoming Key Activities as of November 2022	
Overall Program Initiatives	Priority Action 8 Yellow 54% <i>Complete formation of the funding program including an Overlay Assessment and Enhanced Infrastructure Financing District for the Mossdale Tract Area by August 2022.</i>	Key Advances: EIFD in place; Update on DIF complete; Work toward a reduced OAD advancing for FY2023/24. Upcoming: EIFD: working with auditor controller's office to commence receiving increment in FY22/23; OAD evaluation. Misses: OAD delayed to late 2023 for FY 24/25 roll for team to rework overall financing and OAD amounts. Risks: OAD passage remains uncertain.	
	Priority Action 9 Green Continuous <i>Update capital improvement plans throughout project life-cycle, supporting annual budgeting and out-year planning.</i>	Key Advances: Support for FY22/23 completed; Strat Plan update in Mar 2022, published Sept 2022; planning ongoing for assessment formation efforts; staff workshops on organizational and strategic planning for long-range opportunities and threats occurred in April and October. Upcoming: FY23/24 annual planning/budget; assessment formation in Mossdale and N/C Stockton by Aug 2023; continue staff workshop in Dec.	
	Priority Action 10 Green Continuous <i>Develop and implement a public awareness and outreach program that supports SJAFCA's mission, goals, and objectives through targeted messaging and that leverages partnerships with member agencies.</i>	Key Advances: Quarterly program status updates, first published in July; Outreach coordination for SCG construction; Outreach/stakeholder engagement for Mossdale assessment. Upcoming: Next quarterly program status update coming soon; engagement plan for N/C Stockton assessment.	
	Priority Action 11 Green Continuous <i>Engage and nurture strategic relationships with local, state and federal officials, business community, non-governmental organizations and other stakeholder groups</i>	Key Advances: Engagement with DWR at Leadership Coordination Meeting; engage USACE at Project Leadership Boards (Construction & Feasibility Study) and with Commander; RD-focused quarterly outreach meetings; ED participation in panels (e.g. DWR's climate resiliency panel); Member agency principles meetings.	
	Priority Action 12 Yellow 35% <i>Advance actions identified in Regional Flood Management Plan (RFMP) by working with local, State and Federal partners, through initiatives such as the State's Water Resilience Portfolio Initiative 25.4; scope regional efforts identified in the RFMP and chart path forward and goals for:</i> 1) Paradise Cut Bypass Expansion and South Delta Restoration Project - complete preferred project alternative by June 30, 2022. 2) Support local effort to evaluate water storage uses, including flood risk reduction and water supply, in close partnership with SJ County and local water districts.	Key Advances: Input on Lower San Joaquin River and Delta South region to DWR as released in their draft 2022 CVFPP update; RFMP Phase 4 funding agreement with DWR in May 2022; Additional \$100k funding from DWR to support State's Water Resilience Portfolio initiative 25.4. Upcoming: RFMP work will advance items identified in RFMP and plan for 2027 version, including climate change adaptation. Paradise Cut funding agreement with state, plan for execution in early 2023 and allows advancement of project alternative evaluation and selection over 18-24 months. Misses: Approach/plan for preferred PC alternative transitioned to leverage DWR involvement and funding; agreement taken longer than anticipated to put in place and requires more in-depth evaluation than previously anticipated. Risks: Timeline for DWR agreement execution, scope, and resource development; as with any alternative analysis, evaluation/analysis results remain uncertain.	

¹SWR 25.4: Update and refine the regional flood management strategy in the Central Valley Flood Protection Plan to account for the projected impacts of climate change in order to protect vulnerable communities and infrastructure and restore floodplains along the San Joaquin River and its tributaries.

Supplemental Materials

Agenda Item 5.3

Attachments 1-3

December 15, 2022

TO: Board of Directors, San Joaquin Area Flood Control Agency

FROM: Scott L Shapiro, General Counsel

SUBJECT: **PUBLIC BOARD MEMBER SELECTION PROCESS**

RECOMMENDATION

It is recommended that the Board of Directors instruct staff to initiate the process for selection of the public Board Member using the same process as the previous time.

DISCUSSION

Background

On November 16, 2017, the Board adopted SJAFCA Resolution No. 17-20 approving the Amended and Restated Joint Exercise of Powers Agreement (JEPA). The JEPA states that the SJAFCA Board will include one member of the public, who shall reside or work within the boundaries of the Agency, appointed by a simple majority of the other Board members for a term as specified in the Bylaws.

On May 29, 2018, the Board adopted SJAFCA Resolution No. 18-13 approving the revision of the Agency's Bylaws. The Bylaws state that the Board will consider a policy for the appointment of a Public Member of the Board of Directors.

On July 19, 2018, the Board adopted SJAFCA Resolution No. 18-14 approving the Policy on the Selection of Public Board Members (Exhibit A). The Board initiated the selection process for an initial term of one year and six months, to include the remainder of 2018 and one year following until March of 2020.

On September 7, 2018, Public Notice was given indicating that SJAFCA was soliciting applications from qualified candidates for appointment to fill the Board Vacancy of a Public Board Member. Only one application was received in response to this Public notice.

On September 20, 2018 at the regular SJAFCA Board meeting, further guidance on selection of the Public Board Member was requested by staff. As a result of this guidance, a recruiting flyer for the position of a Public Board Member was created and distributed on September 27, 2018, to each of the member agencies. Public Notice was given on October 29, 2018, and again on November 5, 2018. These recruiting efforts resulted in the receipt of seven (7) applications.

On February 7, 2019 the Board adopted Resolution No. 19-07 approving the selection and confirmation of Mike Morowit as the Public Board Member for a two-year term, despite the earlier resolution which anticipated a one-year term ending at the beginning of 2020.

At its meeting on December 17, 2020, the Board directed staff to initiate the process for selection of the public Board Member using the same process as the previous time. Following an extensive recruitment process, the incumbent being the only applicant, the Board appointed Mr. Mike Morowit to serve in the Public Member capacity until March 2023.

AGENDA ITEM 5.3

Present Situation

Mr. Morowit was recently elected to the Manteca City Council for a four-year term. Since, by Policy, the Public Member must not be an elected official, and thereby disqualifying the incumbent from continuing to fill that role, the Board is requested to direct staff to initiate a recruitment process to fill the vacant Public Member position. Under the rules previously adopted, staff will initiate a process for the advertising, evaluating, and selecting a public Board Member.

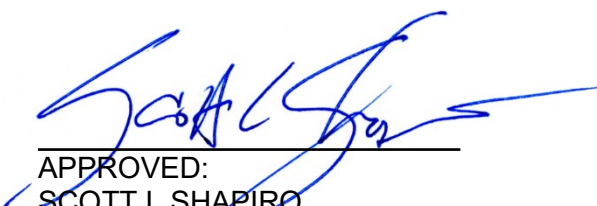
If directed to proceed with recruitment process, staff will advertise the recruitment opportunity for about 30 days at various outlets soliciting applications from qualified candidates for appointment to fill the vacant Public Board Member position. Here is a breakdown of some of the places where staff may post the recruitment announcement:

- SJAFCA Website
- Manteca Bulletin ad from 12/30/22-1/8/23
- Stockton Public Library through their online community announcement edition
- Clerks of all member agencies will be requested to publicize the recruitment

Staff will apprise the Board of the progress of the recruitment process at its January 2023 meeting and seek further direction at that time.

RECOMMENDATION

It is recommended that the Board of Directors instruct staff to initiate the process for selection of the public Board Member using the same process as in the previous years.



APPROVED:
SCOTT L SHAPIRO
GENERAL COUNSEL

ATTACHMENTS:

1. Exhibit "A" Policy on the Selection of Public Board Members (July 19, 2018)
2. Recruitment Flyer

EXHIBIT “A”

Policy on the Selection of Public Board Members (July 19, 2018)

It is the policy of the Board of Directors of the San Joaquin Area Flood Control Agency (SJAFCA) to advertise for and appoint a member of the public for the purpose of better engagement with the public and increasing the knowledge and perspectives brought to the meetings of the Agency. In selecting public Board Members, the agency will be guided by the following principles and processes:

- By January 15 of each even numbered year (starting with 2020), the staff shall post a description of the activities of the agency and an application for use by prospective public members. The deadline for the application shall be two to three weeks after the first Board meeting of that year.
- At the first Board meeting of the year, the staff shall educate the Board Members of the process to select a public Board Member, and shall encourage Board Members to disseminate information on the process.
- The staff shall review all applications and make those applications available to the Board Members for review.
- The staff shall arrange a 30 minute interview with each applicant, which shall be video-taped and made available to the Board Members. The purpose of the interview is to give Board Members better perspective on the qualifications of the applicant for the position.
- The qualifications for the public Board Member include the following:
 - The applicant cannot be an elected official;
 - The Board will consider whether the applicant has expertise such as engineering, legal, or land use planning, but the applicant need not have that experience;
 - The applicant must live, or work, within San Joaquin County;
The applicant may be the sitting public Board Member;
 - The applicant may not be an employee of or consultant to SJAFCA;
The applicant must agree to follow all legal requirements for members of public boards including the filing of Form 700s, compliance with all required training, and compliance with SJAFCA's conflict of interest policy; and
 - The public member will receive no compensation for the position but will be reimbursed for reasonable expenses consistent with the treatment of the other members of the Board.
- The Board shall place appointment of the public member on its March agenda and shall use good faith in making an appointment for a two year term at that meeting.
- In order to ensure fairness and compliance with the Brown Act, no applicant may meet with more than three sitting Board Members.



RECRUITING NOW!

Application Deadline:

TBD

The San Joaquin Area Flood Control Agency is now accepting applications from qualified candidates for appointment to the Board of Directors to fill the position of a Public Board Member.

Interested?

For eligibility information and to download application please visit:

www.SJAFCA.com

**End of
Agenda Packet**