

# Napa County



## Agenda

**Tuesday, May 3, 2022**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

### **Flood Control and Water Conservation District**

*Scott Sedgley, City of Napa (Chairperson)*  
*Brad Wagenknecht, District 1 (Vice-Chairperson)*  
*Irais Lopez-Ortega, City of Calistoga*  
*Diane Dillon, District 3*  
*John Dunbar, Town of Yountville*  
*Geoff Ellsworth, City of St. Helena*  
*Leon Garcia, City of American Canyon*  
*Ryan Gregory, District 2*  
*Beth Painter, City of Napa*  
*Alfredo Pedroza, District 4*  
*Belia Ramos, District 5*

**GENERAL INFORMATION**

Except when otherwise specified in its adopted annual calendar, the Napa County Flood Control and Water Conservation District meets the first Tuesday of every month at 1:30 P.M. in regular session at 1195 Third Street, Suite 305, Napa, California 94559. The meeting room is wheelchair accessible. Assistive listening devices and interpreters are available through the Clerk of the Board of the Napa County Board of Supervisors. Requests for disability related modifications or accommodations, aids or services may be made to the Clerk of the Board's office no less than 72 hours prior to the meeting date by contacting (707) 253-4580.

**The agenda is divided into three sections:**

**CONSENT ITEMS** - These matters may include routine financial or administrative actions, as well as the final adoption of two-reading ordinances and are approved by a single vote.

**ADMINISTRATIVE ITEMS** - These items include significant policy and administrative actions and are classified by program areas. Immediately after approval of the **CONSENT CALENDAR**, if the time for hearing **SET MATTERS** has not arrived, the **ADMINISTRATIVE ITEMS** will be considered.

**SET MATTERS - PUBLIC HEARINGS** - These items are noticed hearings, work sessions, and items with a previously set time.

All materials relating to an agenda item for an open session of a regular meeting of the Napa County Flood Control and Water Conservation District which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at the time of such distribution, in the office of the District Secretary, 1195 Third Street, Suite 305, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials which are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

**ANY MEMBER OF THE AUDIENCE DESIRING TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA** please proceed to the rostrum and, after receiving recognition from the Chairperson, give your name and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chairperson or Board.

**AGENDA AVAILABLE ONLINE AT [www.countyofnapa.org](http://www.countyofnapa.org) or [www.napaflooddistrict.org](http://www.napaflooddistrict.org)**

**How to Watch or Listen to the Napa County Flood Control and Water Conservation District Meetings**

The Napa County Flood Control and Water Conservation District will continue to meet pursuant to the adopted 2021 calendar available at the following link:

<https://www.countyofnapa.org/DocumentCenter/View/2924/Flood-Control-and-Water-Conservation-Calendar-PDF?bidId>

The District realizes that not all County residents have the same ways to stay engaged, so several alternatives are offered. Please watch or listen to the Napa County Flood Control and Water Conservation District meeting in one of the following ways:

1. Watch on your TV - Napa Valley TV Channel 28 (programming subject to local pre-emption rules and schedules).
2. Listen on your cell phone via Zoom at 1-669-900-6833 then enter Meeting ID 842-343-169 once you have joined the meeting.
3. Watch via the Internet – view the Live Stream
  - a. via Zoom at the following link: <https://www.zoom.us/join> then enter Meeting ID 842-343-169.
  - b. via Granicus by clicking on the following link: [http://napa.granicus.com/ViewPublisher.php?view\\_id=5](http://napa.granicus.com/ViewPublisher.php?view_id=5)
4. You may submit public comment for any item that appears on the agenda, or general public comment for any item or issue that does not appear on the agenda, as follows:  
Via email: send your comment to the following email address:  
[publiccomment@countyofnapa.org](mailto:publiccomment@countyofnapa.org). EMAILS WILL NOT BE READ ALOUD.

Via telephone: please call the Napa County Flood Control and Water Conservation District Public Comment Line at (707)-299-1776.

**Please mute all audio devices and do not use the speakerphone to prevent echoing.**

Please provide your name and the agenda item on which you are commenting. Calls will be placed on hold and heard in the order received. The above-identified measures exceed all legal requirements for participation and public comment, including those imposed by the Ralph M. Brown Act and California Assembly Bill 361. If you have any questions, contact us via telephone at (707) 253-4421 or email [clerkoftheboard@countyofnapa.org](mailto:clerkoftheboard@countyofnapa.org).

1. CALL TO ORDER; ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

- A. Clerk of the Board/Secretary of the District Board requests approval of minutes from the May 4, 2021, June 8, 2021, June 22, 2021, August 17, 2021, October 5, 2021, November 2, 2021, December 7, 2021, February 1, 2022, March 1, 2022 and April 5, 2022 meetings. [22-633](#)

**Attachments:** [May 4, 2021](#)  
[June 8, 2021](#)  
[June 22, 2021](#)  
[August 17, 2021](#)  
[October 5, 2021](#)  
[November 2, 2021](#)  
[December 7, 2021](#)  
[February 1, 2022](#)  
[March 1, 2022](#)  
[April 5, 2022](#)

4. PRESENTATIONS AND COMMENDATIONS

5. CONSENT ITEMS

6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

7. PUBLIC COMMENT

At this time, anyone may address the Board of the Napa County Flood Control and Water Conservation District regarding any subject not on today's agenda over which the Board has jurisdiction. Individuals will be limited to a three-minute presentation. No action will be taken by the Board of the Napa County Flood Control and Water Conservation District as a result of any item presented at this time.

8. ADMINISTRATIVE ITEMS

- A. District Manager will provide an update regarding the State Water Project and recent curtailment actions by the State Water Resources Control Board affecting the North Bay Aqueduct. [22-895](#)

**Attachments:** [Presentation \(added after meeting\)](#)

- B. District Manager requests the following related to land acquisitions associated with the next phase of the Napa Flood Control Project: [22-946](#)

1. Discussion and possible direction regarding the process and timeline for land acquisitions for Contract 3 North - Floodwalls North of the Bypass; and
2. Approval of and authorization for the Chairperson to sign an agreement with Associated Right of Way Services, Inc., (ARWS) for the term of May 3, 2022 through June 30, 2023 with a maximum compensation of \$511,000 and an automatic rollover for a maximum of two additional years.

**Attachments:** [Agreement](#)  
[Presentation \(added after meeting\)](#)

9. SET MATTERS OR PUBLIC HEARINGS

- A. PUBLIC HEARING 1:30 PM [22-870](#)

District Engineer requests the following actions regarding Joint Zone Project 96-1 assessments:

1. Conduct a Protest Hearing on the proposed Fiscal Year 2022-2023 Assessments;
2. Tally any written protests filed and not withdrawn by the end of the protest hearing by registered voters residing in, and owners of assessable property located within the three zones of the Joint Zone Project;
3. If the tallied protests are:
  - a. Less than 25% in each Zone -- The Board may adopt the proposed resolution:
    - i. Finding that the submission of proposed assessment to a vote by qualified electors is not required;
    - ii. Approving and levying the annual assessments for Fiscal Year 2022-2023 and
    - iii. Authorizing and directing the filing of the Fiscal Year 2022-2023 assessment roll with the Napa County Auditor for posting to the Fiscal Year 2022-2023 Napa County Property Tax Roll (Maintenance and Watershed Management Program-Project No. 96-1).
  - b. 25% or greater in any of the Zones - The Board must either:
    - i. Abandon the assessment for that Zone; or
    - ii. Place the issue of the proposed assessments in that Zone before the voters in that Zone.

**Attachments:** [Resolution](#)

**B. PUBLIC HEARING 1:30 PM**

**[22-899](#)**

District Manager requests the following actions related to the Rutherford Reach Benefit Zone Assessment District 2008-1:

1. Open Public Hearing to consider any objections or protests with respect to the proposed Fiscal Year 2022-2023 assessments; and
2. Close Public Hearing and adopt a Resolution authorizing and levying assessments for Fiscal Year 2022-2023 on qualifying properties.

**Attachments:** [Resolution](#)

- 10. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS**
- 11. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS**
- 12. BOARD OF DIRECTORS FUTURE AGENDA ITEMS**
- 13. CLOSED SESSION**
- 14. ADJOURNMENT**

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JUNE 7, 2022 AT 1:30  
P.M.**

I HEREBY CERTIFY THAT THE AGENDA FOR THE ABOVE STATED MEETING WAS POSTED AT A LOCATION FREELY ACCESSIBLE TO MEMBERS OF THE PUBLIC AT THE NAPA COUNTY ADMINISTRATIVE BUILDING, 1195 THIRD STREET, NAPA, CALIFORNIA ON FRIDAY, APRIL 29, 2022 BY 5:00 P.M. A HARDCOPY SIGNED VERSION OF THE CERTIFICATE IS ON FILE WITH THE DISTRICT SECRETARY AND AVAILABLE FOR PUBLIC INSPECTION.

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# Napa County

## Board Agenda Letter

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Flood Control and Water Conservation District **Agenda Date:** 5/3/2022

**File ID #:** 22-633

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Neha Hoskins - Admin Manager/Clerk of the Board  
**REPORT BY:** Anthony Williams - Board Clerk II  
**SUBJECT:** Approval of Minutes

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### **RECOMMENDATION**

Clerk of the Board/Secretary of the District Board requests approval of minutes from the May 4, 2021, June 8, 2021, June 22, 2021, August 17, 2021, October 5, 2021, November 2, 2021, December 7, 2021, February 1, 2022, March 1, 2022 and April 5, 2022 meetings.

### **EXECUTIVE SUMMARY**

Clerk of the Board/Secretary of the District Board requests approval of minutes.

### **FISCAL IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Clerk of the Board/Secretary of the District Board requests approval of minutes from the May 4, 2021, June 8, 2021, June 22, 2021, August 17, 2021, October 5, 2021, November 2, 2021, December 7, 2021, February 1, 2022, March 1, 2022 and April 5, 2022 meetings.



# **Meeting Minutes**

## **Napa County Flood Control and Water Conservation District**

Scott Sedgley, City of Napa (Vice-Chairperson)  
Brad Wagenknecht, District 1 (Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, May 4, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. **CALL TO ORDER; ROLL CALL**

**Chair Brad Wagenknecht**  
**Vice Chair Scott Sedgley (in attendance via teleconference)**  
**Director Irais Lopez-Ortega (in attendance via teleconference)**  
**Director Beth Painter (in attendance via teleconference)**  
**Director Leon Garcia (in attendance via teleconference)**  
**Director Geoff Ellsworth (in attendance via teleconference)**  
**Director Belia Ramos**  
**Director Alfredo Pedroza**  
**Director Ryan Gregory**  
**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. **PLEDGE OF ALLEGIANCE**

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. **APPROVAL OF MINUTES**

**None**

4. **PRESENTATIONS AND COMMENDATIONS**

**None**

## 5. CONSENT ITEMS

None

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. District Manager requests review and discussion of a presentation on highlighted projects from the Maintenance and Watershed Management Program in Fiscal Year 2020-2021. [21-126](#)

**Watershed and Flood Control Resources Specialist Mike Gordon made presentation.**

**Discussion held.**

- B. 1. District Manager requests staff provide a presentation on the annual water supply outlook for Napa County and its communities. [21-127](#)  
2. District Manager requests authorization for Chair of the Board to sign Dry Year Water Transfer Agreements upon approval by District Counsel.

**Engineering Manager Chris Silke made presentation.**

**Discussion held.**

**Motion Text: Approve requested action.**

**Voting Yes: Pedroza, Gregory, Dillon, Dunbar, Ellsworth, Garcia, Lopez-Ortega, Painter, Ramos, Sedgley and Wagenknecht**

**Recusals: None**

**Result: Passed**

## 9. SET MATTERS OR PUBLIC HEARINGS

## A. PUBLIC HEARING 1:30 PM - 10 Minutes

[21-122](#)

District Manager requests the following actions related to the Rutherford Reach Benefit Zone Assessment District 2008-1:

1. Open Public Hearing to consider any objections or protests with respect to the proposed Fiscal Year 2021- 2022 assessments; and
2. Close Public Hearing and adopt a Resolution authorizing and levying assessments for Fiscal Year 2021- 2022 on qualifying properties.

**Opened public hearing.**

**District Manager Rick Thomasser made presentation.**

**No protests received.**

**Discussion held.**

**Closed public hearing.**

**Motion Text: Adoption of a resolution to levy assessments.**

**Voting Yes: Dillon, Gregory, Dunbar, Ellsworth, Garcia, Lopez-Ortega, Painter, Pedroza, Ramos, Sedgley and Wagenknecht**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2021-04**

**B. PUBLIC HEARING 1:30 PM - 10 Minutes****21-123**

District Manager requests the following actions in connection with Joint Zone Project 96-1:

1. Conduct a Protest Hearing on the proposed Fiscal Year 2021-2022 Assessments;
2. Tally any written protests filed and not withdrawn by the end of the protest hearing by registered voters residing in, and owners of assessable property located within the three zones of the Joint Zone Project;
3. If the tallied protests are
  - a. Less than 25% in each Zone The Board may adopt the proposed resolution:
    - i. Finding that the submission of proposed assessment to a vote by qualified electors is not required;
    - ii. Approving and levying the annual assessments for Fiscal Year 2021-2022 and
    - iii. Authorizing and directing the filing of the Fiscal Year 2021-2022 assessment roll with the Napa County Auditor for posting to the Fiscal Year 2021-2022 Napa County Property Tax Roll (Maintenance and Watershed Management Program Project No. 96-1).
  - b. 25% or greater in any of the Zones - The Board must either:
    - i. Abandon the assessment for that Zone; or
    - ii. Place the issue of the proposed assessments in that Zone before the voters in that Zone.

**Opened public hearing.**

**District Manager Rick Thomasser made presentation.**

**No testimony presented.**

**Closed public hearing.**

**Motion Text: Adoption of a resolution to levy assessments.**

**Voting Yes: Pedroza, Ellsworth, Dillon, Dunbar, Garcia, Gregory,  
Lopez-Ortega, Painter, Ramos, Sedgley and Wagenknecht**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2021-05**

## 10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Leon Garcia reported on attending the North Bay Watershed Association meeting, where they discussed the reservoir capacity.**

## 11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**None**

## 12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Rick Thomasser reported on the \$48.3 million allocation making its way to the Corps in Sacramento. However, the Corps is not quite decided on what form of agreement is needed to allow them to spend the money. Mr. Thomasser also attended a meeting on Thursday with Congressman Mike Thompson, who discussed doing a simple Project Cooperation Agreement (PCA) amendment for the federal interest north of the Bypass and Riverside Drive. The Corps said the agreement was not standard and it may take longer, but the attorneys are debating in Washington, D.C. and the suggestion is that they would see this as a simple amendment.**

## 13. CLOSED SESSION

**None**

## 14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JUNE 8, 2021 AT 1:30  
P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# **Meeting Minutes**

## **Napa County Flood Control and Water Conservation District**

Scott Sedgley, City of Napa (Vice-Chairperson)  
Brad Wagenknecht, District 1 (Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, June 8, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. **CALL TO ORDER; ROLL CALL**

**Chair Brad Wagenknecht**

**Vice Chair Scott Sedgley (in attendance via teleconference)**

**Director Irais Lopez-Ortega (in attendance via teleconference)**

**Director Beth Painter (in attendance via teleconference)**

**Director Leon Garcia (in attendance via teleconference)**

**Director Geoff Ellsworth (in attendance via teleconference)**

**Director Belia Ramos**

**Director Alfredo Pedroza (Excused)**

**Director Ryan Gregory**

**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. **PLEDGE OF ALLEGIANCE**

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

## 3. APPROVAL OF MINUTES

None

## 4. PRESENTATIONS AND COMMENDATIONS

None

## 5. CONSENT ITEMS

**Motion Text: Approve Consent Items.**

**Voting Yes: Dillon, Gregory, Dunbar, Ellsworth, Garcia, Lopez-Ortega, Painter, Ramos, Sedgley and Wagenknecht**

**Excused: Pedroza**

**Recusals: None**

**Result: Passed**

- A. District Manager requests approval of and authorization for the Chairperson to sign the following agreements for the term of July 1, 2021 through June 30, 2022, with provision for an automatic annual renewal for a maximum of five (5) years to perform services related to maintenance of facilities and lands associated with the Napa River Flood Protection Project and other District related projects and programs:

[21-221](#)

1. SMP, Inc. - Contract Amount: \$75,000;
2. Golden Gate Landscape - Contract Amount: \$125,000;
3. RECON Environmental Inc. - Contract Amount: \$65,000;
4. Hanford A.R.C. - Contract Amount: \$125,000; and
5. Pacific Tree Care - Contract Amount: \$60,000.

**Enactment No: A-210379B; A-210381B; A-210380B; A-210377B; A-210378B**

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

None

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9. SET MATTERS OR PUBLIC HEARINGS

A. PUBLIC HEARING

1. Open Fiscal Year 2021-2022 Budget Hearings. [21-286](#)
2. Receive staff's presentation and accept public testimony on the attached budgets, including policy-related items.
3. Continue Fiscal Year 2021-2022 Final Budget Hearings to June 22, 2021 for adoption of final budgets.

**District Manager Richard Thomasser made presentation.**

**Discussion held.**

**Motion Text: Approve continuance of item.**

**Voting Yes: Gregory, Ellsworth, Dillon, Dunbar, Garcia, Lopez-Ortega,  
Painter, Ramos, Sedgley and Wagenknecht**

**Excused: Pedroza**

**Recusals: None**

**Result: Passed**

10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Leon Garcia reported on attending the North bay Watershed Association meeting where they discussed the severe drought and provided a presentation on settlements and levy construction.**

11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**Chair Brad Wagenknecht requested a presentation on water conservation and the Flood District's role as the purveyor be agendized at a future meeting.**

**Director Geoff Ellsworth supports the request of Chair Wagenknecht for the District Manager to provide a presentation on water conservation being agendized at a future meeting.**

**Director Diane Dillon requested the addition of a software program that the City of American Canyon is using to monitor water usage be agendized at a future meeting.**

12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported the attorneys in Washington, DC were working on the draft Project Cooperation Agreement (PCA) amendment for acceptance of the \$48.3 million allocation for the Flood Project with the amendment expected to be ready by the end of June. Mr. Thomasser also reported on the Flood District receiving \$4.7 million from the President's budget to dredge the Napa River.**

13. CLOSED SESSION

None

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JUNE 22, 2021  
AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



## Meeting Minutes

### Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Vice-Chairperson)  
Brad Wagenknecht, District 1 (Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, June 22, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. **CALL TO ORDER; ROLL CALL**

**Chair Brad Wagenknecht**

**Vice Chair Scott Sedgley (in attendance via teleconference)**

**Director Irais Lopez-Ortega (in attendance via teleconference)**

**Director Beth Painter (in attendance via teleconference)**

**Director Leon Garcia (in attendance via teleconference)**

**Director Geoff Ellsworth (in attendance via teleconference)**

**Director Belia Ramos**

**Director Alfredo Pedroza**

**Director Ryan Gregory**

**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. **PLEDGE OF ALLEGIANCE**

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. **APPROVAL OF MINUTES**

**None**

4. **PRESENTATIONS AND COMMENDATIONS**

**None**

## 5. CONSENT ITEMS

**Motion Text:** Approve Consent Items.

**Voting Yes:** Pedroza, Garcia, Dillon, Dunbar, Ellsworth, Gregory,  
Lopez-Ortega, Painter, Ramos, Sedgley and Wagenknecht

**Recusals:** None

**Result:** Passed

- A. District Manager requests approval of and authorization for the Chairperson to sign Amendment No. 1 to Agreement No. 190221B with the Napa County Resource Conservation District (RCD) which extends the term through June 30, 2022 without modification of the scope of work and budget. [21-520](#)
- B. District Manager requests approval of and authorization for the Chairperson to sign Amendment No. 2 to the Joint Powers Authority Agreement (JPA) No. 190013B (FC) (formerly 463 (FC)) with the Cities of American Canyon, Napa, St. Helena, Calistoga, the Town of Yountville and Napa County extending the term indefinitely, subject to termination by the Parties, until the Phase II permit is re-issued, to fund and administer the Napa Countywide Stormwater Pollution Prevention Program (NCSPPP) at a cost determined annually by mutual agreement of the Parties. [21-524](#)
- C. District Manager requests approval of and authorization for the Chairperson to sign Amendment No. 6 to Agreement No. 170966 (formerly No. 456 (FC)) with O'Connell & Dempsey, LLC, increasing the maximum amount by \$132,600 to a new maximum of \$1,047,600 for Federal representation services and extending the term through June 30, 2022. [21-530](#)
- D. District Manager requests approval of and authorization for the Chairperson to sign Amendment No. 2 to Agreement 190014B (FC) with Larry Walker Associates (LWA), increasing the amount for professional services by \$301,200 for professional services for a new maximum of \$768,800 and extending the term to June 30, 2022 for services related to implementation of the Phase II Municipal National Pollutant Discharge Elimination System (NPDES) Permit. [21-566](#)

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

None

## 9. SET MATTERS OR PUBLIC HEARINGS

## A. PUBLIC HEARING 1:30 PM - 5 Minutes

[21-323](#)

Auditor-Controller requests the following actions related to the Napa County Flood Control and Water Conservation District's (District) Fiscal Year 2021-2022 recommended budgets:

1. Receive additional presentations from staff and/or accept public testimony on the following budgets, including related policy items:

Fund	Dept	Division	
8000	800	80005	Watershed Projects (4 subdivisions)
8000	800	80010	Flood Control Project
8000	800	80011	Flood Project Measure A
8000	800	80012	Flood Project Maintenance Measure A
8000	800	80015	Water Supply Projects
8010	801	80100	Oakville to Oak Knoll CFD

2. Close Fiscal Year 2021-2022 budget hearing.

3. Auditor-Controller requests adoption of the Resolution adopting the recommended budget for the District for Fiscal Year 2021-2022. (4/5 vote required)

**Auditor - Controller Tracy Schulze made presentation.**

**Motion Text: Approve requested actions.**

**Voting Yes: Pedroza, Garcia, Dillon, Dunbar, Ellsworth, Gregory, Lopez-Ortega, Painter, Ramos, Sedgley and Wagenknecht**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2021-06**

## 10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**None**

## 11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**None**

## 12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported that the Flood District is still awaiting the draft Project Cooperation Agreement (PCA) amendment for the \$48.3 million allocation to the Flood Project. The target date to receive the funds is the end of June.**

## 13. CLOSED SESSION

**None**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JULY 20, 2021  
AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



## Meeting Minutes

### Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Vice-Chairperson)  
Brad Wagenknecht, District 1 (Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, August 17, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. **CALL TO ORDER; ROLL CALL**

**Chair Brad Wagenknecht**  
**Vice Chair Scott Sedgley (in attendance via teleconference)**  
**Director Irais Lopez-Ortega (En Route)**  
**Alternate Director Kerri Dorman (in attendance via teleconference)**  
**Director Beth Painter (in attendance via teleconference)**  
**Director Leon Garcia (in attendance via teleconference)**  
**Director Geoff Ellsworth (in attendance via teleconference)**  
**Director Belia Ramos (En Route)**  
**Director Alfredo Pedroza**  
**Director Ryan Gregory**  
**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. **PLEDGE OF ALLEGIANCE**

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. **APPROVAL OF MINUTES**

**None**

4. **PRESENTATIONS AND COMMENDATIONS**

**None**

## 5. CONSENT ITEMS

- A. District Manager requests approval of and authorization for the Chairperson to sign Amendment No. 1 to Agreement 190123B (FC) with the City of American Canyon, extending the term of the agreement to June 30, 2022, setting the maximum compensation to the District at \$100,000 per fiscal year for reimbursement of District maintenance costs, and updating the rate sheet.

[21-725](#)

**Motion Text:** Approve Consent Item.

**Voting Yes:** Dillon, Garcia, Dorman, Ellsworth, Gregory, Lopez-Ortega,  
Painter, Pedroza, Sedgley and Wagenknecht

**Excused:** Ramos

**Recusals:** None

**Result:** Passed

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. District Manager requests approval for the Chairperson, or in their absence the Vice Chairperson, to sign a letter indicating the District's willingness to enter into an amendment to the Project Cooperation Agreement (PCA) with the U.S. Army Corps of Engineers, which will authorize the potential contribution of funds, if needed, in excess of appropriated Federal funding in support of design and construction of the Increments 2 and 3 of the Napa River Flood Protection Project. [21-760](#)

**District Manager Richard Thomasser made presentation.**

**One (1) person spoke during public comment.**

**Motion Text: Approve requested action.**

**Voting Yes: Gregory, Painter, Dillon, Dorman, Ellsworth, Garcia,  
Lopez-Ortega, Pedroza, Sedgley and Wagenknecht**

**Excused: Ramos**

**Recusals: None**

**Result: Passed**

- B. District Manager requests staff provide the Board an update on the annual water supply outlook for Napa County and its communities and discussion with possible direction regarding planning efforts for continued drought. [21-761](#)

**District Manager Richard Thomasser made presentation.**

**Engineering Manager Chris Silke made presentation.**

**Director of Planning, Building, and Environmental Services David Morrison made presentation.**

**Discussion held.**

**Direction provided to staff.**

9. SET MATTERS OR PUBLIC HEARINGS

**None**

10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**None**

11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**None**

12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported on a Request for Qualification (RFG) on the design of the north of the Bypass flood wall, which will be a community preferred design. There is a pre-design effort to assist with streamlining the project. However, the appropriate level of community involvement will bring in public participation.**

13. CLOSED SESSION

**None**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, SEPTEMBER 21,  
2021 AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# Meeting Minutes

## Napa County Flood Control and Water Conservation District

Brad Wagenknecht, District 1 (Vice-Chairperson)

Scott Sedgley, City of Napa (Chairperson)

Irais Lopez-Ortega, City of Calistoga

Diane Dillon, District 3

John Dunbar, Town of Yountville

Geoff Ellsworth, City of St. Helena

Leon Garcia, City of American Canyon

Ryan Gregory, District 2

Beth Painter, City of Napa

Alfredo Pedroza, District 4

Belia Ramos, District 5

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**Tuesday, October 5, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. CALL TO ORDER; ROLL CALL

**Chair Brad Wagenknecht**

**Vice Chair Scott Sedgley (in attendance via teleconference)**

**Director Irais Lopez-Ortega (in attendance via teleconference)**

**Director Beth Painter (in attendance via teleconference)**

**Director Leon Garcia (in attendance via teleconference)**

**Director Geoff Ellsworth (in attendance via teleconference)**

**Director Belia Ramos**

**Director Alfredo Pedroza**

**Director Ryan Gregory**

**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. PLEDGE OF ALLEGIANCE

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. APPROVAL OF MINUTES

**None**

4. PRESENTATIONS AND COMMENDATIONS

**None**

## 5. CONSENT ITEMS

**Motion Text:** Approve Consent Items.

**Voting Yes:** Garcia, Ellsworth, Dillon, Dunbar, Gregory, Lopez-Ortega,  
Painter, Pedroza, Ramos, Sedgley and Wagenknecht

**Recusals:** None

**Result:** Passed

- A. District Manager requests approval of and authorization for the Chairperson to sign the Operating Agreement for the maintenance and operation of the railroad bridges over the Napa River and the Bypass Channel, and a Certificate of Acceptance to accept and record a Quitclaim deed from the Napa Valley Wine Train at no cost.

[21-887](#)

**Enactment No:** A-8634 (FC)

- B. District Manager requests approval for the Chairperson to sign an Agreement with Somach, Simmons and Dunn for a maximum amount of \$41,310, for the term of October 5, 2021 through June 30, 2024 to provide legal services in support of a renewal of the existing Flood District Agreement A-38(FC) with the United States Bureau of Reclamation related to diversion and distribution of water from Lake Berryessa.

[21-946](#)

**Enactment No:** A-220160B (FC)

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. District Manager requests adoption of a resolution approving the filing of a grant application for the acquisition phase of the Napa River Estuary Enhancement and Public Access Project. [21-935](#)

**District Manager Richard Thomasser made presentation.**

**Discussion held.**

**Motion Text: Approve Requested action.**

**Voting Yes: Dillon, Sedgley, Dunbar, Ellsworth, Garcia,  
Gregory, Lopez-Ortega Painter, Pedroza, Ramos and Wagenknecht**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2021-07 (FC)**

## 9. SET MATTERS OR PUBLIC HEARINGS

**None**

## 10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**None**

## 11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**None**

## 12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**Director Geoff Ellsworth requested information on the conversation with Solano County/Berryessa in terms of Lake Berryessa water resources.**

**District Manager Richard Thomasser reported on potentially restarting the Initial project as well as retaining counsel for additional assistance. There were questions asked about additional water for sale outside of the State Water Project (SWP).**

## 13. CLOSED SESSION

- A. CONFERENCE WITH REAL PROPERTYNEGOTIATOR [21-931](#)  
(Government Code Section 54956.8)

Property: APN Nos. 043-103-007-000, 043-103-020-000,  
043-103-021-000, 043-103-007-022-000

Negotiating Party: Richard Thomasser, Flood District Manager  
Under Negotiation: Price/Terms/Conditions of Payment

**No reportable action.**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, NOVEMBER 2, 2021  
AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# **Meeting Minutes**

## **Napa County Flood Control and Water Conservation District**

Scott Sedgley, City of Napa (Vice-Chairperson)  
Brad Wagenknecht, District 1 (Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, November 2, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. **CALL TO ORDER; ROLL CALL**

**Vice Chair Scott Sedgley (in attendance via teleconference)**  
**Director Irais Lopez-Ortega (in attendance via teleconference)**  
**Director John Dunbar (in attendance via teleconference)**  
**Director Beth Painter (in attendance via teleconference)**  
**Director Leon Garcia (in attendance via teleconference)**  
**Director Geoff Ellsworth excused**  
**Director Belia Ramos excused**  
**Director Alfredo Pedroza**  
**Director Ryan Gregory**  
**Director Diane Dillon**

**The meeting was called to order by Chair Brad Wagenknecht.**

2. **PLEDGE OF ALLEGIANCE**

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. **APPROVAL OF MINUTES**

**None**

## 4. PRESENTATIONS AND COMMENDATIONS

None

## 5. CONSENT ITEMS

- A. District Counsel requests approval of Resolution No. 2021-08 (FC) making findings and declaring its intent to continue remote teleconference meetings pursuant to Government Code section 54953 due to the Governor's Proclamation of State Emergency and state and local recommendations related to physical distancing due to the threat of COVID-19. [21-1179](#)

**Motion Text:** Approve Consent Item.

**Voting Yes:** Pedroza, Dunbar, Dillon, Garcia, Gregory,  
Lopez-Ortega, Painter, Sedgley and Wagenknecht

**Excused:** Ramos and Ellsworth

**Recusals:** None

**Result:** Passed

**Enactment No:** R-2021-08 (FC)

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. District staff to present an update on the Flood Project. [21-1090](#)

**District Manager Richard Thomasser made presentation.**

**Senior Engineer Andrew Butler made presentation.**

**Discussion held.**

## 9. SET MATTERS OR PUBLIC HEARINGS

None

10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

None

11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

None

12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser provided an update on the recent storms effect on the drought within the county.**

**Discussion held.**

13. CLOSED SESSION

None

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, DECEMBER 7, 2021  
AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



## Meeting Minutes

### Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Chairperson)

Brad Wagenknecht, District 1 (Vice-Chairperson)

Irais Lopez-Ortega, City of Calistoga

Diane Dillon, District 3

John Dunbar, Town of Yountville

Geoff Ellsworth, City of St. Helena

Leon Garcia, City of American Canyon

Ryan Gregory, District 2

Beth Painter, City of Napa

Alfredo Pedroza, District 4

Belia Ramos, District 5

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**Tuesday, December 7, 2021**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. CALL TO ORDER; ROLL CALL

**Present: Chair Brad Wagenknecht, Directors Alfredo Pedroza, Belia Ramos, Beth Painter, Diane Dillon, Irais Lopez-Ortega, John Dunbar, Geoff Ellsworth, Leon Garcia, Ryan Gregory and Vice Chair Scott Sedgley. The meeting was called to order by Chair Brad Wagenknecht.**

2. PLEDGE OF ALLEGIANCE

**Chair Brad Wagenknecht led the assembly in the Pledge of Allegiance.**

3. APPROVAL OF MINUTES

**None**

4. PRESENTATIONS AND COMMENDATIONS

**None**

## 5. CONSENT ITEMS

- A. District Manager and District Secretary request approval and adoption of the 2022 meeting calendar for the Board of Directors of the Napa County Flood Control and Water Conservation District (District) pursuant to District Bylaws. [21-1216](#)

**Motion Text:** Approve requested action.

**Voting Yes:** Gregory, Garcia, Dillon, Dunbar, Ellsworth, Lopez-Ortega, Painter, Pedroza, Ramos, Sedgley and Wagenknecht

**Recusals:** None

**Result:** Passed

- B. District Manager requests approval of and authorization for the Chairperson to sign an amendment to Agreement 210249B (FC) with the Gasser Foundation and Burbank Housing Development Corporation increasing the maximum compensation to \$125,000 and extending the period of performance for the work. [21-1256](#)

**Motion Text:** Approve requested action.

**Voting Yes:** Dunbar, Ellsworth, Dillon, Garcia, Lopez-Ortega Painter, Pedroza, Ramos, Sedgley and Wagenknecht

**Recusals:** Gregory

**Result:** Passed

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

One (1) person spoke during public comment.

## 8. ADMINISTRATIVE ITEMS

- A. District Manager requests presentation of, and seeks direction on, Napa countywide water supply and drought management website elements. [21-1264](#)

**District Manager Richard Thomasser made presentation.**

**Director of Public Works Steven Lederer made presentation.**

**Two (2) people spoke during public comment.**

**Discussion held.**

**Direction provided to staff.**

- B. District Manager requests approval of a Resolution making findings and declaring its intent to continue remote teleconference meetings pursuant to Government Code section 54953 due to the Governor's Proclamation of State Emergency and state and local recommendations related to physical distancing due to the threat of COVID-19. [21-1302](#)

**Deputy County Counsel Shana Bagley made presentation.**

**Motion Text: Approve requested action.**

**Voting Yes: Pedroza, Dillon, Dunbar, Ellsworth, Garcia, Gregory,  
Lopez-Ortega, Painter, Ramos, Wagenknecht and Sedgley**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2021-09 (FC)**

## 9. SET MATTERS OR PUBLIC HEARINGS

**None**

## 10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Geoff Ellsworth reported on supporting the idea of the pie chart shown in the previous presentation by staff. Director Ellsworth also inquired about debris maintenance in the streams in St. Helena and supports beaver habitats being a source of fire resiliency against potential wildfires.**

## 11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**Director Leon Garcia requested a discussion regarding representation on the North Bay Watershed Association be agendaized at a future meeting.**

## 12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser introduced District Engineer Chris Silke to report on the State Water Project (SWP) allocation.**

**District Engineer Chris Silke reported on the water levels for Lake Orville being at a record low of 30% below the normal level. This is now considered a minimum safe and healthy standard and there is no expectation to receive any additional allocation of water.**

## 13. CLOSED SESSION

## A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

[\*\*21-1062\*\*](#)

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4):  
(1 Case)

**Deputy County Counsel Shana Bagley stated "a motion made by Director Dillon, seconded by Director Ellsworth, the Board unanimously voted to authorize County Counsel and the District Manager to initiate litigation. The identity of the defendant or defendants and other particulars about the actions shall be disclosed once formally commenced to any person upon inquiry unless doing so would jeopardize the District's ability to effectuate service or process or jeopardize the District's ability to conclude any additional negotiations. No other reportable action was taken in Closed Session."**

## 14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JANUARY 4, 2022 AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# Meeting Minutes

## Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Chairperson)  
Brad Wagenknecht, District 1 (Vice-Chairperson)  
Irais Lopez-Ortega, City of Calistoga  
Diane Dillon, District 3  
John Dunbar, Town of Yountville  
Geoff Ellsworth, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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**Tuesday, February 1, 2022**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. CALL TO ORDER; ROLL CALL

**Present: Chair Scott Sedgley, Directors Alfredo Pedroza, Belia Ramos, Beth Painter, Diane Dillon, Irais Lopez-Ortega, John Dunbar, Geoff Ellsworth, Leon Garcia, Ryan Gregory and Vice Chair Brad Wagenknecht. The meeting was called to order by Chair Scott Sedgley.**

2. PLEDGE OF ALLEGIANCE

**Chair Scott Sedgley led the assembly in the Pledge of Allegiance.**

## 3. APPROVAL OF MINUTES

- A. Clerk of the Board/Secretary of the District Board requests approval of minutes from the July 20, 2021 and January 4, 2022 meetings.

[22-22](#)

**Correction memorandum provided.**

**Motion Text:** Approve Minutes as amended.

**Voting Yes:** Garcia, Dunbar, Dillon, Ellsworth, Gregory, Lopez-Ortega, Painter, Pedroza, Ramos, Wagenknecht and Sedgley

**Recusals:** None

**Result:** Passed

## 4. PRESENTATIONS AND COMMENDATIONS

None

## 5. CONSENT ITEMS

None

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. District Manager requests review and discussion of a presentation on the District's responsibility to manage vegetation along waterways and how the work relates to County wildfire risk mitigation objectives.

[22-09](#)

**District Manager Richard Thomasser made presentation.**

**Watershed and Flood Control Resource Specialist Mike Gordon made presentation.**

**Discussion held.**

- B Auditor-Controller requests acceptance of the Financial Audit Report for Fiscal Year 2020-21 performed by Brown Armstrong, CPAs.

[22-20](#)

**Auditor-Controller Tracy Schulze made presentation.**

**Discussion held.**

**Motion Text: Accept the Audit Report.**

**Voting Yes: Wagenknecht, Gregory, Dillon, Dunbar, Ellsworth, Garcia, Lopez Ortega, Painter, Pedroza, Ramos and Sedgley**

**Recusals: None**

**Result: Passed**

9. SET MATTERS OR PUBLIC HEARINGS

**None**

10. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Leon Garcia reported on the North Bay Watershed Association not having a meeting in January but the next upcoming meeting is February 4, 2022. Director Garcia also reported on the proposed Highway 37 construction project and its possible effects on the surrounding environment.**

11. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**Chair Scott Sedgley requested that the hybrid meeting format be agendized at a future meeting.**

**Supervisor Alfredo Pedroza requested a discussion regarding workload management be agendized at a future meeting.**

12. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported on the status of the Project Cooperation Agreement (PCA) amendment and the process it must go through to get passed. Mr. Thomasser also reported on the reservoir levels and rain totals being uploaded to the County website on the Water Conservation page in the Public Works section.**

**Discussion held.**

13. CLOSED SESSION

**None**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, MARCH 1,  
2022 AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



## Meeting Minutes

### Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Chairperson)

Brad Wagenknecht, District 1 (Vice-Chairperson)

Irais Lopez-Ortega, City of Calistoga

Diane Dillon, District 3

John Dunbar, Town of Yountville

Geoff Ellsworth, City of St. Helena

Leon Garcia, City of American Canyon

Ryan Gregory, District 2

Beth Painter, City of Napa

Alfredo Pedroza, District 4

Belia Ramos, District 5

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**Tuesday, March 1, 2022**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. CALL TO ORDER; ROLL CALL

**Present: Chair Scott Sedgley, Directors Alfredo Pedroza, Belia Ramos, Beth Painter, Diane Dillon, Irais Lopez-Ortega, John Dunbar, Geoff Ellsworth, Leon Garcia, Ryan Gregory and Vice Chair Brad Wagenknecht. The meeting was called to order by Chair Scott Sedgley.**

2. PLEDGE OF ALLEGIANCE

**Director Ryan Gregory led the Assembly in the Pledge of Allegiance.**

3. APPROVAL OF MINUTES

**None**

4. PRESENTATIONS AND COMMENDATIONS

**None**

## 5. CONSENT ITEMS

**Motion Text:** Approve Consent Items.

**Voting Yes:** Pedroza, Dillon, Dunbar, Ellsworth, Gregory, Garcia, Lopez  
Ortega, Painter, Ramos, Wagenknecht and Sedgley

**Recusals:** None

**Result:** Passed

- A. District Manager requests approval of and authorization for the Chairperson to sign Agreement 220236B with the California Conservation Corps (CCC) for Fiscal Years 2022 through 2025, at an annual cost of \$48,000 for FY21/22 and \$68,640 each fiscal year for 3 additional years, for a total maximum amount of \$253,920 for ongoing stream maintenance and restoration projects throughout Napa County.

[22-34](#)

**Enactment No:** A-220236B

- B. District Manager requests adoption of a Resolution in support of the proposed Alternate Intake Project (AIP) that would divert State Water Project (SWP) deliveries from the deep channel of Sacramento River in West Sacramento to the North Bay Aqueduct.

[22-422](#)

**Enactment No:** R-2022-03 (FC)

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

- A. Auditor-Controller and District Manager to present Audit completed by the California State Controller on subvention funds reimbursed by the State Department of Water Resources to the Napa County Flood Control and Water Conservation District (District) for the Napa River/Napa Creek Flood Protection Project (Project), covering the reporting period July 1, 2005 through June 30, 2016. [22-159](#)

**District Manager Richard Thomasser made presentation.**

**Auditor-Controller Tracy Schulze made presentation.**

**Discussion held.**

**Motion Text: Accept Audit Report.**

**Voting Yes:** Gregory, Wagenknecht, Dillon, Dunbar, Ellsworth, Garcia,  
Lopez-Ortega, Painter, Ramos, Wagenknecht and Sedgley

**Recusals:** None

**Result:** Passed

- B. District Manager requests discussion of, and possible action regarding the format of the Napa County Flood Control and Water Conservation District (District) Board of Directors meetings. [22-415](#)

**District Manager Richard Thomasser made presentation.**

**Discussion held.**

**One (1) person spoke during public comment.**

**Direction provided to staff.**

## 9. SET MATTERS OR PUBLIC HEARINGS

**None**

## 10. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported on Napa River dredging. The project is currently in the design phase. Workers have found 60,000 cubic yards of waste that they would like to remove from the federal navigation channel. Mr. Thomasser also reported on working with the City of Napa on a future park plan. Lastly, Mr. Thomasser reported on sending a letter to the Bureau of Reclamation regarding the Lake Berryessa water supply contract renewal.**

## 11. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Leon Garcia reported on attending the North Bay Watershed Association meeting where staff provided a presentation on the proposed Highway 37 project and dealing with its environmental issues.**

## 12. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

**None**

## 13. CLOSED SESSION

**None**

## 14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, APRIL 5, 2022  
AT 1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



## Meeting Minutes

### Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Chairperson)

Brad Wagenknecht, District 1 (Vice-Chairperson)

Irais Lopez-Ortega, City of Calistoga

Diane Dillon, District 3

John Dunbar, Town of Yountville

Geoff Ellsworth, City of St. Helena

Leon Garcia, City of American Canyon

Ryan Gregory, District 2

Beth Painter, City of Napa

Alfredo Pedroza, District 4

Belia Ramos, District 5

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**Tuesday, April 5, 2022**

**1:30 PM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

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1. CALL TO ORDER; ROLL CALL

**Present: Chair Scott Sedgley, Directors Alfredo Pedroza, Belia Ramos, Beth Painter, Chris Canning, Geoff Ellsworth, Leon Garcia, Ryan Gregory and Vice Chair Brad Wagenknecht. Director John Dunbar was excused and Director Diane Dillon was en route. The meeting was called to order by Chair Scott Sedgley.**

2. PLEDGE OF ALLEGIANCE

**Chair Scott Sedgley led the assembly in the Pledge of Allegiance.**

3. APPROVAL OF MINUTES

**None**

4. PRESENTATIONS AND COMMENDATIONS

**None**

## 5. CONSENT ITEMS

- A. District Manager requests approval of and authorization for the Chairperson to sign the following amendments to agreements for water supply associated with the State Water Contract: [22-673](#)
1. Amendment No. 18 of Agreement No. 1573 with the City of Napa;
  2. Amendment No. 18 of Agreement No. 423 with the City of American Canyon; and
  3. Amendment No. 15 of Agreement No. 1926 with the City of Calistoga.

**Motion Text:****Approve Consent Items.****Voting Yes:****Pedroza, Ellsworth, Canning, Gregory,  
Garcia, Lopez-Ortega, Painter, Ramos,  
Wagenknecht and Sedgley****Excused:****Dillon****Recusals:****None****Result:****Passed**

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

**None**

## 7. PUBLIC COMMENT

**None**

## 8. ADMINISTRATIVE ITEMS

- A. District Manager will provide an update on the water supply outlook for Napa County and its communities due to the exceptionally dry conditions. [22-681](#)

**District Manager Richard Thomasser made presentation.****Engineering Manager Chris Silke made presentation.****Discussion held.**

## 9. SET MATTERS OR PUBLIC HEARINGS

## A. PUBLIC HEARING 1:30 PM

[22-555](#)

District Manager requests the following actions regarding the Rutherford Reach Benefit Zone Assessment District 2008-01:

1. Acceptance of the Engineer's Report for Fiscal Year 2022/2023; and
2. Adoption of the Resolution of Intention to Levy and Collect Assessments for Fiscal Year 2022/2023 and authorizing the notice of protest hearing.

**District Manager Richard Thomasser made presentation.**

**Discussion held.**

**Motion Text:**

**Accept the Engineer's Report.**

**Voting Yes:**

**Wagenknecht, Dillon, Canning, Ellsworth,  
Gregory, Garcia, Lopez-Ortega, Painter,  
Pedroza, Ramos and Sedgley**

**Excused:**

**None**

**Recusals:**

**None**

**Result:**

**Passed**

**Motion Text:**

**Adopt the Resolution.**

**Voting Yes:**

**Dillon, Gregory, Canning, Ellsworth,  
Garcia, Lopez-Ortega, Painter, Pedroza,  
Ramos, Wagenknecht and Sedgley**

**Excused:**

**None**

**Recusals:**

**None**

**Result:**

**Passed**

**Enactment No:**

**R-2022-01 (FC)**

## B. PUBLIC HEARING 1:30 PM

[22-676](#)

District Manager requests the following regarding the Joint Zone Project 96-1 Assessment:

1. Acceptance of the Engineer's Report for Fiscal Year 2022/2023; and
2. Adoption of a Resolution of Intention to Levy and Collect Assessments for Fiscal Year 2022/2023 for Joint Zone Project 96-1 (Maintenance and Watershed Management) and authorizing the notice of protest hearing.

**District Manager Richard Thomasser made presentation.**

**Motion Text:** Accept the Engineer's Report.

**Voting Yes:** Garcia, Pedroza, Canning, Dillon,  
Ellsworth, Gregory, Lopez-Ortega,  
Painter, Ramos, Wagenknecht and Sedgley

**Recusals:** None

**Result:** Passed

**Motion Text:** Adopt the Resolution.

**Voting Yes:** Wagenknecht, Gregory, Canning, Dillon,  
Ellsworth, Garcia, Lopez-Ortega, Painter,  
Pedroza, Ramos and Sedgley

**Recusals:** None

**Result:** Passed

**Enactment No:** R-2022-02 (FC)

## 10. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**District Manager Richard Thomasser reported the U.S. Army Corps of Engineers authorized the Flood District to begin negotiations on the Project Cooperation Agreement (PCA) amendment, which the Flood District hopes to bring to the Board for approval either next month or in June.**

## 11. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

**Director Leon Garcia reported the North Bay Watershed Association will have its annual conference on April 8, 2022 from 9:00 a.m. to 3:00 p.m. via Zoom. The conference will be video recorded for those would aren't able to attend.**

**Chair Scott Sedgley reported the Fire Districts Association of California is holding their annual conference on April 5, 2022 through April 8, 2022 at the Napa Valley Marriott.**

## 12. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

None

13. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

[22-725](#)

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4):  
(1 Case)

**No reportable action.**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, MAY 3, 2022 AT  
1:30 P.M.**

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# Napa County

## Board Agenda Letter

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Flood Control and Water Conservation District **Agenda Date:** 5/3/2022

**File ID #:** 22-895

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Christopher Silke - Engineering Manager-Water Resources  
**SUBJECT:** State Water Project Update

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### **RECOMMENDATION**

District Manager will provide an update regarding the State Water Project and recent curtailment actions by the State Water Resources Control Board affecting the North Bay Aqueduct.

### **EXECUTIVE SUMMARY**

Staff will provide an update regarding the status of water supplies that are contracted for with the Department of Water Resources, including the current status of curtailment actions that occurred in March 2022 affecting the North Bay Aqueduct.

### **FISCAL IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

















### **BACKGROUND AND DISCUSSION**

On the afternoon of Friday, March 25, 2022, District staff were contacted by the State Department of Water Resources (DWR) by e-mail with a request to meet over video for a briefing on the Notice of Water Unavailability Notice (curtailment) ordered by the State Water Resources Control Board. District staff, Solano County Water Agency management and DWR officials agreed to a Monday, March 28, 2022 video

informational exchange regarding the SWRCB curtailment action brought upon State Water Project Legal Delta junior water rights. What staff learned during the DWR meeting was as follows: 1) Water Boards curtailment affected Lindsey Slough Appropriative Water Right A017514A held by DWR, which permits Delta diversions from North Bay Aqueduct to member cities in Napa and Solano counties, 2) the curtailment was retroactive to March 2, 2022, 3) while Lake Oroville was filling from snowpack melt runoff building storage there would be no Table A water released for NBA delivery, 4) DWR personnel filed an exception petition with SWRCB Deputy Director under the Human Health and Safety provisions of Drought Emergency Rulemaking Regulations promulgated in August 2021. DWR and NBA Water Contractors agreed to reconvene on Friday, April 1, 2022 after each party had an opportunity to bring local awareness to this unprecedented action on Municipal and Industrial (M&I) urban water use.

Understanding the ramifications for Napa County and urgency to involve SWP City Members in the discussions District staff promptly called for a caucus on the matter. Staff also conferred with legal counsel (including external water rights experts) for assistance in preparing a response to DWR on behalf of the District. A letter outlining the District's curtailment concerns and impacts disrupting water supply to industrial / commercial customers was electronically submitted to DWR on April 8, 2022. After multiple days of deliberations and communications with City Members and attorneys a list of thirteen (13) questions was composed seeking more detailed clarification on the Lindsey Slough Water Right and the technical basis by which the Water Board acted on determining there was no water available for the NBA. The document was forwarded to DWR Deputy Director and Operations Manager ahead of the April 1, 2022 follow-up video meeting. In the April 1 proceedings, DWR representatives decided to pause any further transition into the Health & Safety exception criteria for NBA water deliveries until the State Water Board could respond to the curtailment order challenge brought by the District and Solano County Water Agency. DWR engaged the State Water Board in dialogue over the following week and reported on April 11, 2022 that there might be a change on water availability at the North Bay Aqueduct because forecasted supply into the Sacramento / San Joaquin basins was improving from multiple rain events. The State Water Board lifted the curtailment on the Lindsey Slough Appropriative Water Right A017514A the evening of April 11, 2022. District staff was alerted to the change in curtailment status the next morning and will continue reporting to the Board as a permanent remedy is sought collaborating with DWR and State Water Contractors, Inc. The Water Unavailability Methodology tool that underpins the State Water Board's Priority Date curtailment decisions is influenced by public stakeholders and subject to revisions in conjunction with their rulemaking. Staff will provide additional updates to the Board as appropriate and will likely recommend an expert be retained for SWP water rights and Delta water unavailability methodology consultation in the future.

# North Bay Aqueduct Curtailment Timeline & Actions

	Week of March 21st	Week of March 28th	Week of April 4th	Week of April 11th
State Water Resources Control Board	 <b>Delta Status Update</b> <b>Curtailment Notice</b> March 22		 <b>Methodology Deliberations</b> <b>Staff Meeting w/DWR</b> April 8	 <b>Delta Status Update</b> <b>Not Curtailed</b> April 11
Department of Water Resources	 <b>NBA Contractor Advisory</b> <b>Meeting Request</b> March 25  <b>Petition for HH&amp;S Exception</b> <b>SWRCB Submittal</b> March 25	 <b>Conferences</b> <b>Contractors</b> March 28 <b>Follow-up</b> April 1	 <b>Methodology Deliberations</b> <b>Staff Meeting w/SWRCB</b> April 8	 <b>Conferences</b> <b>Follow-up</b> April 11
Flood District	 <b>NBA Contractor Advisory</b> <b>Meeting Request</b> March 25	 <b>Conferences</b> <b>DWR</b> March 28 <b>Cities</b> March 29 <b>Follow-up</b> April 1  <b>Regulations &amp; Permit Research</b> <b>Staff RFI to DWR</b> April 1	 <b>Legal Intervention</b> <b>Board Meeting</b> April 5 <b>DWR Letter</b> April 8	 <b>Conferences</b> <b>Follow-up</b> April 11
Cities		 <b>Conferences</b> <b>Flood</b> March 29 <b>Follow-up</b> April 1  <b>Regulations &amp; Permit Research</b> <b>Staff RFI to Flood</b> April 1		 <b>Conferences</b> <b>Follow-up</b> April 11



## NBA Curtailment Takeaways

- SWRCB Water Unavailability Methodology
- DWR Water Right Priority Date
- Exceptionally Dry Delta Hydrology
- Lake Oroville Filling / No Storage Release / TUCP
- Wetter Weather Led to Lifting Order
- SWRCB Proposed Refinements to Bay-Delta Drought Regulations



# Napa County

## Board Agenda Letter

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Flood Control and Water Conservation District **Agenda Date:** 5/3/2022

**File ID #:** 22-946

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**TO:** Napa County Flood Control and Water Conservation District

**FROM:** Richard Thomasser, District Manager

**REPORT BY:** Andrew Butler, District Engineer

**SUBJECT:** Discussion of Flood Control Project Land Acquisitions and Approval of Agreement 220322B with Associated Right of Way Services

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### **RECOMMENDATION**

District Manager requests the following related to land acquisitions associated with the next phase of the Napa Flood Control Project:

1. Discussion and possible direction regarding the process and timeline for land acquisitions for Contract 3 North - Floodwalls North of the Bypass; and
2. Approval of and authorization for the Chairperson to sign an agreement with Associated Right of Way Services, Inc., (ARWS) for the term of May 3, 2022 through June 30, 2023 with a maximum compensation of \$511,000 and an automatic rollover for a maximum of two additional years.

### **EXECUTIVE SUMMARY**

District staff recently engaged AWRs under an existing contract to complete a real estate acquisition management plan for the next phase of the Flood Project - the Floodwalls North of the Bypass. As a part of this management plan, the costs for both the coordination of the acquisition process and for the properties were estimated. Those estimates were used to prepare this contract and the real estate acquisition budget for the Flood Project for FY 22/23.

### **PROCEDURAL REQUIREMENTS**

Staff reports  
Public comments  
Motion, second, discussion and vote on the item

### **FISCAL IMPACT**

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Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Napa County Flood Control Project (Organization: 8001000)
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The services provided by ARWS under this agreement are needed to continue the Flood Project without major delays.
Is the general fund affected?	No
Future fiscal impact:	Funding for ARWS' efforts have been included in the proposed FY 22/23 budget that will be presented for Board approval in June 2022 and will be included in future budgets as needed.
Consequences if not approved:	Without real estate acquisition support, the District would be unable meet its commitments as local sponsor on the Flood Project.
Additional Information	N/A

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The Napa River/Napa Creek Flood Protection Project was included in the Final Environmental Impact Report/Statement (FEIR/EIS). The FEIR was circulated twice for public comment, from December 19, 1997 to February 13, 1998, and again in October and November 1998 (although not required), then certified by the Board of Directors of the Napa County Flood Control and Water Conservation District on May 4, 1999. The U.S. Army Corps of Engineers certified the Final Supplemental Environmental Impact Statement (FSEIS) on June 9, 1999.

### **BACKGROUND AND DISCUSSION**

ARWS has provided the District with support for its real estate acquisition activities since the beginning of the Flood Project. ARWS has prepared a real estate acquisition management plan to help put together a strategy for the property acquisitions on the estimated 19 properties that will be required to move forward with the Floodwalls North of the Bypass Project. Staff will present an overview of this process.

Staff will also provide an update regarding reimbursement of real estate costs through the State of California Flood Subventions program. Funding for this State program is largely tied to the Proposition 1E bonds, which are set to expire in 2023. Although there are efforts at the State level ongoing for an extension of the deadline, the expiration date presents a schedule challenge for the Project.

**NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
AGREEMENT NO.**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** ("Agreement") is made and entered into as of this \_\_\_\_\_ day of May, 2022, by and between NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a special district of the State of California, hereinafter referred to as "DISTRICT," and ASSOCIATED RIGHT OF WAY SERVICES, INC., a California corporation, whose mailing address is 2300 Contra Costa Blvd., Suite #525 Pleasant Hill, California 94523, hereinafter referred to as "CONTRACTOR."

**RECITALS**

**WHEREAS**, DISTRICT wishes to obtain specialized services, as authorized by Government Code section 31000, in order to acquire various interests in real property adjacent to the Napa River in order to implement a Flood Protection Project; and

**WHEREAS**, on February 2, 1999, DISTRICT entered into Napa County Flood Control and Water Conservation District Agreement 37(FC) with CONTRACTOR under which CONTRACTOR agreed to provide DISTRICT with services related to acquisition of interests in real property required for the implementation of the Napa River/Napa Creek Flood Protection Project; and

**WHEREAS**, it is the intent of the parties that this Agreement replace and supersede any other agreement or agreements, oral or written, that the DISTRICT may have with the CONTRACTOR with respect to the subject matter covered by this Agreement, including but not limited to Napa County Flood Control and Water Conservation District Agreement 37(FC); and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to DISTRICT under the terms and conditions set forth herein.

**TERMS**

**NOW, THEREFORE**, DISTRICT hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve DISTRICT in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first written above and shall expire on the 30<sup>th</sup> day of June, 2023, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination), or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to DISTRICT shall

also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes), and 21 (Access to Records/Retention). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed two (2) additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide DISTRICT those services set forth in Exhibit "A," attached hereto.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, DISTRICT shall pay CONTRACTOR at the rates set forth in Exhibit "B," attached hereto and incorporated by reference herein. CONTRACTOR will be allowed to submit an annual rate schedule adjustment each fiscal year based on the current Bay Area Construction Cost Index or another Index at the request of CONTRACTOR and approved by the DISTRICT ENGINEER in writing.

(b) Expenses. Travel and other expenses will be reimbursed by DISTRICT upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit "B."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of five hundred and eleven thousand dollars (\$511,000) for professional services and expenses, provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to DISTRICT of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked, a detailed description of the tasks completed during the billing period, the names of person(s) performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) [RESERVED]

(d) CONTRACTOR shall submit invoices not more often than monthly to the District Engineer who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit "C."

(e) Legal Status. So that DISTRICT may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or becomes

a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the District Engineer upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents, and employees of CONTRACTOR are not, and shall not be deemed, DISTRICT employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that DISTRICT may monitor the work performed by CONTRACTOR. DISTRICT shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, DISTRICT, in addition to any other rights or remedies which DISTRICT may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide DISTRICT with certification of all such coverages upon request by DISTRICT's Risk Manager.

(b) Liability Insurance. CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, **issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:**

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury,

including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(3) Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased, and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of DISTRICT's Risk Manager, demonstrated by other evidence of coverage acceptable to DISTRICT's Risk Manager, which shall be filed by CONTRACTOR with DISTRICT prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its DISTRICT number or title and department; shall be kept current during the term of this Agreement; shall provide that DISTRICT shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming DISTRICT, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of DISTRICT shall pertain

only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to DISTRICT with respect to any insurance or self-insurance programs maintained by DISTRICT. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon request by DISTRICT's Risk Manager, CONTRACTOR shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, DISTRICT's Risk Manager, which approval shall not be denied unless the DISTRICT's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by DISTRICT's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects DISTRICT, its officers, employees, agents, and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

#### **8. Hold Harmless/Defense/Indemnification.**

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless DISTRICT and its officers, agents, employees, , or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages, or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, contractors, and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages, or expenses arising from the sole negligence or willful acts of DISTRICT or its officers, agents, employees, representatives, or other contractors or their subcontractors. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records, or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents, or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period

rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold DISTRICT and its officers, agents, and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

9. **Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). The DISTRICT Manager or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of DISTRICT for cause.

10. **Other Termination.** This Agreement may be terminated by either party for any reason and at any time by giving prior written notice of such termination to the other party specifying the effective date thereof at least thirty days prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by DISTRICT unless an opportunity for consultation is provided prior to the effective date of the termination. DISTRICT hereby authorizes the DISTRICT Manager to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of DISTRICT for the convenience of DISTRICT.

11. **Disposition of, Title to and Payment for Work Upon Expiration or Termination.**

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to DISTRICT, DISTRICT shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains DISTRICT data on those portions of digital software hosted by CONTRACTOR and not controlled by DISTRICT ("DISTRICT data"), CONTRACTOR shall promptly return DISTRICT data to DISTRICT Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge DISTRICT data from CONTRACTOR's systems upon confirmation from DISTRICT that the copy of the data provided to DISTRICT is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of DISTRICT, the property of and shall be promptly returned to DISTRICT, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only DISTRICT shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions

or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that DISTRICT shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which DISTRICT is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to DISTRICT or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by DISTRICT for the sole purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to DISTRICT.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to DISTRICT for damages sustained by DISTRICT by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and DISTRICT may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to DISTRICT from CONTRACTOR is determined.

12. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval, or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

DISTRICT

Napa County Flood Control &  
Water Conservation District  
804 First Street  
Napa, CA 94559-2623

CONTRACTOR

Associated Right of Way Services, Inc.  
2300 Contra Costa Blvd., Suite #525  
Pleasant Hill, California 94523

14. **Compliance with DISTRICT Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers,

agents, and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by DISTRICT employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective June 20, 2017.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the DISTRICT computer network shall sign and have on file with DISTRICT's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995, and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

#### 15. **Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR that relates to DISTRICT's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of DISTRICT, expressed through its District Engineer. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to DISTRICT all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by DISTRICT.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state, and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state, and local laws, rules, and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of DISTRICT Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use, or disclose DISTRICT Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with DISTRICT. Any other access, use, or disclosure of DISTRICT Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to, the following: the removal of confidential files, documents, or devices containing DISTRICT Protected Information from a DISTRICT facility; the unauthorized transmission of DISTRICT

Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or DISTRICT employees) who do not have a DISTRICT approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological, and administrative safeguards are in place to protect the confidentiality of DISTRICT's Protected Information. Upon request, CONTRACTOR shall make available to DISTRICT its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify DISTRICT immediately of any unauthorized access to or disclosure of Protected Information of which it becomes aware. This includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of DISTRICT's Protected Information, or its unauthorized access to or disclosure of DISTRICT's Protected Information, including, but not limited to, mitigation of the breach, cost to the DISTRICT of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules, or regulations applicable at the time of the breach.

**16. No Assignments or Subcontracts.**

(a) In General. A consideration of this Agreement is the personal reputation of CONTRACTOR; therefore, CONTRACTOR shall not assign any interest in this Agreement or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of DISTRICT, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONTRACTOR, or to perform any of the remaining services required under this Agreement within the same time frame required of CONTRACTOR shall be deemed to be reasonable grounds for DISTRICT to withhold its consent to assignment. For purposes of this subparagraph, the consent of DISTRICT may be given by the District Engineer.

(b) Effect of Change in Status. If CONTRACTOR changes its status during the term of this Agreement from or to that of a corporation, limited liability partnership, limited liability company, general partnership, or sole proprietorship, such change in organizational status shall be viewed as an attempted assignment of this Agreement by CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

**17. Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

**18. Interpretation; Venue.**

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation, or similar legal proceedings under this Agreement shall be Napa, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

**19. Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State, and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV, and AIDS), or political affiliation or belief, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV, and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5), and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of DISTRICT by the State of California pursuant to agreement between DISTRICT and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal

right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to DISTRICT for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold DISTRICT harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that DISTRICT is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish DISTRICT with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** DISTRICT, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after DISTRICT makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONTRACTOR and DISTRICT each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to DISTRICT and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as DISTRICT may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of DISTRICT relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, DISTRICT may terminate this Agreement immediately upon giving written notice without further obligation by DISTRICT to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that DISTRICT has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR to file with the Elections Division of the Napa County Assessor-Clerk Recorder “assuming office,” “annual,” and “leaving office” Statements of Economic Interest as a “consultant,” as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined in writing that CONTRACTOR, although holding a “designated” position as a consultant, has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation.

24. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create such rights.

25. **Attorney's Fees.** In the event that either party commences legal action of any kind or character either to enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

26. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

27. **Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

**IN WITNESS WHEREOF**, this Agreement was executed by the parties hereto as of the date first above written.

ASSOCIATED RIGHT OF WAY SERVICES, INC.

By   
BILL TANNENBAUM, President

By   
MATTHEW SCHOCK, Vice-President

"CONTRACTOR"

NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT, a special district of  
the State of California

By \_\_\_\_\_  
SCOTT SEDGLEY,  
Chairperson of the Board of Directors

"DISTRICT"

APPROVED AS TO FORM Office of District Counsel  By: <u>Shana A. Bagley</u> District Counsel  Date: <u>April 21, 2022</u>	APPROVED BY THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  Date: _____ Processed By: _____  _____ Deputy Secretary of the Board	ATTEST: NEHA HOSKINS Secretary of the District Board  By: _____
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## EXHIBIT "A"

### SCOPE OF WORK

CONTRACTOR shall provide DISTRICT with the following services:

#### I. DESCRIPTION OF SERVICES

##### SCOPE OF WORK

Associated Right of Way Services, Inc. (AR/WS) will provide right of way services to Napa County Flood Control and Water Conservation District (Client) for the Napa River Napa Creek Flood Protection Project.

The subject properties are identified as:

##### NO. APN OWNER ADDRESS

1.	044-170-008	NAPA ELKS HALL ASSOCIATION	2840 SOSCOL AVE
2.	044-204-003	CALIFORNIA VACATION HOLDINGS GR	500 LINCOLN AVE
3.	044-220-004	MURRAY, SUZANNE M	501 LINCOLN AVE
4.	044-220-008	BARAZI, ASSAAD N	505 LINCOLN AVE
5.	044-220-016	BERT WILLIAMS & SONS REAL ESTATE	525 NORTHBAY DR
6.	044-220-017	ORCIUOLI, ENZO	713 SILVERADO TRL
7.	044-220-024	PARIS, NICK T	567 LINCOLN AVE
8.	044-230-001	MOLLOY, JUDITH R	1132 JORDAN LN
9.	044-230-002	CALDERON, JOSE CRUZ	1114 JORDAN LN
10.	044-230-003	CALDERON, JOSE CRUZ	NO SITUS
11.	044-230-004	LARRY ELLIS INC	1106 JORDAN LN
12.	044-230-005	BESS, DAVID W	1104 JORDAN LN
13.	044-230-006	GRASSI, MARK ANTHONY	1098 JORDAN LN
14.	044-242-003	MKD SOSCOL PARTNERS LP	1710 SOSCOL AVE
15.	044-242-004	MKD SOSCOL PARTNERS LP	NO SITUS
16.	044-242-007	MKD SOSCOL PARTNERS LP	625 IMPERIAL WAY
17.	044-301-018	MICHAUD, GARY L	2454 SHORELINE
18.	044-320-059	RIVER GLEN HOMEOWNERS ASSOCIATI	NO SITUS
19.	044-330-082	ELKSGROVE HOMEOWNERS ASSOC	NO SITUS

##### ASSUMPTIONS:

- Assumes pre-acquisition discussions with up to 6 property owners.
- Assumes negotiations for up to 19 properties with 16 owners.
- Assumes relocation services for personal property-only moved on up to 4 properties.
- Assumes full acquisitions or analysis to estimate potential damages may be needed for parcels No. 4, 6, 12, 13, and 16. For all other parcels, assumes acquisitions will not include buildings or other significant improvements or result in damages to remainder parcels, and that improvements to be acquired will be limited primarily to non-complex items such as landscaping, paving and fencing.

## **PROJECT MANAGEMENT – GENERAL CONSULTATION**

- Establish work process with Client and schedule, manage and coordinate all real estate and relocation assistance functions.
- On-going consultation, meetings, and recurring project management duties.
- Coordinate with Client, subcontractors (independent review appraiser), appraiser, property acquisition agent, relocation advisor and others, such as legal counsel and engineering design team.
- Assistance with analyzing various courses of action. Work with Client to resolve problems and recommend solutions.
- Contract management, budget monitoring and control, and project reporting.
- Implementation and compliance with applicable state and federal laws and regulations.
- Maintaining accurate records. Monitor work plan and workflow.

### **DELIVERABLES**

- Project status report spreadsheets.

## **PRE-ACQUISITION DISCUSSIONS**

- Perform pre-acquisition discussions with up to 6 property owners.
- Along with District team members, engage with property owners to discuss the project in general and acquisition process. These meetings should also include someone from engineering design team to respond to questions about project design.
- Gather information on concerns of the property owners and examine issues without discussing compensation or negotiating with the owners.
- Have discussions with Client and engineering design team regarding the feasibility of potential modifications to the project design and/or requests from the property owners.

## **APPRAISAL**

- Appraisals to be provided to Client staff as directed.
- Appraisals to be prepared in accordance with California Eminent Domain Law; California Government Code section 7260 et seq.; Uniform Standards of Professional Appraisal Practice (USPAP) requirements, except as jurisdictionally exempt; and 49 CFR Part 24.
- The owner or a designated representative will be invited by the appraiser to accompany them during the inspection of the property.
- Appraisals to be prepared in an Appraisal Report format in accordance with USPAP, Standard Rule 2-2.
- Appraisals are for the “Fair Market Value” of the properties as per California Code of Civil Procedure, Section 1263.320.
- In accordance with the California Code of Civil Procedure Section 1263.330, the market value of the property acquired will not include consideration of any increase or decrease in the value of the property that is attributable to any of the following:

- The project for which the property is taken;
- The eminent domain proceeding in which the property is taken;
- Any preliminary actions of the acquiring authority relating to the taking of the property.
- Appraiser will not consider, nor include in their appraisal, any allowance for relocation benefits of personal property.
- The appraisal of real estate does not include business or goodwill analyses or conclusions. Any loss of goodwill valuations should be performed by others.
- The appraiser will work directly with the Review Appraiser.
- If revisions are made to the property or assignment requirements during the appraisal process or upon completion of the report, appraisal time to address these revisions will be billed on an hourly basis in accordance with the AR/WS Fee Schedule, upon Client approval. (Optional Service)

#### **DELIVERABLES**

- Draft Notice of Decision to Appraise for approval.
- Appraisal Report.

#### **CLIENT OBLIGATIONS**

- Adequate appraisal maps or legal descriptions and plat maps.
- Design information and construction plans.
- Environmental site assessments, if applicable.

### **APPRAISAL REVIEW**

Appraisal review may be required and AR/WS proposes to subcontract with a qualified independent review appraiser for these services.

- Upon receiving appraisal reports, an office review of the reports using the various standards prescribed by the Federal and State Uniform Acts, 49 CFR Part 24, USPAP, and the California Eminent Domain codes will be completed.
- Review appraiser will provide comments to the appraiser for discussion and will communicate with the appraiser to clarify potential issues and resolve problems.
- Upon satisfactory completion of the appraisal reports, a review certificate report will be prepared.

#### **DELIVERABLES**

- Appraisal Review Report.

### **NEGOTIATIONS / ACQUISITIONS**

- AR/WS to prepare acquisition documents. Said documents include, but are not limited to, the following: offer letter, appraisal summary statement and summary of the basis for just compensation, summary statement pertaining to the acquisition of real property or an interest therein, purchase agreement, deed, and public acquisition Client's written approval as to form prior to use in the field.
- AR/WS will negotiate to acquire a fee acquisition, flood protection levee easements and temporary construction easements from up to 20 parcels, as previously identified by the Client and included in the list at the beginning of

this proposal. We are assuming there will be negotiations with up to 17 property owners.

- All discussions for the acquisition of property or an interest therein will be directed to result in the payment of just compensation.
- If settlement with owners is reached pursuant to the Client approved appraisal or Client approved administrative settlement, AR/WS will prepare a Memorandum of Settlement for transmittal to Client, reviewing the issues. This memorandum will require Client written approval before implementation of any settlement agreement.
- AR/WS will make every reasonable effort to acquire property on behalf of the Client expeditiously through agreement with its owner and to avoid litigation. This may necessitate greater levels of effort in the negotiations phase and, where appropriate, should continue after eminent domain has been initiated. Client will provide ongoing feedback to AR/WS as to authorization for settlements.
- AR/WS will establish a process of coordinating escrow closings and reviewing escrow instructions. Where there are escrow closings, preparation of escrow instructions will be completed by title company. Approval of conditions of title and escrow instructions, including but not limited to, “subject to” title exceptions, will be done by Client.
- If agreement with all owners cannot be reached, AR/WS will advise Client that negotiations have reached an impasse. The Client will consider scheduling of an action in eminent domain including the required public necessity hearing. AR/WS will provide condemnation support as needed and requested, budget allowing.
- ARWS will contract with a title company acceptable to District to secure preliminary title reports for the 19 parcels listed in Exhibit “A”. Estimated cost of the title reports is included in the ARWS budget.

#### DELIVERABLES

- Draft Acquisition Documents for approval.
- Memorandum of Settlement and Signed Agreement (upon settlement).
- Notice that negotiations have reached an impasse (if needed).

#### CLIENT OBLIGATIONS

- Written approval of all acquisition documents in a timely manner.
- Direction as to administrative settlements, negotiating authority and condition of title acceptance.
- Providing any formats to be used by AR/WS on Client’s behalf.
- Review and approval of title company prepared escrow instructions.

### **PERSONAL PROPERTY ONLY RELOCATION ASSISTANCE**

Personal property-only relocation assistance will be provided for up to 4 properties.

Personal property only relocation assistance services include:

- Appropriately notice the property occupants.
- Manage the relocation of personal property of owners/tenants.
- Provide research on estimated moving costs, available storage locations and costs, as needed.

- Prepare claim forms and provide claims processing.
- Provide ongoing consultation, coordination and meetings participation.

**II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of DISTRICT pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

## **EXHIBIT “B”**

### **COMPENSATION AND EXPENSE REIMBURSEMENT**

All rates are per hour unless otherwise noted.

Principal Consultant	\$250.00
Managing Consultant	\$210.00
Consultant III	\$160.00
Consultant II	\$140.00
Consultant I	\$120.00
Right of Way Technician	\$95.00
Administrative Support	\$75.00
Appraisal Reports	Lump Sum
Appraiser III (MAI) (Hourly)	\$225.00
Appraiser II (Hourly)	\$205.00
Appraiser I (Hourly)	\$180.00
Subcontractors	Cost + 10%
Preparation for Court Appearances	\$300.00
Depositions, Court Appearances, Arbitrations / Mediations, Hearings, and Testimony	\$400.00

**EXHIBIT "C"**

**[Company Name]**  
 [Street Address]  
 [City, ST ZIP Code]  
 Phone [phone] Fax [fax]  
 Taxpayer ID #

**SAMPLE  
INVOICE**

INVOICE # \_\_\_\_\_

DATE: \_\_\_\_\_

**TO:**

[Customer Name]  
 [Street Address]  
 [City, ST ZIP Code]

**FOR:**

[Project or service description]  
 Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa. Conf w/Owner AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/1/15		Smith, Engineer	1	\$165.00	165.00
1/1/15		Smith, Engineer	4	\$165.00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor Conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15		Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf w/Owner Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/3/15		Jones, PE	1.5	\$195.00	292.50
TOTAL					

# NAPA RIVER FLOOD PROTECTION PROJECT

## FLOODWALLS NORTH OF THE BYPASS ROW ACQUISITION

NCFCWCD Board Meeting

May 3, 2022

# CALIFORNIA SUBVENTIONS UPDATE

- State Reimbursement Funds for Lands and Relocations
- Funds needed for Napa Flood Project
  - Complete Elements without Federal Interest
  - Long Term O&M
- Expiration of majority of remaining funds (Prop 1E)
  - July 1, 2023
  - State currently requesting all claims in by December 2022
- Possibility of Subventions Extension

# NAPA RIVER FLOOD PROTECTION PROJECT

## FLOODWALLS NORTH OF THE BYPASS ROW ACQUISITION

- \$10 to \$15 Million Estimated Cost
- 19 Parcels
  - Full or Partial Acquisition
- City of Napa Lakepark Easement
- Proposed Acquisition Process and Schedule

# NAPA RIVER FLOOD PROTECTION PROJECT

## ACQUISITION PROCESS



# NAPA RIVER FLOOD PROTECTION PROJECT

## EMINENT DOMAIN PROCESS

If no settlement can be reached...



# STAFF RECOMMENDATIONS

Approve ARWS Agreement

Confirm Acquisition Approach and Schedule

Continue Support for Subventions Program  
Funding



# Napa County

## Board Agenda Letter

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Flood Control and Water Conservation District **Agenda Date:** 5/3/2022

**File ID #:** 22-870

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Richard Thomasser - District Manager  
**SUBJECT:** Protest Hearing - Fiscal Year 2022-2023 Watershed Assessment

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### **RECOMMENDATION**

PUBLIC HEARING 1:30 PM

District Engineer requests the following actions regarding Joint Zone Project 96-1 assessments:

1. Conduct a Protest Hearing on the proposed Fiscal Year 2022-2023 Assessments;
2. Tally any written protests filed and not withdrawn by the end of the protest hearing by registered voters residing in, and owners of assessable property located within the three zones of the Joint Zone Project;
3. If the tallied protests are:
  - a. Less than 25% in each Zone -- The Board may adopt the proposed resolution:
    - i. Finding that the submission of proposed assessment to a vote by qualified electors is not required;
    - ii. Approving and levying the annual assessments for Fiscal Year 2022-2023 and
    - iii. Authorizing and directing the filing of the Fiscal Year 2022-2023 assessment roll with the Napa County Auditor for posting to the Fiscal Year 2022-2023 Napa County Property Tax Roll (Maintenance and Watershed Management Program-Project No. 96-1).
  - b. 25% or greater in any of the Zones - The Board must either:
    - i. Abandon the assessment for that Zone; or
    - ii. Place the issue of the proposed assessments in that Zone before the voters in that Zone.

### **EXECUTIVE SUMMARY**

At its April 5, 2022 meeting, the Board approved the Engineer's Report for the Napa County Flood Control and Water Conservation District's (District) Maintenance and Watershed Programs for Fiscal Year 2022-2023, adopted a Resolution of Intent to Levy Assessments and set May 3, 2022 as the date for the required protest hearing. The Board will conduct the protest hearing and take action on the proposed assessments.

### **PROCEDURAL REQUIREMENTS**

1. Open Public Hearing.
2. Staff reports.
3. Public comment.
4. Close Public Hearing.
5. Tally any written protests filed and not withdrawn.
6. Motion, second, discussion and vote on the item.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Watershed Management: Organization 8000500, NPDES: Organization 8000501
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The intention of the assessment process, which began in 1996, was to establish a mechanism to provide continued annual funding for certain categories of ongoing projects benefiting the residents and landowners within the District. This action renews the annual assessment needed to fund the Maintenance and Watershed Programs, Joint Zone Project 96-1, detailed in the Engineer's Report approved at your April 5, 2022 meeting.
Is the general fund affected?	No
Future fiscal impact:	The assessment revenue funds the District's Watershed Management Program for Fiscal Year 2022-2023.
Consequences if not approved:	This assessment is the main revenue source for Organization 8000500: Flood and Watershed Management. If not approved, no funding will be available for the various maintenance and watershed management programs for the Napa River watershed or District-wide programs included in the proposed Fiscal Year 2022-2023 budget.
Additional Information	Click or tap here to enter text.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On August 30, 1996, the Board adopted a Resolution which levied assessments for three zones previously created within the District (Joint Zone Project No. 96-1) to fund various aspects of the maintenance and watershed management program of the District. The Resolution also established an ongoing annual methodology for levying these assessments to reflect changes in the property characteristics of the assessed properties and adjustments for inflation. In accordance with this methodology, on April 5, 2022 the Board held

a public hearing at the conclusion of which the Board adopted the Engineer's Report for the program for the upcoming year and adopted a Resolution indicating its intention to levy assessments and directing notice to be given of a protest hearing to be held on May 3, 2022.

The protest hearing has been noticed in the manner provided by the District's governing statute. It is anticipated that the Board will open the hearing, hear the staff report, and receive any written protests filed prior to or at the hearing from registered voters residing in or the owners of assessable land located within the Joint Zone Project's three zones.

At the conclusion of the hearing, the Secretary of the District Board will tally any such protests which have been filed and not withdrawn. If the tally shows that signed protests were received by fewer than 25 percent of the registered voters residing within each affected Zone and/or by the owners of less than 25 percent of the area of land located within each affected Zone proposed to be subject to assessment for the Joint Zone Project for the 2022-2023 Fiscal Year, based upon those acreages shown on the latest Napa County assessment records, it is recommended that the Board adopt a Resolution (proposed Resolution attached) to:

1. Find that submission of the assessments to the voters is not required;
2. Levy the assessments for Fiscal Year 2022-2023 for Joint Zone Project 96-1; and
3. Authorize the Napa County Auditor-Controller to post the assessment roll to the 2022-2023 Napa County Property Tax Roll.

If a greater percentage of protests (by either registered voters or owners of assessable land) is received in any of the three Zones, the Board is required by the District's Act to either abandon the proposed assessments of that Zone or submit those assessments to the voters of that Zone for approval.

**NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
RESOLUTION NO. 2022-\_\_\_\_ (FC)**

**RESOLUTION OF THE GOVERNING BOARD OF THE NAPA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
FINDING THAT SUBMISSION OF PROPOSED ASSESSMENT TO VOTE  
OF QUALIFIED ELECTORS IS NOT REQUIRED; APPROVING AND  
LEVYING ANNUAL ASSESSMENTS FOR FISCAL YEAR 2022-2023;  
AND AUTHORIZING AND DIRECTING FILING OF THE 2022-2023  
ASSESSMENT ROLL WITH NAPA COUNTY AUDITOR FOR POSTING  
TO 2022-2023 NAPA COUNTY PROPERTY TAX ROLL**

**(MAINTENANCE AND WATERSHED MANAGEMENT PROGRAMS – JOINT  
ZONE PROJECT NO. 96-1)**

**THE GOVERNING BOARD** (“Board”) of the Napa County Flood Control and Water Conservation District (“District”), pursuant to the Napa County Flood Control and Water Conservation District Act, Chapter 61 of the Appendix to the Water Code (“Act”), **FINDS, DETERMINES, AND RESOLVES** as follows:

1. **Approval of Project and Assessment Methodology.** By Board Resolution Nos. 96-69 and 96-70, and in accordance with the procedures provided by the Act and the Brown Act (Government Code sections 54950 *et seq.*), the Board created in 1996 the zones for and approved that joint zone project entitled “Joint Zone Project No. 96-1: Maintenance and Watershed Management Programs” (“Project”). The Board gave notice of and held a public protest hearing on the Project, and, at the conclusion of the protest hearing, having received fewer protests in number and valuation than required to trigger an election or require abandonment of the Project, levied assessments to fund the Project for the 1996-1997 Fiscal Year and also approved an assessment methodology under which future assessments for the Project could be adjusted for inflation or deflation as well as changes in use of individual assessed properties without such adjustments being considered an assessment increase.

2. **Approval of 2022-2023 Project Report and Resolution of Intention.** On or before March 18, 2022, the District Engineer filed with the Secretary of the District Board (“Clerk”) an updated Project Report (“Project Report for 2022-2023”) analyzing the status of the Project, applying the previously-approved assessment methodology to each non-exempt assessable property within the Project zones, and recommending that the Project be funded for the 2022-2023 Fiscal Year without a change in assessment methodology or increase in individual assessments beyond those adjustments permitted under the previously-approved assessment methodology. At a duly-noticed public hearing on April 5, 2022, the Board approved the Project Report for 2022-2023, adopted a Resolution of Intention to Levy Assessments for the 2022-2023 Fiscal Year, and set a public protest hearing for May 3, 2022, on the proposed levy as required by the Act.

3. **Notice of Public Protest Hearing.** Notice of the public protest hearing on the proposed assessments for the Project for the 2022-2023 Fiscal Year, including a copy of Resolution of Intention adopted by the Board on April 5, 2022, was published pursuant to Section 6061 of the Government Code and mailed or personally delivered to the chief

administrative officer of each city in which the Project or portions thereof or the assessable property are located. A Certificate of Mailing of Notice of Public Hearing establishing compliance with the legal requirements of the Act is on file with the Clerk.

4. **Conduct of Public Protest Hearing.** On May 3, 2022, the Board conducted the noticed public protest hearing, considered all testimony and evidence submitted, and tallied all written protests submitted and not withdrawn before the conclusion of the public protest hearing.

5. **Protest Tally Results.** The Board finds and determines that written protests filed during or before the public protest hearing held on May 2, 2022, and not withdrawn before the conclusion of that hearing, were signed by fewer than 25 percent of the registered voters residing within each affected zone and/or by the owners of less than 25 percent of the area of land located within each affected zone proposed to be subject to assessment for the Project for the 2022-2023 Fiscal Year based upon those acreages shown on the latest Napa County assessment records. Accordingly, the Board finds and determines that the Board has jurisdiction to proceed with levy of the 2022-2023 assessments for the Project within each of the Project zones created in 1996 without needing to submit the proposed assessments to the qualified electors in any of the zones.

6. **Exemption from Proposition 218.** Because the proposed assessments for the Project for Fiscal Year 2022-2023 are imposed exclusively to finance the capital costs or maintenance and operation expenses for water, flood control and/or drainage systems, and the amounts of the assessments are the same or less than the Project assessments approved for Fiscal Year 1996-97 (subject to automatic adjustments for change in use and construction cost inflation in the manner established by the assessment methodology approved on August 27, 1996 (prior to November 5, 1996), the Board hereby finds and determines that levy of the proposed assessments is exempt under Section 5(a) of Article 13D of the California Constitution from the requirements of Proposition 218 (California Constitution Article 13D) and is exempt from the mailed notice and public meeting requirements of Government Code Section 54954.6.

7. **Levy of 2022-2023 Assessments.** Based upon the foregoing findings and determinations, the Board hereby approves and levies the assessments as recommended and in the amounts set forth in the Project Report for 2022-2023 attached hereto and incorporated by reference herein. As provided in said Project Report and in compliance with Section 13.5, subd. (4)(a), of the Act, no assessment shall be levied upon a federal or state governmental agency or another local agency.

8. **Posting of Roll.** As provided by Section 13 of the Act, the Clerk is hereby authorized and directed to transmit the 2022-2023 Assessment Roll as prepared in accordance with this Resolution for Joint Zone Project No. 96-1 to the Napa County Auditor, together with a certified copy of this Resolution, for posting of said 2022-2023 Assessment Roll on the 2022-2023 property tax roll of the County of Napa. The Napa County Auditor is requested to provide that payment of the revenues collected on account of said 2022-2023 assessments by the Napa County Treasurer be credited separately to the three zones established for Project No. 96-1. This Board shall thereafter control and order the expenditure of said revenues for the authorized purposes of each of said zones, as provided by subdivision (3) and the second paragraph of subdivision (4) of Section 13 of the Act.

9. **Effective Date of Resolution.** This Resolution shall take effect immediately upon its adoption.

**THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED** by the Board of Directors of the Napa County Flood Control and Water Conservation District at a regular meeting thereof on May 3, 2022, by the following vote, the number following each Director's name indicating the number of votes cast by that Director:

AYES: DIRECTORS \_\_\_\_\_

NOES: DIRECTORS \_\_\_\_\_

ABSTAIN: DIRECTORS \_\_\_\_\_

ABSENT: DIRECTORS \_\_\_\_\_

NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT, a special  
district of the State of California

By: \_\_\_\_\_  
SCOTT SEDGLEY, Chairperson of the  
Board of Directors

<p>APPROVED AS TO FORM District Counsel</p> <p>By: <u>Shana A. Bagley</u> Deputy County Counsel</p> <p>Date: <u>April 14, 2022</u></p>	<p>APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Deputy Secretary of the District Board</p>	<p>ATTEST: NEHA HOSKINS Secretary of the District Board</p> <p>By: _____</p>
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# Napa County

## Board Agenda Letter

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Flood Control and Water Conservation District **Agenda Date:** 5/3/2022

**File ID #:** 22-899

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**TO:** Napa County Flood Control and Water Conservation District

**FROM:** Richard Thomasser - District Manager, Napa County Flood Control District

**REPORT BY:** Jeremy Sarrow - Watershed and Flood Control Resources Specialist

**SUBJECT:** Public Hearing to Consider any Objections or Protests, and to Adopt a Resolution to Levy Assessments for Rutherford Reach Benefit Zone Assessment District

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### **RECOMMENDATION**

#### PUBLIC HEARING 1:30 PM

District Manager requests the following actions related to the Rutherford Reach Benefit Zone Assessment District 2008-1:

1. Open Public Hearing to consider any objections or protests with respect to the proposed Fiscal Year 2022-2023 assessments; and
2. Close Public Hearing and adopt a Resolution authorizing and levying assessments for Fiscal Year 2022-2023 on qualifying properties.

### **EXECUTIVE SUMMARY**

In 2008, the Assessment District was created and the voters in that District authorized an assessment in the amount of \$2.08 per lineal foot of streambank frontage of the Rutherford Reach, an approximately 4.5-mile reach of the Napa River south of St. Helena, extending from Zinfandel Lane in the north to Oakville Cross Road in the south. At the April 5, 2022 meeting, the Board approved the Engineer's Report for the Assessment District for Fiscal Year 2022-2023, adopted a Resolution of Intent to levy assessments, and set May 3, 2022 as the date for the required protest hearing. This public hearing is to consider objections or protests to the proposed assessment in the amount of \$2.08 per lineal foot of streambank frontage of the Rutherford Reach for Fiscal Year 2022-2023 verifying properties.

### **PROCEDURAL REQUIREMENTS**

1. Open Public Hearing.
2. Staff reports.
3. Public comment.

4. Close Public Hearing.
5. Tally any written protests filed and not withdrawn.
6. Motion, second, discussion and vote on the item.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Rutherford Maintenance - Fund 8000, Organization 8000502
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The intention of the assessment process, which began in 2008, was to establish a mechanism to provide continued annual funding for maintenance benefiting the residents and landowners within the Assessment District. This action renews the annual assessment needed to fund the Assessment District detailed in the Engineer's Report and approved at the April 5, 2022 Flood Board meeting.
Is the general fund affected?	No
Future fiscal impact:	None
Consequences if not approved:	This assessment is the main revenue source for maintenance needs in the Assessment District. If not approved, no funding will be available for routine maintenance activities in the FY 2022-2023.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: ENVIRONMENTAL DETERMINATION: This action is statutorily exempt from the California Environmental Quality Act (CEQA) under Title 14, California Code of Regulations, Section 15273 (Rates, Tolls, Fares, and Charges), in that the amounts to be levied and collected shall be used for purposes detailed in the District Engineer's Report, which fall within subsections (1), (2) and (4) of Section 15273.

### **BACKGROUND AND DISCUSSION**

On November 18, 2008, the Board adopted a Resolution to establish the formation of an Assessment District for the fixing of and the collection of certain maintenance charges to fund various aspects of maintenance activities within the Assessment District in conjunction with the Napa River Rutherford Reach Restoration Project (Restoration Project).

The Assessment District is comprised of 41 parcels located along both sides of the Rutherford Reach, an approximately 4.5- mile reach of the Napa River south of St. Helena, extending from Zinfandel Lane in the north to Oakville Cross Road in the south.

A maintenance program has been developed by the Napa County Flood Control and Water Conservation District, in consultation with the Rutherford Landowner Advisory Committee, to proactively address streambank erosion, to protect properties in the Assessment District, and to maintain features constructed as

part of the Restoration Project that collectively will result in a more stable streambank for the benefit of the property owners.

Each year, an Engineer's Report is prepared to verify parcels subject to the assessment, ownership information, and amount of the assessment for each parcel. The proposed assessments are based upon an allocation of program costs over all properties subject to assessment in the Assessment District, which may vary slightly from year to year. The Engineer's Report recommends the levy of an assessment for Fiscal Year 2022-2023 in the amount of \$98,160 up to a maximum amount, depending on land use characteristics, of \$2.08 per lineal foot of property frontage on the Rutherford Reach.

**NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
RESOLUTION NO. 2022-02 (FC)**

**RESOLUTION OF THE GOVERNING BOARD OF THE NAPA COUNTY FLOOD  
CONTROL AND WATER CONSERVATION DISTRICT AUTHORIZING AND  
LEVYING ASSESSMENTS FOR THE RUTHERFORD REACH BENEFIT ZONE  
ASSESSMENT DISTRICT FOR FISCAL YEAR 2022-2023**

**(RUTHERFORD REACH BENEFIT ZONE ASSESSMENT DISTRICT 2008-1)**

**WHEREAS**, in 2008, the District Board of the Napa County Flood Control and Water Conservation District (“Board”), by Board Resolution No. 08-09 (FC) formed the Rutherford Reach Benefit Zone Assessment District (“Assessment District”) pursuant to Chapter 61 of the Appendix of the California Water Code, as a mechanism for providing funding for the maintenance benefiting the residents and landowners within the Assessment District; and

**WHEREAS**, the Board desires to continue to provide for the activities of the Assessment District during Fiscal Year 2022-2023 and to continue to fund such services through the assessment rate methodology and special benefit analysis approved in 2008 by the Board following compliance with the public notice and hearing requirements of Government Code sections 53753 and 54954.6 and approved by the owners of the parcels of real property within the Assessment District pursuant to the requirements of Article XIII D of the California Constitution; and

**WHEREAS**, pursuant to Article XIII D of the California Constitution and Government Code section 53753, a written Engineer’s Report (“Report”) was prepared at the request of the Board, by a registered professional engineer certified by the State of California, which sets forth the individual assessments for the affected properties necessary to fund the activities of the Assessment District for Fiscal Year 2022-2023; and

**WHEREAS**, upon filing the Report with the Board on April 5, 2022, the Board fixed May 3, 2022, at 1:30 p.m. in the Board of Supervisors’ Meeting Room, Suite 305, Third Floor, County Administration Building, 1195 Third Street, Napa, California, as the time, date, and place for public hearing on the Report and for the filing of any objections or protests thereto; and

**WHEREAS**, the Secretary of the District Board published notice of the public hearing in a newspaper of general circulation in the County of Napa, as provided in Government Code section 6061; and

**WHEREAS**, further notice is not required by Proposition 218 because the proposed assessments are calculated using the same rate and benefit methodology as that approved by property owners in 2008 and are, therefore, not considered under Government Code section 53750 to be “increased” or “new” assessments as that term is used in Proposition 218; and

**WHEREAS**, on May 3, 2022, at the time and place noted above, the Board held a public hearing at which the Board heard and considered all objections and protests filed with respect to imposition of the assessments proposed in the Report; and

**WHEREAS**, the Board, having considered the Report and all of the information submitted by the public, believes it is in the best interests of the Assessment District and the affected property owners to levy for Fiscal Year 2022-2023 the assessments as calculated in the Report; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of the Napa County Flood Control and Water Conservation District as follows:

1. The Board hereby finds and determines that the above recitals are true and correct.
2. The Board hereby confirms the contents and recommendations of the Report and levies an assessment, for up to a maximum amount, depending on land use characteristics, of \$2.08 per lineal foot of streambank frontage of the Rutherford Reach of the Napa River for those qualifying properties within the Assessment District for Fiscal Year 2022-2023 as more particularly set forth in the Engineer's Report dated March 2022 and orders collection of the assessments.
3. For each assessment levied for Fiscal Year 2022-2023, the assessments shall be collected at the same time and in the same manner as ordinary County ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for such taxes.

**[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]**

**THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED** by the Board of Directors of the Napa County Flood Control and Water Conservation District at a regular meeting thereof on May 3, 2022, by the following vote, the number following each Director's name indicating the number of votes cast by that Director:

AYES: DIRECTORS \_\_\_\_\_

NOES: DIRECTORS \_\_\_\_\_

ABSTAIN: DIRECTORS \_\_\_\_\_

ABSENT: DIRECTORS \_\_\_\_\_

NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT, a special  
district of the State of California

By: \_\_\_\_\_  
SCOTT SEDGLEY, Chairperson of the  
Board of Directors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Shana A. Bagley</u> Deputy County Counsel</p> <p>Date: <u>April 21 ,2022</u></p>	<p>APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>Date: _____ Processed By: _____ _____ Deputy Secretary of the District Board</p>	<p>ATTEST: NEHA HOSKINS Secretary of the District Board</p> <p>By: _____</p>
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