

BOARD OF DIRECTORS

<u>City of Stockton</u> Kimberly Warmasley Dan Wright Alt. Michael Blower	<u>Public Member</u> Steve DeBrum	<u>San Joaquin County/SJCFCWCD*</u> Paul Canepa, Vice-Chair Tom Patti Alt. Robert Rickman
<u>City of Manteca</u> Gary Singh Charlie Halford Alt. Mike Morowit	<u>Executive Director</u> Chris Elias	<u>City of Lathrop</u> Paul Akinjo, Chair Diane Lazard Alt. Jennifer Torres-O'Callaghan
*San Joaquin County Flood Control and Water Conservation District		

BOARD MEETING
Lathrop City Hall
Council Chambers
390 Towne Centre Dr., Lathrop, CA
Thursday, June 20, 2024, 5:30 PM*

***PLEASE NOTE:** *There will be a **Closed Session** commencing at **5:30 p.m.** Following the Closed Session **the open session will reconvene at 6:00 p.m.**, or **immediately following the Closed Session**, whichever is later.*

Note: *Board Member Kimberly Warmasley will be joining via teleconference at the following location, which is open to the public:*
Business offices/Hilton Washington DC
1919 Connecticut Ave Northwest
Washington, DC 20009

1. CALL TO ORDER

2. CLOSED SESSION

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

2.2) ANTICIPATED LITIGATION Pursuant to Government Code Section 54956.9 (d)(2): Two Cases

RECONVENE at 6:00 P.M.*
REPORT OUT ON CLOSED SESSION

3. ROLL CALL

4. PLEDGE TO FLAG

5. PUBLIC COMMENTS

6. CONSENT ITEMS

6.1) Approve Minutes from May 16, 2024, Board Meeting

7. PUBLIC HEARINGS

7.1) Public Hearing regarding Mossdale Tract Assessment District

8. ORAL REPORT FROM EXECUTIVE DIRECTOR

8.1) Staff request to move approval of Agency budget for FY 2024/25 to July 2024 Board Meeting

9. BOARD QUESTIONS, COMMENTS, ACTIONS

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 6.1

**MINUTES
SAN JOAQUIN AREA FLOOD CONTROL AGENCY
BOARD MEETING OF MAY 16, 2024**

STOCKTON, CALIFORNIA

1. CALL TO ORDER / ROLL CALL 10:01 AM

Roll Call

Present:

Director Akinjo

Director DeBrum

Director Halford

Director Patti

Director Singh

Director Warmsley

Alt. Director Blower

Alt. Director Torres-O'Callaghan

Absent:

Director Canepa

Director Lazard

Director Wright

Director Blower was not present at Roll Call but arrived at 10:02 AM.

2. PLEDGE TO FLAG 10:02 AM

General Counsel Austin Cho brought to the Board's attention that there is an urgent need for the Board to meet in closed session today to discuss and possibly take action on an item that is not currently on the agenda.

This closed session item would be a conference with legal counsel pursuant to the Government Code Section 54956.9 (d)(2) ANTICIPATED LITIGATION (One Case) over existing facts and circumstances that are currently not known by potential plaintiffs under Government Code Section 54954.2 (b)(2), the Board may add an item to the agenda after it makes the determination by at least a two-thirds vote, 6 of the 8 members present, that there is a need to take immediate action, and that item came to the attention of the agency after the agenda had been posted.

The recommended motion would be to add item 8.2 to today's agenda for a closed session, for anticipated litigation in one case over existing facts and circumstances that are not currently known by potential plaintiffs.

Due to an error in numbering the added agenda item will be 10.2, not 8.2.

Motion: Approve adding Agenda Item 8.2 for a closed session, for anticipated litigation in one case over existing facts and circumstances that are not currently known by potential plaintiffs

Moved by: Director Blower, Seconded by Director Halford

Vote: Motion carried 8-0

Yes: Director Akinjo, Director DeBrum, Director Halford, Director Patti, Director Singh, Director Warmsley, Alt Director Blower, Alt Director Torres-O'Callaghan

Absent: Director Canepa, Director Lazard, Director Wright

3. PUBLIC COMMENTS 10:05 AM

None

4. CONSENT ITEMS 10:05 AM

4.1) Approve Minutes from April 18, 2024, Board Meeting

Motion: Approve Minutes from April 18, 2024, Board Meeting
Moved by: Director Singh, Seconded by Director Warmesley
Vote: Motion carried 8-0
Yes: Director Akinjo, Director DeBrum, Director Halford, Director Patti, Director Singh, Director Warmesley, Alt Director Blower, Alt Director Torres-O'Callaghan
Absent: Director Canepa, Director Lazard, Director Wright

5. NEW BUSINESS 10:07 AM

5.1) Public Hearing to approve the Annual Engineer's Report for the Operations & 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 2024/2025. *This Agenda Item will be Deferred until July's Board Meeting.*

5.2) Approve Term Sheet for purchase of excess federal credits from the Sutter Butte Flood Control Agency by the San Joaquin Area Flood Control Agency

Motion: Approve Term Sheet for purchase of excess federal credits from the Sutter Butte Flood Control Agency by the San Joaquin Area Flood Control Agency
Moved by: Director Halford, Seconded by Director Warmesley
Vote: Motion carried 8-0
Yes: Director Akinjo, Director DeBrum, Director Halford, Director Patti, Director Singh, Director Warmesley, Alt Director Blower, Alt Director Torres-O'Callaghan
Absent: Director Canepa, Director Lazard, Director Wright

BOARD QUESTIONS/COMMENTS:

- Director DeBrum, Director Warmesley, Director Akinjo shared comments for all in the meeting to hear.

5.3) Authorization to execute irrigation agreement and right-to-enter and construct improvements between Elmwood Partners L.P. and San Joaquin Area Flood Control Agency for staging area in support of the Lower San Joaquin River Reach TS30L levee improvement

Motion: Authorize to execute irrigation agreement and right-to-enter and construct improvements between Elmwood Partners L.P. and San Joaquin Area Flood Control Agency for staging area in support of the Lower San Joaquin River Reach TS30L levee improvement
Moved by: Director DeBrum, Seconded by Director Warmesley
Vote: Motion carried 8-0

Yes: Director Akinjo, Director DeBrum, Director Halford, Director Patti, Director Singh,
Director Warmesley, Alt Director Blower, Alt Director Torres-O'Callaghan
Absent: Director Canepa, Director Lazard, Director Wright

BOARD QUESTIONS/COMMENTS:

- Director DeBrum and Director Warmesley shared comments for all in the meeting to hear.

5.4) Authorize the Executive Director to negotiate and execute Amendment No. 6 to the consultant services agreement with Bender Rosenthal Incorporated for land acquisition of mitigation parcels identified in the compensatory mitigation plan for the San Joaquin River Basin, Lower San Joaquin River, California Project

Motion: Authorize the Executive Director to negotiate and execute Amendment No. 6 to the consultant services agreement with Bender Rosenthal Incorporated for land acquisition of mitigation parcels identified in the compensatory mitigation plan for the San Joaquin River Basin, Lower San Joaquin River, California Project

Moved by: Director Halford, Seconded by Director DeBrum

Vote: Motion carried 8-0

Yes: Director Akinjo, Director DeBrum, Director Halford, Director Patti, Director Singh,
Director Warmesley, Alt Director Blower, Alt Director Torres-O'Callaghan

Absent: Director Canepa, Director Lazard, Director Wright

BOARD QUESTIONS/COMMENTS: Director Akinjo shared comments for all in the meeting to hear.

6. BRIEFINGS 10:56 AM

6.1) Relocation of Agency – Move out date is June 30.

6.2) Mossdale Tract Assessment District Oral Update – Kim Floyd gave an update.

7. ORAL REPORT FROM EXECUTIVE DIRECTOR 10:57 AM

7.1) Spring advocacy trip to Washington, D.C.- Deferred until July's Board Meeting.

8. BOARD QUESTIONS, COMMENTS, ACTIONS 10:59 AM

- Director Warmesley and Director Blower shared comments for all in the meeting to hear.

9. COUNSEL REPORT 10:59 AM

None

10. CLOSED SESSION 11:00 AM

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

Agenda item 10.2 Added to the Agenda by Board vote.

10.2) ANTICIPATED LITIGATION Pursuant to Government Code Section 54956.9(d)(2): One Case over existing facts and circumstances that are not currently known by potential plaintiffs.

Returned from Closed Session: **11:38 AM**

Report Out: Board considered two items. No reportable actions taken on either item.

11. OPEN SESSION

None

12. ADJOURNMENT 11:38 AM

The meeting adjourned at 11:38 AM. The next meeting is scheduled for June 20, 2024 at 6 PM at Lathrop City Hall.

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

May 16, 2024, SJAFCA Meeting Minutes

Agenda Item 7.1

June 20, 2024

TO: San Joaquin Area Flood Control Agency Board of Directors

FROM: Chris Elias, Executive Director
Seth Wurzel, Larsen Wurzel & Associates, Inc.

SUBJECT: **PUBLIC HEARING: MOSSDALE TRACT AREA OVERLAY ASSESSMENT
DISTRICT PROPOSITION 218 BALLOT PROCEEDING AND ASSESSMENT
DISTRICT FORMATION**

RECOMMENDATION

Upon conclusion of the public hearing, it is recommended the Board of Directors of the San Joaquin Area Flood Control Agency (SJAFCA) adopt Resolution No. 24-19 that;

1. Receives and files Addendum No. 1 to the Preliminary Engineer's Report; and,
2. Directs the consulting team consisting of the assessment engineering firm, Willdan Financial Services (WFS), management consulting firm, Larsen Wurzel & Associates, Inc. (LWA), and public outreach firm, Kim Floyd Communications (Floyd), collectively the "OAD Contractors", to complete the ballot tabulation for the formation of the proposed Mossdale Tract Area Overlay Assessment District (OAD), and present the results at the Board's July 18, 2024, regular meeting.

SUMMARY

The Mossdale Tract OAD is the name of the proposed assessment district being advanced to help finance the local cost-share of improvements needed to provide an Urban Level of Flood Protection ("ULOP"). The ULOP is also referred to as 200-Year level of flood protection for the Mossdale Tract Area. The Mossdale Tract Area stretches from Weston Ranch in south Stockton through the City of Lathrop to the western portion of the City of Manteca. The purpose of the recommended actions is for the Board to conclude the Proposition 218 Ballot Proceeding process and direct the next step in the process which is to tabulate all ballots received prior to the close of public hearing.

DISCUSSION

Background

In February 2018, SJAFCA, as part of the reformulation of the Agency's Joint Exercise of Powers Agreement to include the Cities of Lathrop and Manteca as members of the Agency, assumed the role of Local Flood Management Agency (LFMA) as part of the Mossdale Tract Area's Urban Level of Flood Protection (ULOP) efforts. In that role, SJAFCA is advancing a funding program to generate the revenue needed for cost-share arrangement to improve the levee system so it meets the Urban Levee Design Criteria and can achieve ULOP for the Mossdale Tract Area.

In February 2018, after receiving a briefing on the Mossdale Area Program, the Board authorized an Agreement with Larsen Wurzel & Associates, Inc. (LWA) to assist with Implementation of the Funding Program. The scope of that contract with LWA included assistance with the implementation of the Overlay Assessment District. In March 2019, the Board received an update on the Mossdale Tract Program and as part of that update, approved a conceptual scope of work for Assessment Engineering services and authorized staff to issue a request for proposals (RFP). Upon completion of the RFP process, in September 2019, the Agency engaged Willdan Financial Services (WFS) to provide Assessment Engineering Services for a proposed Mossdale Tract Area Overlay

**Public Hearing: Mosssdale Tract Area Overlay Assessment District (OAD) Proposition 218
Ballot Proceeding and Assessment District Formation**

Assessment for Urban Level of Flood Protection related improvements and Services.

Since September 2019, staff, in coordination with LWA and WFS, have been working to implement the funding program, maintain Adequate Progress with respect to the financing plan for the Mosssdale Program all while at the same time evaluating feasible levels of assessment. Concurrently, SJAFCA has been advancing ULOP since that time on multiple fronts.

- **Local Funding:** To generate funding for the improvements SJAFCA has approved and implemented the Mosssdale Tract Area Regional Urban Level of Flood Protection Levee Impact Fee Program (Regional Levee Fee) in coordination with its member Land Use Agencies. In addition, SJAFCA coordinated with its member land use Agencies to form the Mosssdale Tract Enhanced Infrastructure Financing District (EIFD).
- **State Study & Funding:** SJAFCA applied for and received a \$5.0 million grant at 50% cost share from the State through its Urban Flood Risk Reduction Grant Program. This grant funded a Feasibility Study to evaluate options with State interest and advance Preliminary Design and Environmental Review of a preferred alternative. This partnership has led to an amendment to the initial \$5 million grant Agreement with the Department of Water Resources. It has also led to a State Budget allocation with proposed addition of \$75 million to advance construction of a portion of the preferred project alternative.
- **Federal Study & Funding with State:** SJAFCA has executed a Feasibility Cost Share Agreement with the United States Army Corps of Engineer's (USACE) and the State of California which is advancing a Study to determine Federal Interest in flood risk reduction in the basin. This is the first step in the process that can lead to the USACE constructing improvements at a 65% cost share, with the State and SJAFCA paying the remaining 35% of the project's construction.

Ultimately, to achieve 200-Year flood protection, SJAFCA will be responsible for the local share of improvements. The proposed OAD is needed to ensure that SJAFCA can fully fund its share of the cost of any improvements to be implemented by USACE in partnership with the State and, if needed, construct any remaining improvements needed to meet the state-mandated flood protection standard.

Present Situation

On April 18, 2024, the Board Adopted Resolution No. 24-07 which started the formation process of the OAD Assessment District by:

- Declaring the Board's intention to form the special benefit assessment district and to levy and collect assessments;
- Preliminarily approving of the Engineer's Report and Assessment Diagram and making them available for public inspection; and,

AGENDA ITEM 7.1

**Public Hearing: Mossdale Tract Area Overlay Assessment District (OAD) Proposition 218
Ballot Proceeding and Assessment District Formation**

- Setting a noticed public hearing at 6:00 PM on June 20, 2024 at the Lathrop City Council Chambers and conducting a property owner protest ballot proceeding.

On April 18, 2024, the Board also adopted Resolution No. 24-08 which adopted procedures for the protest ballot proceeding consistent with the provisions of Article XIII D of the California Constitution, the Proposition 218 Omnibus Implementation Act, Government Code 53750 et seq., and the Benefit Assessment Act of 1982, Government Code 54703 et seq.

Staff and the OAD Contractors have taken the following actions prior to and since April 18th:

- Mailed a newsletter and a Frequently Asked Questions letter to all property owners on April 19, 2024 and April 26, 2024 respectively;
- Conducted outreach to property owners that included five community meetings, approximately 30 presentations to community organizations and other public agencies, social media outreach, hosting a hotline and a dedicated email address, as well as an online assessment “calculator;” and,
- Prepared and directed the mailing of notices of the public hearing and a ballot to each property owner of record within the OAD. The notice and ballot mailing took place on May 3, 2024, which met the required minimum 45-day period before the June 20, 2024 public hearing.
- Issued a small number of revised ballots where communications with property owners revealed any data errors.

Property owners have had the opportunity to return their ballots by postage pre-paid mail or in person at Lathrop City Hall at 390 Towne Centre Drive in Lathrop. Property owners also have the opportunity to return their ballots prior to the close of the public hearing on June 20, 2024.

Addendum No. 1 to the Preliminary Engineer's Report

During the outreach process for the Engineer's Report, the OAD Consulting team received inquiries from property owners regarding their assessments including inquiries from property owners with parcels classified as Planned Development. Upon further review of the approved Preliminary Engineer's Report, WFS identified that additional information and clarification was needed to ensure that the approach for calculating the proportional special benefit for parcels within this land use category was documented more fully within the Engineer's Report. In an effort to provide full transparency and ensure this information is included within the administrative record for the formation of the assessment district, WFS has prepared Addendum No. 1 to the Preliminary Engineer's Report (Attachment 1). The addendum documents the following with respect to planned development parcels:

AGENDA ITEM 7.1

**Public Hearing: Mossdale Tract Area Overlay Assessment District (OAD) Proposition 218
Ballot Proceeding and Assessment District Formation**

- The determination of Planned Development parcels;
- The determination of the estimated square foot of the identified Planned Development parcels; and
- The calculation of the Assessment Rate for each category of Planned Development parcels.

With respect to the assessments for Planned Development parcels, it is important to note that Addendum No. 1 does not change the methodology for the calculation of assessments. Addendum No. 1 merely ensures that the methodology is better documented within a Final Engineer's Report that would be approved by the Board barring a majority protest of property owners through the ballot proceeding process. Furthermore, there is no adverse impact to property owners with respect to the amount of an assessment as there is no scenario where assessments have been raised on Planned Development parcels relative to what was originally reflected on ballots mailed to property owners at the start of the 45-day notice period. Indeed, all revised ballots were for lower assessments, or were capped at the initial assessment amount to ensure consistency with the Proposition 218 notice requirements.

Upon the conclusion of the public hearing, as part of the recommended approval of the attached resolution (Attachment No. 2), staff requests that the Board receive and file Addendum No. 1 as part of the Administrative Record for this process.

Public Hearing

The SJAFCA Board is requested to open the public hearing to receive public testimony, input, and comments on the proposed assessment. Further, if requested, staff can issue replacement ballots for property owners who have marred or misplaced their ballots or wish to change any prior vote. Prior to the close of the public hearing, the Board shall make a final call for the casting of all ballots. After the close of the public hearing, SJAFCA Staff requests that the SJAFCA Board adopt the attached resolution (Attachment 2) directing the OAD Contractors to complete the balloting tabulation and present the results at the Board's July 18, 2024, regular meeting. At that time the Board will be able to report the official results to the public.

If the weighted votes in opposition to the assessment district formation outweigh those in favor, the Board cannot proceed with the assessment district formation and the assessment district formation process ceases. However, if the weighted votes in favor of the assessment district formation outweighed those in opposition, the Board may move forward with the formation of the district. To do this the Board would adopt a resolution forming the district and approving a Final Engineer's Report.

AGENDA ITEM 7.1

**Public Hearing: Mossdale Tract Area Overlay Assessment District (OAD) Proposition 218
Ballot Proceeding and Assessment District Formation**

Ballot Tabulation

Pursuant to attached resolution (Attachment 2), tabulation of the ballots will be conducted by the OAD Contractors and will take place at Lathrop City Hall and be subject to public observation. Tabulation will commence no earlier than 8:00 AM on June 21, 2024, and continue during each business day until it is complete. It is expected to take one day to complete and certify the tabulation. Attachment 3 to this Staff Report provides the detailed Ballot Process & Procedures that will be followed by the OAD Contractors for the ballot tabulation.

Next Steps

Following the adoption of the attached resolution, LWA will conduct the Ballot Tabulation consistent with Ballot Tabulation Process & Procedures included as Attachment 3.

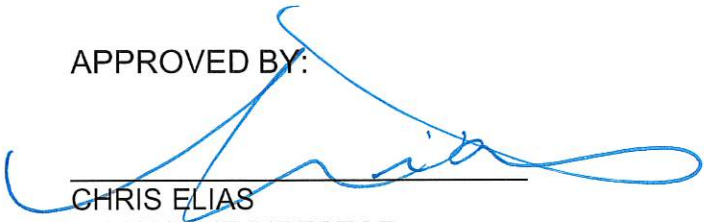
FISCAL IMPACT

There is no fiscal impact from the Board's approval of the recommended action as the actions do not obligate SJAFCA to incur any additional costs. SJAFCA's cost associated with the Proposed OAD formation were approved as part of the FY 2023/24 CIP Budget for Mossdale Tract Program and services contracts with WFS, LWA and Kim Floyd Communications. There is no net budgetary impact from the Board's approval of staff's recommendation.

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

Attachments:

1. Addendum No. 1 to the San Joaquin Area Flood Control Agency Preliminary Engineer's Report Formation of Mossdale Tract Overlay Assessment District (Mossdale OAD) prepared by Willdan Financial Services dated April 18, 2024

AGENDA ITEM 7.1

**Public Hearing: Mossdale Tract Area Overlay Assessment District (OAD) Proposition 218
Ballot Proceeding and Assessment District Formation**

2. Resolution Receiving Addendum No. 1 to the Preliminary Engineer's Report for the Mossdale Tract Area Overlay Assessment District (OAD) and Directing Contractors complete the Ballot Tabulation for the Formation of the Proposed OAD and present the results at the July 18, 2024, Board Meeting
3. San Joaquin Area Flood Control Agency Mossdale Tract Overlay Assessment District (OAD) - Ballot Tabulation Process & Procedures, Prepared by Larsen Wurzel & Associates, Inc.

**ADDENDUM NO. 1 TO
FISCAL YEAR 2024/2025
MOSSDALE TRACT OVERLAY ASSESSMENT DISTRICT
ENGINEER'S REPORT**

ADDENDUM INTRODUCTION

This addendum updates the Fiscal Year 2024/2025 Engineer's Report (the "Fiscal Year 2024/2025 Report") for the Mossdale Tract Overlay Assessment District ("District") dated March 27, 2024, prepared by Willdan Financial Services on behalf of the San Joaquin Area Flood Control Agency.

The purpose of this addendum is to document the following:

- Determination of Planned Development parcels;
- Determination of the estimated Sq. Ft. of the identified Planned Development parcels; and
- Calculation of the Assessment Rate for each category of Planned Development.

ADDENDUM CHANGES

1. On page numbered 28 of the Fiscal Year 2024/2025 Report, the first paragraph is amended to read:

"Flood damages to structures and their contents are calculated for each benefiting parcel in the District using the actual structural square footage, up to one hundred thousand square feet (100,000 sf), for the first and second stories of residential structures, the first story of commercial, industrial, and agricultural structures, and appropriate structure value and depth-percent damage relationships for the particular land use. For Planned Residential, Planned Commercial, and Planned Industrial properties (collectively "Planned Development" properties) the assigned structure square footages were initially based on Development Absorption Projections (DAP) referenced in the Mossdale Tract Area Regional Urban Level of Flood Protection Levee Impact Fee Final Nexus Study, dated November 8, 2018. The assigned square footages were further updated based on the Draft Technical Memorandum for the SJAFCA Mossdale Tract Area Financing Plan Implementation, Updated Development Absorption Projections dated May 29, 2020 and further reviewed based on input by SJAFCA member land use agency community development department staff.

Upon review of the overall benefiting parcels within the District, it has been determined that less than five-tenths of a percent (0.47%) of the parcels have structures that exceed 100,000 sf and the potential flood level reduction for these parcels can vary significantly. Therefore, the Assessment Engineer has determined that the overall potential damages to structure and contents for square footages in excess of 100,000 sf becomes less a function of the building square footage and more a function of flood depth reduction and it

is reasonable and appropriate to limit the square footage used to calculate proportional special benefit for structure and content damages to one hundred thousand square feet.”

2. On page numbered 28 of the Fiscal Year 2024/2025 Report, the second paragraph, is amended to read:

“Structure size was determined for each benefiting parcel within the boundaries of the District based on data obtained from the County Assessor’s parcel data either directly or through third party sources. For the Planned Development properties the assigned structure square footage is based upon the Development Absorption Projections previously referenced. For those properties identified with a structure or structures, based on either aerial imagery, or assessed improvement values being assigned by the County Assessor, for which no specific structure detail information was available, the footprint of the structure or structures were measured by Willdan using GIS and available aerial imagery.”

3. On page numbered 31 of the Fiscal Year 2024/2025 Report, the paragraph that follows is to be inserted as the second paragraph and example of the “Total Proportional Flood Damage Reduction Benefit” sub-section after the Single Story Single-Family Residence Example and before the last paragraph of this sub-section.

“Specific to parcels identified as Planned Development (Commercial, Industrial and Residential), a fifty percent (50%) reduction has been applied to each of the calculated Flood Damage Reduction Benefits to reflect the proportional special benefit (avoided flood risk) these Planned Development parcels receive from the Project Services in light of Senate Bill 5 and Urban Level of Flood Protection requirements. Specifically, each of these parcels receives a special benefit because OAD funding supports Adequate Progress toward an Urban Level of Flood Protection which will allow development of these parcels which will otherwise not be able to develop. The proportionate special benefit as between the parcels in this category is achieved by applying the standard calculated Flood Damage Reduction Benefits for the basin, and then applying a 50% reduction in light of the future construction. The following provides an example calculation for a Planned Residential Development parcel:

Example:

Planned Residential Development (Multifamily 1 Story)

Parcel Acreage: 1.470 acres

Building Square Feet: 5,750 (DAP)

Flood Depth: 11 Feet

ATTACHMENT 1

Structure Damage = 5,750 sf x \$60/sf x 76.30% x 50% = \$131,617

+

Content Damage = 5,750 sf x \$30/sf x 22.50% x 50% = \$19,406

+

Land Damage = 1.470 Acres x \$80,100/Acre x 50% = \$ 58,874

Flood Damage Reduction Benefit = \$131,616 + \$19,406 + \$58,874 = \$209,897"

**RESOLUTION NO. SJAFCA 24-19
SAN JOAQUIN AREA
FLOOD CONTROL AGENCY**

**RESOLUTION RECEIVING ADDENDUM NO. 1 TO THE PRELIMINARY ENGINEER'S REPORT FOR THE
MOSSDALE TRACT AREA OVERLAY ASSESSMENT DISTRICT (OAD) AND DIRECTING CONTRACTORS
COMPLETE THE BALLOT TABULATION FOR THE FORMATION OF THE PROPOSED OAD AND
PRESENT THE RESULTS AT THE JULY 18, 2024 BOARD MEETING**

WHEREAS, on June 20, 2024, the Board received a report from Staff and Consultants which included as Attachment 1 Addendum No. 1 to the San Joaquin Area Flood Control Agency Preliminary Engineer's Report Formation of Mossdale Tract Overlay Assessment District prepared by Willdan Financial Services dated April 18, 2024;

WHEREAS, on June 20, 2024, the Board received public testimony and issued replacement ballots for those property owners who requested replacement ballots for the proposed Mossdale Tract Area Overlay Assessment District formation;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Joaquin Area Flood Control Agency as follows:

1. The above recitals are true and correct;
2. The Board receives and files the Addendum No. 1 to the San Joaquin Area Flood Control Agency Preliminary Engineer's Report Formation of Mossdale Tract Overlay Assessment District prepared by Willdan Financial Services dated April 18, 2024.
3. Upon conclusion of the Public Hearing, the Board of Directors of the San Joaquin Area Flood Control Agency direct the assessment engineering firm, Willdan Financial Services (WFS), management consulting firm, Larsen Wurzel & Associates, Inc. (LWA), and public outreach firm, Kim Floyd Communications (Floyd), collectively the "OAD Contractors", complete the tabulation of the ballots for the formation of the proposed Mossdale Tract Area Overlay Assessment District and present the results at the July 18, 2024 meeting for Board consideration.

PASSED, APPROVED AND ADOPTED this 20th day of June 2024

Paul Akinjo, 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

**San Joaquin Area Flood Control Agency
Mossdale Tract Overlay Assessment District (OAD)**

Ballot Tabulation Process & Procedures

Pursuant to

Section 4 of Article XIID of California Constitution (Proposition 218)

Government Code Section 53753 (Proposition 218 Omnibus Implementation Act)

Government Code Section 54710 et. seq. (the Benefit Assessment Act of 1982)

Background

This Ballot Tabulation Plan governs the procedures for tabulating ballots received as part of the Proposition 218 ballot proceeding for the proposed San Joaquin Area Flood Control Agency (SJAFCOA) Mossdale Tract Overlay Assessment District (OAD). Further it, establishes the procedures for members of the public wishing to observe the ballot tabulation. Any member of the public interested may observe the ballot tabulation as it occurs. The SJAFCOA Board of Directors (Board) respectfully requests that members of the public comply with rules of conduct outlined and described within this document. The rules are intended to ensure that the ballot tabulation process can be completed in an efficient and expeditious manner while ensuring transparency and fairness in the process.

Notice

This plan will be made available at the location where the ballots are to be tabulated. The Agency consultants and staff will direct inquiring members of the public to this Plan and Procedures.

Schedule Overview

Public Hearing:

June 20, 2024
Commencing at 6:00 PM
Lathrop City Council Chambers
390 Towne Centre Drive, Lathrop, California

Ballot Tabulation:

June 21, 2024
Commencing no earlier than 8:00 AM
Lathrop City Council Chambers
390 Towne Centre Drive, Lathrop, California

Unofficial Results Announced:

Following Tabulation

Official Results Announced

Thursday July 18th
SJAFCOA Board Meeting at 10:00 AM
Stockton City Hall Council Chambers
425 N El Dorado St., Stockton, CA

SJAFCA Mossdale OAD Ballot Proceeding
Tabulation Plan & Procedures

Tabulation Contractor

Pursuant to SJAFCA Board Resolution 24-08, Adopting Proposition 218 procedures for the Mossdale Tract Overlay Assessment District Ballot Proceeding, Section 3 (E), employees of the assessment engineering firm, Willdan Financial Services (WFS), management consulting firm, Larsen Wurzel & Associates, Inc. (LWA), and public outreach firm, Kim Floyd Communications (Floyd), collectively the “OAD Contractors”, have been determined by the Board of Directors of SJAFCA to be persons that do not have a vested interest in the outcome of the proposed assessment and been directed to perform the ballot tabulation. These people will tabulate the ballots pursuant to these procedures.

Ballot Custody

Mailed return ballots have been delivered directly to Lathrop City Hall. Hand delivered returned ballots deposited into the official ballot box located at that location and were collected from the Ballot Box for custody at City Hall until the Public Hearing. All mailed and hand return ballots remain sealed in their return envelopes until the close of the public hearing and the start of the tabulation process. All ballots submitted at the public hearing on June 20, 2024 have been collected by the SJAFCA Board Clerk or its designee prior to the close of the hearing in sealed envelopes. At the conclusion of the hearing, possession of the ballots and return envelopes will be turned over to staff of LWA for tabulation. Ballots will remain at Lathrop City Hall and at the conclusion of the tabulation all ballot materials will be placed in sealed boxes or packages and turned over by LWA to SJAFCA for future custody. Pursuant to Resolution 24-08 Ballots will be retained by SJAFCA for minimum of two years after which they may be destroyed.

Ballots deemed undeliverable by the United States Postal Service

Mailed and undeliverable ballots returned by the United States Postal Service were returned to SJAFCA’s offices at 22 E Weber Ave. Stockton, CA. When forwarding addresses were made available, undeliverable ballots were forwarded by SJAFCA staff to the next known address of the property owner. All undeliverable ballots with no known forwarding address remained in the custody of SJAFCA as part of the official records of the ballot proceeding.

Tabulation Time

The actual tabulation of the ballots will begin the day after the public hearing, on June 21st, 2024 and commence no earlier than 8:00 AM. The tabulation will take place at Lathrop City Hall. The tabulation is expected to last no longer than one day however, in the event it takes more than one day; the tabulation will pause at night and over the weekend and recommence no earlier than 8:00 AM at Lathrop City Hall on the next business day. Any member of the public who wishes to observe the ballot tabulation will be able to do so at this location.

Rules of Conduct for Tabulation Observers

Observers May:

- Observe the ballot tabulation from a location set aside for that purpose
- Take notes on the ballot tabulation procedures

Observers are Responsible for:

- Maintaining a respectful manner while observing the ballot tabulation processes
- Ensuring they do not interfere with the ballot tabulation processes

Observers May Not:

- Interfere in any way with the ballot tabulation
- Touch any ballot materials or equipment
- Talk to the tabulators while they are tabulating ballots
- Touch ballot tabulation personnel
- Assist in operations at the ballot tabulation site

Detailed Tabulation Procedures

The OAD Contractors have been designated by the Agency to tabulate all ballots. LWA will direct all aspects of the ballot tabulation process. LWA will utilize the resources of the OAD Contractors and Agency Staff to assist in the tabulation process.

Tabulation will occur in several steps as outlined below.

1) Opening / Sorting

The process will begin by opening the return envelopes and sorting all ballots received. Ballots submitted directly to the Clerk of the Board at the Public Hearing will be sealed by the Clerk in security envelopes. As such, only ballots returned in the official postage pre-paid ballot envelope will be opened and counted. Ballots returned in any other envelope will not be opened and included in the ballot tabulation proceeding. Ballot return envelopes will be opened by mechanical methods using a high-speed envelope opener. Ballots will be physically removed from official envelopes by hand and sorted.

Ballots will be sorted as follows:

Ballots will first be determined to be valid or invalid. A ballot is considered valid if it is:

- An Original or Revised / Replacement ballot produced by LWA;
- Contains a signature; and,
- Has a clear indication of a yes or no vote.

Photocopied ballots will not be counted. All other ballots will be considered preliminarily invalid. Invalid ballots will be sorted in a separate pile for review and further inspection (*see Invalid Ballot*

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Inspection Below). Ballots deemed Invalid will not be included within the tabulation for purposes of determining a final outcome of the balloting proceeding, however, the Invalid ballots will be tabulated separately for purposes of reporting returns to the Agency.

Valid ballots will be sorted further by yes and no votes. Official Revised / Replacement ballots produced by the Agency will also be separated throughout this process. Any Revised / Replacement ballots, as indicated by being printed on colored paper, will be sorted in similar fashion as above (valid vs. invalid, valid by yes/no vote).

The sorting groups are as follows:

Original Ballots (White)

Yes

No

Revised / Replacement Ballots (Yellow for 1st, Blue for subsequent)

Yes

No

Revised / Replacement Ballots Cast at the Public Hearing (Green)

Yes

No

Invalid Ballots (either Original, Revised / Replacement)

subject to further inspection

Invalid Ballot Inspection & Marking

The Agency's General Counsel will make a final determination of whether a ballot is determined to be an Invalid ballot or not. If a ballot is determined to be invalid at the time of initial sorting, the reason as to why the ballot has been deemed invalid will be recorded on a slip of paper and stapled to the ballot by the staff initially sorting ballots. The preliminarily invalid ballot will be reserved for later review by Agency Counsel. Upon a final determination of a ballot being deemed invalid, the reason for the determination will be confirmed on the slip of paper with notes as needed made by Agency Counsel. If a ballot is determined to be valid, the reason as to why it was initially deemed invalid and then later found to be valid will be recorded on the slip of paper with notes made by Agency Counsel.

Damaged Ballot Inspection and Replacement

Valid damaged ballots (ballots damaged as part of opening and sorting, or ballots with wrinkles or folds) will be reviewed by LWA. A ballot is determined to be damaged if it cannot be run through the normal ballot tabulation scanning process. The vote (Yes/No) of a valid damaged ballot may be replicated on an official replacement ballot and run through the normal ballot tabulation procedures. After tabulation, a note will be signed by LWA on the Replacement ballot and it will be stapled to the Original damaged ballot.

Ballot Material Handling

At the time of opening, all ballot envelopes will be retained in boxes. Any materials returned with ballots within the envelopes (notes, checks, etc.) will also be retained for ultimate transfer to the Agency along with the tabulated ballots once the tabulation processes are complete. Should it be determined that it is necessary to return materials (i.e. bank checks) to property owners that have been mailed with the returned ballots, LWA staff will use its best efforts to take appropriate measures upon discovery of these items to record the pertinent information so that the Agency can make arrangements to return the materials.

2) Initial Tabulation

Prior to scanning, the sorted ballots (See Opening/Sorting above) will be batched in groups of 100 ballots.

Batching Process

A batch of 100 ballots will be created as follows. 50 ballots will be hand counted and weighed to determine the weight of 50 ballots. The weight of 50 ballots will be recorded. Based on extensive weight testing by LWA, a small batch of 50 ballots is within a clear detectible margin of error based on the accuracy of the scale utilized. Small batches of 50 ballots will be created by weighing ballots and adding or removing ballots until the weight matches the recorded amount. Two 50 ballot batches will be combined to make a single batch of 100 ballots. Each batch of 100 will be placed in a hanging folder and upon the initial scan, a batch number will be assigned. The batch number will be affixed to the batch.

All ballots have been produced with a unique bar code printed on the face of the ballot. The bar code corresponds to the unique parcels and their associated total special benefit assessment identified on the face of the ballot. Upon scanning the bar code, the tabulation software will return the total special benefit assessment represented by the parcels for the purposes of determined weighted vote of the ballot.

As the ballots in each batch are scanned, the batch number will be entered with the scan within the tabulation model. As ballots are scanned, on a random basis, additional confirmation of the sorting group will take place (i.e., a Valid Yes or No vote, and ballot paper color will be confirmed). The scanning process, however, is intended to take place in a rapid fashion to expedite the tabulation process. The count of the ballots scanned within each batch from tabulation will be confirmed to ensure that 100 ballots have been scanned. If the scanned count deviates from 100 ballots, then the data scanned will be removed from the model and the batch will be rescanned. If the count deviates again, then the count of ballots in the batch will be manually confirmed to ensure that physical number of ballots in the batch matches the amount of ballots scanned by the ballot tabulation machine.

Original valid ballots will be the first group scanned into the MS Excel ballot tabulation software. Batches of Yes and No votes will be randomly selected for tabulation.

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At the conclusion of the scans, a duplication check will be made for duplicate scans of ballots. This will be completed by sorting the scanned ballot ID Numbers by numerical value and running an algorithm within MS Excel to check for duplicate values. If a duplicate scan is recorded, the physical batches within which the duplicate ballot is found will be examined to determine if the error was due to two physical ballots being scanned or duplicate scans of the same ballot. If two physical ballots exist, and one is determined to be a copy (that was not originally removed from validation process), that copy will be removed. Note - Two Original ballots with duplicate ballot ID's cannot exist as duplicates have not been produced.

During the scanning process, the scanning machinery shall be monitored to ensure each ballot is properly scanned. In the event of a malfunction with the scanning machinery, the entire batch will be recounted to ensure accuracy.

When ballots cast at the public hearing (Green) and Revised / Replacement (Yellow and Blue) ballots are scanned any ballots cast for Original ballots will void the respective Original ballot automatically in the tabulation software. As such, the Original ballot will not be counted (see Revised / Replacement ballots and Tabulation below). Correspondingly, any Valid Revised / Replacement ballots cast at the public hearing will override any Original, previously cast Revised / Replacement ballots of the same ballot ID.

Revised / Replacement Ballot Tabulation

Throughout the ballot proceeding time period, property owners have requested Revised and/or Replacement ballots. In the event that an Original Ballot has been submitted and a subsequent later Revised / Replacement ballot has been returned, the Original Ballot will not be counted. The tabulation software will "overwrite" all prior submitted ballots. Only the last ballot submitted, as indicated by the color of the ballot will be included in the tabulation.

In the event that a Revised / Replacement ballot has been issued to replace an Original ballot due to Property Ownership changes since the last secured roll, the Original ballot, if returned, will not be counted. In this case, the Original Ballot has now become Invalid.

In some cases, the Agency has issued Revised / Replacement ballots to reflect necessary adjustments to assessments and/or ballots. Examples of these scenarios include;

- Modifications to property attributes that impact special benefit, or property ownership changes;
- Separation of multiple parcels on a single ballot (e.g., a parcel has been removed from a ballot and issued a new ballot due to ownership changes); or,
- Other reasons resulting in the need to issue a replacement ballot.

In most, if not all cases, this has resulted in lower proposed assessments. In the case where an Original ballot has been returned by a property owner, but a later Revised / Replacement ballot has been issued that resulted in a lower assessment, and that Revised / Replacement **has not been returned**, the Original ballot will be included in the tabulation. However, the weight of that

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ballot will be adjusted to reflect the corrected amount of special benefit. This ensures that the appropriate amount of special benefit is reflected in the protest ballot proceeding. In this case, as part of the tabulation, any Original ballot that has had the weight of ballot modified as part of the tabulation, will have an adhesive label attached to the ballot that reflects the updated weight of ballot included in the tabulation. After the scanning process, the software will indicate such ballots where this is the case and the adjusted ballot shall be located in the appropriate batch and the label will be affixed to the ballot to reflect the revised weight of the ballot. This ensures that the ballot, which is a disclosable public record, physically reflects the amount tabulated.

In the event that a Revised / Replacement ballot has been issued in place of Original ballot, and the weight of the Revised / Replacement ballot **has increased the assessment**, the Original ballot, if returned, will not be counted. In this case, the Original Ballot has now become Invalid.

3) Secondary Tabulation

Each ballot will be scanned twice, once each by two different independent scanners to confirm accurate tabulation results. Scanner A and Scanner B will perform independent tabulation. Scanner A and Scanner B will each have a computer with the tabulation model attached that should include the same batches of ballots.

To ensure accurate tabulation, the total Valid Yes/Valid No ballot counts of all ballots should reconcile in both tabulation models. Differences between the two systems will be able to be highlighted based on the batch numbering of the scans and if the data does not match, the batch with the discrepancy will be physically rescanned to determine the error (in both the initial tabulation and secondary tabulation). The error will be reconciled and the data in the first or secondary scan will be corrected to ensure the dual tabulation processes reconcile.

4) Invalid Ballot Tabulation

During the initial tabulation of all Valid ballots, the Invalid ballots will also be scanned into the system by the Assessment Engineer to record and count the weight of Invalid ballots cast. The scanning of Invalid ballots is for the purpose of reporting returns only.

5) Announcement of Un-Official Results

At the conclusion of the reconciliation of the data between the Initial and Secondary Tabulation, preliminary ballot tabulation results will be announced. A summary of the tabulation results will be printed from the tabulation model. The results will be considered unofficial and subject to change upon final data validation as described below and the submission of a Final Tabulation Report by LWA to the Agency. Official results will be announced and a Final Tabulation Report will be transmitted to the SJAFCA Board at its Regular Board Meeting on July 18, 2024.

6) Data Validation

LWA will validate a portion of the data scanned into the ballot tabulation model to ensure that the sorting was correct and the correct data from ballots was entered into the tabulation model.

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Data validation will occur for at least 10% of the tabulated ballots for all sort groups of Valid ballots. The Invalid ballots will have undergone additional scrutiny and verification, and do not require additional validation.

For example, if there are 1,000 Valid ballots counted, there is expected to be ten batches with each batch containing 100 ballots of the same sorted group. A minimum of 10 ballots from each batch will be randomly selected for Data Validation.

To complete the data validation, the random ballots will be scanned into the data validation portion of the tabulation model. This portion of the model returns the data scanned into the model during the prior steps. The data returned will be reviewed to ensure that the information recorded in the ballot tabulation model for the relevant record is correct and matches the information on the physical ballot. If the results from the 10% selection match the original scans, then data entered will be considered verified. If the results from the 10% selection do not match, then the entire ballot tabulation process will be repeated.

Ballot Material Handling Note

At the conclusion of the ballot tabulation, all ballots (as sorted and noted in the batches) will be retained in boxes for transfer to the Agency once the tabulation is complete. The ballot proceeding materials will be transferred along with the tabulation results data. All boxes containing ballots and envelopes will be sealed. Each box will be numbered and a manifest listing each box and its contents will be provided to SJAFCA. SJAFCA intends to transfer the ballot materials to its records retention service provider and the manifest information will be organized and provided to ensure ease of access from records storage.

**End of
Agenda Packet**