

William G. Kristoff
West Sacramento City Council Member
1987-2016

February 5, 2018

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

Re: *Yolo LAFCo MSR Governance Recommendations for the West Sacramento Basin*

Dear LAFCo Commissioners,

I served on the West Sacramento City Council for 30 years until my retirement in November of 2016. I also served as the City representative on the West Sacramento Area Flood Control Agency (WSAFCA) from its creation in 1994 until my retirement from the City Council. During that time I worked closely with Reclamation Districts 900 and 537 and am intimately familiar with the operations of all four organizations. It is important to note that the formation of WSAFCA was due to the tireless work of Ken Ruzich, then manager of RD 900. He successfully pushed the United States Army Corps of Engineers to make significant repairs to the West Sacramento levee system following the near overtopping of the Yolo Bypass east levee during 1987's high water event. It is a credit to the reclamation districts and their specialized staff that the City of West Sacramento has never had a catastrophic levee failure.

The current approach to managing levee operations and maintenance and reducing flood risk within the City boundaries has and continues to work well. As such, I am disheartened to learn that the City is attempting to take over the critical functions, including financial management, of the reclamation districts. While the City of West Sacramento has consistently ranked flood control as one of its top priorities, it has never had the burden of prioritizing funding for that purpose in the face of competing interests such as roads, recreation and economic development. City government can lose focus when tasked with such a wide array of priorities and responsibilities. This is a greater risk during periods of drought when flooding is the furthest thing from the public's mind, and when funds dedicated to levee operation and maintenance and drainage are most vulnerable to diversion for other purposes.

Single purpose agencies – in this case reclamation districts -- are the most cost-effective and appropriate form of governance for the reduction of flood risk within the City of West Sacramento. Reasons include, but are not limited, to the following:

- In terms of public accountability, a single purpose agency is most transparent, as its funds can only be directed to the agency's sole mission and purpose. This is critical because property owners are paying significant assessments for services and must trust those

- funds are being spent as promised. It's important to note that the districts are fully funded and debt free; however, this makes them a more vulnerable target for acquisition.
- The standards and regulations for levee operations and maintenance have increased tenfold in the past decade alone. Compliance with those regulations requires levee operation and maintenance specialists, not public works generalists who will have competing priorities in their typical work day.
 - Since 2006, the State has made a concerted effort to shift liability for flood system failures to local maintaining agencies. In that sense, reclamation districts provide a shield of liability for the City in terms of operations and maintenance of the flood control facilities. It is hard to understand why the City would want to assume this increased liability and put its general fund at risk.
 - Single purpose agencies are best positioned to be nimble and responsive during emergencies, as was demonstrated by RDs 900 and 537 during this past year's storm events.
 - The reclamation districts provide the safest checks and balances for permitting of encroachments. This function relies on a separation of powers between the land use agency and the permitting agency. Otherwise, boundaries may be crossed in the face of competing interests, such as development.

Most concerning is that the City's bid to take over the reclamation districts appears to be a solution without a problem. Absorption of the agencies should not be done just for the sake of doing something different. Levee operations and maintenance is not like the acquisition of parks or library services, as has been suggested. The risks of poorly maintained and underfunded flood control systems carry potentially catastrophic consequences to lives, property and the City's coffers. Lastly, I find highly dubious the City's assertion that it can provide an equal level of service for an equal or lesser cost.

I encourage the LAFCo Board to recommend that the districts investigate cost and operational efficiencies through consolidation of services and assumption of Maintenance Area 4. Having a single purpose and skilled team of professionals that focus solely on the proper maintenance and inspection of the levees that surround our City is vital. It is the primary reason I can sleep at night when our levees are being tested, as they were in 2017.

Thank you for the work you do on behalf of Yolo County residents and for your consideration of my comments.

Sincerely,

A handwritten signature in blue ink that reads "Bill Kristoff". The signature is written in a cursive, flowing style.

Bill Kristoff



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • email: wsrd@pacbell.net

February 13, 2018

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

LAFCo Commissioners:

Reclamation Districts 900 and 537 (the RDs) appreciate the opportunity to provide formal input on Yolo County LAFCo's "*Combined Municipal Service Review (MSR) And Sphere Of Influence Study (SOI) of the 16 Reclamation Districts / Local Maintaining Agencies in Yolo County.*" We respectfully request the LAFCo Board considers this letter and the enclosed documents as it weighs recommendations that have significant implications for flood risk management policy, governance and public safety in West Sacramento.

We are committed to honoring LAFCo's stated study goal to "*provide for a uniform level of operation and maintenance so that the protected area is not a risk due to inconsistent maintenance or flood fight response capabilities.*" Toward that end, we fully support a functional consolidation of the RDs, evaluating the assumption of DWR MA 4, and formalizing an agreement with the US Army Corps of Engineers (USACE) for the routine inspection of the Navigation Levee. It's worth noting that despite known deficiencies in the levees surrounding the City, the RDs through their vigilance have never allowed a levee failure. As specialized districts, the RDs have the expertise and experience necessary to best ensure the proper operations and maintenance of flood management facilities.

As such, we are stringently opposed to any form of consolidation with or assumption of governance by the City of West Sacramento. In relation to LAFCo's standards for evaluating consolidations, the City cannot provide the same or better level of service than the RDs for equal or lesser cost. In addition, assumption of governance by the City will not increase public access and/or accountability to any practical or beneficial extent. Of special concern is the fact that a takeover of the RDs' operations – even if only by Council governance – would expose the City to liability for any flood damages in the event of a levee failure.

On the first point, the RDs' budget analysis estimates that the cost to perform the current duties for the RDs would increase by 7 percent year (\$236,000) at best, and as much as 25 percent per year (\$796,000). The finding was based on a study of actual administrative charges by the City to the Port of West Sacramento and the West Sacramento Area Flood Control Agency (WSAFCA) and is based on publicly available documents. The analysis is conservative and doesn't factor in rising, unsustainable CalPERS costs, or standby charges Public Works employees are entitled to as part of their Union MOU to which the City is subject. These unnecessary cost increases would overshadow

any avoided costs and inevitably divert revenues from planned capital projects, adding to deferred maintenance and pushing out project implementation. In addition, such increases would be contrary to commitments made to property owners about how assessment revenues will be used to improve and maintain facilities and operations.

On the second point, an assumption of the RDs' business in any form by the City will not increase public access or accountability. The RDs' boards represent property owners – both residential and business – within their respective boundaries. Board members are elected by property owners and must own property within the district, or be designated representatives of a property owner, to be eligible for election. Meetings are publicly noticed and open to all parties. Board members and staff participate in community civic and business activities and are readily accessible to property owners.

In terms of liability, the RDs act as extensions of the Central Valley Flood Protection Board (CVFPB) by operating and maintaining the levees in accordance with standards established by the United States Army Corp of Engineers (USACE). Following settlement of the Paterno lawsuit, the State has assigned liability for flood damages to RDs and levee maintaining agencies through assurance and project funding agreements. In these cases, RDs shield cities and counties from liability stemming from levee failures. The RDs also provide a necessary system of checks and balances for land use agencies when reviewing encroachment permit applications. These are critical points to consider when determining governance models for the operations and maintenance of levee systems.

In terms of regional governance, it is largely due to RD 900's leadership that the WSAFCA was formed in 1994 to finance and construct desperately needed levee improvements. These ongoing and planned improvements extend outside the RDs' boundaries and provide flood risk reduction to all properties within the City. As the third member of WSAFCA, the City provides representation for all property owners who live outside the RDs' boundaries. In other words, all City residents are represented on the WSAFCA Board.

In summary, the RDs have a proven track record of fiscal and operational accountability, both with property owners who pay assessments for services, and state and federal agencies that regulate operations and maintenance of flood management facilities. In both cases, the RDs take very seriously their commitment to property owners to spend assessment revenues as promised, and only in support of their sole mission to reduce flood risk in the most cost effective and efficient manner possible. Our pledge to identify and implement functional/operational improvements to facilitate consistent maintenance practices and takeover of DWR MA 4 and inspection of the Navigation Levee is consistent with that mission. We look forward to reporting back to LAFCo on the success of these efforts.

Thank you for your time and attention to details on this critical matter.

Sincerely,



Kentic Jameson PG
Manager RD 900

DATE: February 13, 2018

TO: Reclamation District 900, Board of Trustees
Reclamation District 537, Board of Trustees

FROM: Kenric Jameson, PG, General Manager, Reclamation District 900

SUBJECT: Yolo Local Agency Formation Commission, Municipal Service Review of Local
Maintaining Agencies in Yolo County – Information for Consideration in Final Report.

1. PURPOSE & OVERVIEW

The Yolo Local Agency Formation Commission (Yolo LAFCo) is currently conducting a Municipal Service Review (MSR) of fourteen agencies that conduct levee maintenance in Yolo County. This MSR has been under development for several months and a public workshop on the topic was conducted during a regular meeting of the commission on December 7, 2017. Yolo LAFCo staff currently expect to present the Draft MSR with recommendations at a public hearing during a regular meeting of the commission scheduled for February 22, 2018.

As stated in Yolo LAFCo's Project Policies adopted on January 28, 2016, "The purpose of a Municipal Services Review (MSR) in general is to provide a comprehensive inventory and analysis of the services provided by local municipalities, service areas, and special districts. A MSR evaluates the structure and operation of the local municipalities, service areas, and special districts and discusses possible areas for improvement and coordination." One of the state-mandated determinations for MSRs is "accountability for community service needs, including governmental structure and operational efficiencies." Therefore, Yolo LAFCo is required to determine whether recommendations regarding improved governance are warranted.

The purpose of this memorandum is to present a summary of key issues for consideration by Yolo LAFCo in preparation of the Final MSR. Some of these issues were individually coordinated with Yolo LAFCo staff; however, this memorandum is intended to serve as a single source of information for the administrative record. A summary of key conclusions from this memorandum follows:

- Reclamation District (RD) 900 and RD 537 are specialized agencies with a mission to reduce flood risk and protect lives and livelihoods in the City of West Sacramento. This mission is established through a delegation of responsibility for levee operation and maintenance by the Central Valley Flood Protection Board (CVFPB). The CVFPB is party to a similar arrangement with the U.S. Army Corps of Engineers (USACE).
- RD 900 and RD 537 have a single and uncontested priority of levee inspection, operation, and maintenance in times of flood and drought. This focus is necessary to manage the level of risk associated with the complicated state-federal flood management system in the Central Valley.

Existing revenues are solely dedicated to this single priority without potential for distraction by competing interests and priorities.

- A review of public financial data prepared by the City of West Sacramento (City) for both the Port of West Sacramento and the West Sacramento Area Flood Control Agency (WSAFCA) indicates that the cost for the City to maintain the levees currently operated and maintained by RD 900 and RD 537 would increase by 7 to 25 percent depending on how the City charges for general support services and staff time. This corresponds to an annual cost increase of 236,000 to \$796,000 per year. Based on the current RD 900 capital improvement plan, an annual decrease of \$236,000 would result in the 30-year capital improvement plan taking 47 years to complete.
- RD 900 and RD 537 are subject to liability associated with inverse condemnation from a levee failure if efforts to operate, maintain, or flood fight are unreasonable or unsatisfactory. This liability would transfer to the City if it assumes governance of the RDs.
- RD 900 and RD 537 commit to investigating opportunities for consolidated operation to facilitate consistent maintenance practice. This includes an evaluation of the potential for incorporation of Maintenance Area (MA) 4 and more formalized coordination between the districts and the USACE for maintenance of the navigation levee.

2. ROLES & RESPONSIBILITIES

- 2.1. **STATE OF CALIFORNIA** - The CVFPB serves as the non-Federal sponsor to the USACE for many of the levees operated and maintained by the Local Maintaining Agencies (LMAs) in Yolo County. Levees for which the CVFPB serves as a non-Federal sponsor are often referred to as State Plan of Flood Control (SPFC) levees. Section 9110(f) of the California Water Code (CWC) defines the SPFC as follows:

“State Plan of Flood Control” means the state and federal flood control works, lands, programs, plans, policies, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 for which the board or the department has provided the assurances of nonfederal cooperation to the United States, and those facilities identified in Section 8361.”

The CVFPB’s obligations as a non-Federal sponsor are outlined in a series of project cooperation agreements with USACE. One of the principal obligations included in these agreements is a commitment to operate and maintain the levees in accordance with standards established by USACE at no cost to the Federal government. Another key obligation is indemnification of the Federal government from damages associated with performance of the project. In many cases, the CVFPB has delegated these responsibilities for operation and maintenance as well as the liability associated with project performance to the LMAs through local cooperation agreements [Enclosure 1].

The CVFPB's obligations for operation and maintenance of these SPFC facilities are promulgated through both Federal and State regulations. Section 208.10 in Title 33 of the Code of Federal Regulations (CFR) outlines the requirements associated with the operation and maintenance of local flood protection works. Division 1 in Title 23 of the California Code of Regulations outlines the authority and responsibilities of the CVFPB based on both California Water Code and assurances provided to the Federal government.

- 2.2. **LOCAL MAINTAINING AGENCY** – Under CWC 8370, the State delegated the maintenance and operation of Project levees to LMAs. As such, each LMA acts as an extension of the CVFPB by fulfilling the State's commitment to operate and maintain the levees in accordance with standards established by USACE. This responsibility requires strict adherence to the operations and maintenance standards established by USACE and the CVFPB. It is important to note that LMAs have no authority to permit alterations of or encroachments to the SPFC levees. This authority resides with the CVFPB and, in many cases, USACE. LMAs must be consulted on encroachment permit applications, and they can endorse and request special conditions be added to a permit. However, there is nothing preventing an applicant from submitting a permit application directly to the CVFPB if an LMA delays or declines the permit application. This provides for effective "checks and balances" between applicants, the land use agencies, LMAs and the CVFPB. Both RD 537 and RD 900 have executed agreements with the State defining their responsibilities as levee operators and maintainers.
- 2.3. **WEST SACRAMENTO AREA FLOOD CONTROL AGENCY** - WSAFCA is a Joint Powers Authority (JPA) created in 1994 through a Joint Exercise of Powers Agreement by the City, RD 900, and RD 537. WSAFCA was established to coordinate the planning and construction of flood protection facility improvements within the boundaries of the JPA and to help finance the local share of flood control projects. The agency was formed primarily in response to a federal authorization to improve levees in West Sacramento as recommended in USACE's Sacramento Metropolitan Area Report. WSAFCA formed an assessment district in 1995 to fund the local cost share of these levee improvements. WSAFCA was not created to conduct operations and maintenance activities nor does it function as an LMA.

This arrangement has evolved to include WSAFCA in an implementation role in the design and construction of levee improvement projects across the entire West Sacramento levee system, including levees operated and maintained by the State. In the current context, WSAFCA serves as the local sponsor to the CVFPB for design and construction of the West Sacramento Project, authorized by Congress for construction in the Water Infrastructure Improvements for the Nation Act of 2016 (P.L. 114-322, § 1401(2)). They also serve as the design and construction agent of levee improvement projects in partnership with the State that will ultimately be credited against completion of the authorized federal project.

3. POINTS OF EMPHASIS & CLARIFICATION

- 3.1. **SINGLE PRIORITY** – A system of nearly 50-miles of levees protect approximately 53,000 people and \$5 billion of damageable property in the City. A failure at any location in the levee system during a 50-year or greater flood event results in inundation of over 90 percent of the entire

City with floodwater up to 20-feet deep. Levee failures in the project area are most likely to occur during the rainy season (December through February) when average river water temperatures range between 53° and 60° F. Standing in water which is cooler than 75° F often results in hypothermia. City residents and businesses have only seven evacuation routes, most of which would be compromised in as little as two hours after a levee failure. Freeway on and off-ramps would be inundated, further impacting the ability to get to higher ground. A levee failure in the levee system protecting the City would be catastrophic. LMAs with a single and uncontested priority of levee inspection, operation, and maintenance in times of flood and drought are necessary to manage the level of risk associated with the complicated state-federal flood management system in the Central Valley. Serving as an extension of USACE and the CVFPB in the operation and maintenance of the SPFC requires a focused and well-funded effort not distracted by competing interests and priorities.

- 3.2. **LEVEL OF SERVICE** – Having a single priority allows the staff and trustees of an LMA to focus on providing a high level of service to the community. District employees are specialists, not generalists, in the operation and maintenance of the levee and internal drainage systems. They have no other competing jobs or priorities. A single priority also allows for the agility and responsiveness necessary to successfully address distressed levees during high water. An example of this focus and responsiveness occurred early in 2017 when RD 900, under the authority of its board, quickly initiated a flood fight while coordinating the response with USACE, the California Department of Water Resources (DWR), CVFPB, Yolo County Office of Emergency Services, US Fish & Wildlife Service (USFWS), and the State Water Quality Control Board (SWQCB). The decision to conduct the flood fight, coordinate with the required State and Federal agencies, and place nearly 400 tons of riprap on the waterside levee slope was completed in less than 48 hours of the slip being discovered.
- 3.3. **COST** – A review of public financial data prepared by the City for both the Port of West Sacramento and WSAFCA was used to conduct a comparison of levee operations and maintenance costs for the governance options evaluated as part of this MSR [Enclosure 2]. This review was further refined for organizational consistency with the January 18, 2018 memorandum by Economic & Planning Systems, Inc. (EPS) developed under contract to the City. Based on an analysis of actual costs reported by the City within publicly available financial reporting documents, the RDs can provide their services at a lower cost than could the City.

The analysis shows that either option led by the City would increase costs by approximately 7 to 25 percent depending on how the City charges for general support services and staff time. The analysis shows an annual cost increase from \$236,000 to \$796,000 per year. The current RD 900 assessment included a build-up of a capital improvement reserves to complete \$19.5 million of facility improvements over the next 30 years (2017 dollars). Based on an annual decrease of \$236,000 in capital reserve funds, the 30-year capital improvement plan would take an additional 17 years (or 28% longer) to complete.

Increased costs in either City-led option are primarily due to the higher cost of labor and administrative services provided by the City than comparable costs being supplied by the RDs. A 7 percent increase assumes that the City charges the RDs for General Support Services at a similar historic rate as charged to the Port of West Sacramento and WSAFCA. The 25 percent

increase assumes that the City charges the RDs an Indirect Cost Allocation Plan (ICAP) rate for staff assigned to the RDs. The City Council has executed a Memorandum of Understanding with the Union that may require conversion of all RD staff directed by the City Council to become City employees. City employees are covered under pension plans executed between the City and CalPERS. If RDs were staffed by City employees, an estimate of the CalPERS pension unfunded liability would need to be included in the cost evaluation.

- 3.4. **LIABILITY** – As noted above, a non-Federal interest must agree to hold harmless and indemnify the Federal government as well as to operate, maintain, repair, replace, and rehabilitate (OMRR&R) the flood facilities when Federal funds are used to improve levees through a flood risk management project. In the Central Valley, this agreement is typically between the CVFPB and USACE. Under state law, the CVFPB must first ensure an LMA will both perform the OMRR&R as well as indemnify and hold harmless both the State and the Federal government. Both RD 900 and RD 537 are LMAs that have previously agreed to these responsibilities. These responsibilities would transfer to the City if it became an LMA.

These agreements contain language that creates potential liability on the part of the LMA. Key provisions include:

- The LMA not only commits to perform all necessary OMRR&R, it also agrees to both indemnify the State and Federal governments. This obligation includes any claims based upon inverse condemnation, arising from the operation, maintenance, repair, replacement, or rehabilitation of the Project.
- The LMA commits to be responsible for any liability arising out of hazardous materials that may be found on the site, whether placed there by the LMA or not.
- If the State does not accept work done by the LMA, the State has the right to notify the LMA, correct the work and bill the LMA for the cost of the work done, which the LMA must pay or be in breach of contract.

Over the course of one-half dozen flood cases in California, the rules associated with liability for levee failures have come into sharper focus. Where lands are flooded as a result of the design, construction, operation, maintenance, or flood fight of a flood control structure, liability under inverse condemnation is established if the public agency acted pursuant to an unreasonable plan. Unreasonable operations and maintenance plans, including improper flood fighting, have been alleged in a number of these inverse condemnation cases against LMAs. A more complete legal assessment of the liability associated with levee operation and maintenance and associated case law was prepared by Downey-Brand and is attached as Enclosure 3.

- 3.5. **PUBLIC SUPPORT** – Under Proposition 218, property owners benefiting from levees are required to vote on proposals to increase parcel assessments associated with either levee operation and maintenance or levee improvement projects. Property owners in the City overwhelmingly approved increased annual parcel assessments in 2007 and 2016. The 2007 election conducted by WSAFCA passed with 70 percent of the weighted ballots approving an increase to finance the local share of approximately \$400 million in levee improvements. The 2016 election conducted by RD 900 passed with 57 percent of the weighted ballots approving a 300 percent increase in the assessment to finance operations and maintenance activities and capital improvements for internal drainage. These two elections show strong support by both

the residents and property owners in the City for the local agencies currently responsible for flood risk management.

- 3.6. **PUBLIC ACCOUNTABILITY** - LMAs are primarily accountable to the public to efficiently reduce flood risk by ensuring the reliable performance of flood system infrastructure and using public finance solely for that purpose. Both RD 537 and RD 900 have a proven track record of cost-effective and efficient maintenance for the levees and internal drainage systems protecting the City. Both Districts are fully funded and debt-free. Because the districts are single-purpose, there is no chance that funds will be co-mingled and/or appropriated or loaned for other uses. This provides for the ultimate public accountability. Board meetings are publicly noticed and interested parties are encouraged to attend.

From a system perspective, the identification, selection, and prioritization of levee improvement projects is based on many criteria; however, the most heavily weighted in both federal and state guidance governing project selection is reducing the impacts of floods on human safety, health, and welfare to the community. Prioritization of levee improvements are based on documented performance issues, engineering evaluations and mandatory State and federal policies. DWR required WSAFCA to demonstrate how they prioritized planned levee improvements to address deficiencies in the most vulnerable areas as a condition to receive State funding. The USACE applies a similar risk-based decision-making approach when federal funds are invested in levee improvements.

- 3.7. **REGIONAL GOVERNANCE** – WSAFCA has served as the contract administrator for the Lower Sacramento – Delta North Regional Flood Management Planning (RFMP) Team since 2013. In this capacity, WSAFCA manages a team responsible to coordinate with and represent over 50 local agencies with an interest in flood protection in the region. This coordination resulted in the publication of the *Lower Sacramento River / Delta North Regional Flood Management Plan* in July 2014 for consideration by DWR in preparation of the 2017 Update to the Central Valley Flood Protection Plan (CVFPP). The region has since published the *Lower Sacramento / Delta North Region: Corridor Management Framework* (CMF) in February 2015. The CMF was endorsed by numerous local agencies including Yolo County and WSAFCA as guidance for advancing multi-objective water resource project delivery in the Yolo Bypass / Cache Slough Complex. The CMF has resulted in this region being viewed as a leader in water and flood management issues by DWR and the CVFPB.

The 2017 Central Valley Flood Protection Plan Update (2017 CVFPP Update), adopted by the CVFPB in August of this year, highlights both *Operations and Maintenance of the Flood System* and *Effective Governance and Institutional Support* as two of eight key policy areas hindering efficient implementation of the overall 2017 CVFPP Update. While the 2017 CVFPP Update identifies these eight key policy areas, it stops short of recommending how each should be addressed. Instead, the 2017 CVFPP Update outlines an approach to reconciling these issues through continued public engagement over the next five years. Recommendations will be incorporated into the next update of the CVFPP in 2022. Specifically concerning *Effective Governance and Institutional Support*, the 2017 CVFPP Update states, "...the State will facilitate a governance study to examine existing flood governance, identify overlapping authorities, and

propose meaningful reconciliation between and among local, State, and federal levels of government.”

- 3.8. **LMA COORDINATION** – Over the last 10 years, WSAFCA – in partnership with the CVFPB, DWR, and the USACE – advanced four levee improvement projects comprising nearly 10 miles to further reduce flood risk to the City of West Sacramento. Three of these projects are located within levees operated and maintained by DWR. The planning, design, and construction of these levee improvements required extensive coordination between WSAFCA and DWR. The delivery of all three projects also required coordination with the adjacent LMAs (RD 537 and RD 900) to ensure the uninterrupted continuity of operations and maintenance during project construction. In this context, it is particularly important to note that the General Manager of RD 900 has served in a dual capacity as the General Manager of WSAFCA since its formation in 1994 ensuring tight alignment between RD 900 and WSAFCA.

WSAFCA also submitted a System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) for reinstatement of the West Sacramento Levee System to an active status in the Public Law (PL) 84-99 Rehabilitation Program (RP) [Enclosure 4]. WSAFCA submitted this LOI on behalf and with letters of support from DWR, RD 537 and RD 900. This LOI represents a firm and financial commitment of the LMAs to partner in the reduction of levee system deficiencies identified by USACE in their 2014 Periodic Inspection (PI) of the West Sacramento – Sac Yolo South Levee System. Successful participation in this program will require regular collaboration between the LMAs. Nearly all LMAs in the Central Valley were identified as ineligible for the PL 84-99 RP based on PIs conducted by the USACE between 2010 and 2015. These determinations were based on a stricter interpretation of maintenance standards established in the aftermath of Hurricane Katrina.

- 3.9. **RECREATION** – The four levee improvement projects advanced by WSAFCA since 2006 all include the incorporation of recreation features compatible with the land use and flood system infrastructure at the project site. Two of these projects are notable in terms of their extensive incorporation of recreation features. First, the levee improvement project located immediately south of the I Street Bridge was designed to accommodate a complete extension of the Riverwalk Promenade. Second, the levee improvement project located immediately adjacent to the Rivers development incorporated pedestrian and cycling trails as well as interpretive signage and an Americans with Disabilities Act (ADA) compliant river overlook. The features included in both projects were designed to meet the operations and maintenance requirements of DWR who serves as the LMA at both locations.

Both RD 537 and RD 900 support recreation facilities on or adjacent to its flood management facilities as long as they do not interfere with the operations and maintenance of those facilities or increase the cost of the operation and maintenance of those facilities.

4. COMMITMENT TO IDENTIFY COST AND OPERATIONAL EFFICIENCIES

With authorization of the West Sacramento Project in the Water Infrastructure Improvements for the Nation Act of 2016, WSAFCA and its member agencies are in a partnership with the USACE and CVFPB to

make a \$1 billion investment in the levee protecting the City. This partnership is being accelerated by nearly \$210 million of advanced construction by WSAFCA and the State. To continuously improve local operations and maintenance practices to meet the requirements of a recapitalized levee system, RD 900 and RD 537 commit to explore the following changes:

- 4.1. **FUNCTIONAL MERGER** – RD 537 and RD 900 commit to conducting an operations study with the primary goal of identifying ways to ensure a common-level of service in the basin, reduce administrative overhead costs, and more efficiently utilize LMA resources across the districts.
- 4.2. **MAINTENANCE AREA #4** - RD 537 and RD 900 commit to exploring the assumption of levee operations and maintenance responsibilities from the State in MA 4. Any change of responsibility would consider implementation of the levee improvements necessary to avoid the transfer of significant liability from the State to the RD.
- 4.3. **USACE Navigation Levee Coordination** – RD 900 has historically informally partnered with USACE on inspection of the navigation levee. During the 2017 flood event, the General Manager and Superintendent of RD 900 inspected the navigation levee and reported their damage findings to USACE to arrange for their repair. RD 900 commits to formalizing this coordination with USACE regarding operations and maintenance of the navigation levee. Coordination between RD 900 and USACE will target development of a Memorandum of Understanding (MOU) between the parties regarding the inspection, operations, and patrol of the levee.

5. PRIOR CORRESPONDENCE

Reclamation District (RD) 900 sent two letters to Yolo LAFCo regarding this subject dated September 18 and December 4, 2017 [Enclosures 5 and 6]. RD 537 also sent a letter regarding this subject dated September 21, 2017 [Enclosure 7].

Respectfully,



Kenric Jameson, PG
General Manager
Reclamation District 900

Enclosure 1

RD 900 Agreement with The Reclamation Board

D U P L I C A T E

O R I G I N A L

A G R E E M E N T

THIS AGREEMENT is made and entered into by and between THE RECLAMATION BOARD of the State of California, hereinafter referred to as the "Board," and RECLAMATION DISTRICT NO. 900 hereinafter referred to as the "District," on the 19th day of September, 1963, in view of the following circumstances:

WHEREAS, the Congress, by Public Law 86-645, 86th Congress, approved July 14, 1960, authorized a project of bank protection for the Sacramento River and its tributaries, subject to securing assurances that one-third of the total project cost would be assumed by some agency other than the United States, that the United States would be held free and harmless from damages due to the construction works performed under that project, and that project works would be maintained and operated in accordance with the regulations of the Secretary of the Army, upon completion of the work; and

WHEREAS, the Legislature of the State of California authorized Board to give these assurances under the provisions of Sections 12649.1 and 12657 of the Water Code; and

WHEREAS, necessary funds will be appropriated to enable the State to meet the one-third local interest construction contribution in connection with the project, subject to the Board having first received written assurances from a public agency other than the Board agreeing to assume the obligations of maintaining and operating the project and of holding the United States and the State harmless from damages; and

WHEREAS, Board proposes, with the cooperation of the United States, to construct pursuant to the said project certain work to be performed on levees or berms within the jurisdiction or boundaries of District; and

WHEREAS, the proposed project work will be beneficial to lands and properties located within the District and District is willing to undertake the obligation of holding and saving the State and the United States free and harmless from damages arising out of such work and to undertake the maintenance and operation of such work when completed;

NOW, THEREFORE, IT IS HEREBY AGREED THAT:

1. Prior to the commencement of any work to be performed pursuant to said project within the jurisdiction or boundaries of District, Board will submit to District for review and comment the initial set of preliminary plans received by the Corps of Engineers for such work. Such plans or such modified plans as are available to the Board will be submitted as soon as available and not less than thirty (30) days prior to advertising such work for bid, and shall be in substantial conformity with Senate Document #103, 86th Congress, Second Session. Final plans and specifications for such work shall be submitted to District for review and comment at least ten (10) days prior to the opening of bids for such work. Comments of the district to the Board shall be advisory in nature.

2. Board, if funds are available to it, will proceed with the construction of the said work in cooperation with the United States in substantial conformity to the final plans and specifications above referred to.

3. Provided Board has submitted plans and specifications pursuant to paragraph 1 above and the work has been constructed pursuant to paragraph 2, District shall:

(a) Hold and save the United States free from damages due to the above described construction work;

(b) Maintain and operate, in accordance with the regulations prescribed by the Secretary of the Army, said works and improvements above described lying within the jurisdiction or boundaries of District, said maintenance and operation to commence upon turnover by the Corps of Engineers, United States Army, of any unit of completed work of the project to Board; and

(c) Hold and save the State of California, the Sacramento and San Joaquin Drainage District and Board, their successors and assigns, free and harmless from any and all claims arising out of or in connection with the aforesaid obligations assumed by District.

4. It is expressly understood between the parties hereto that the obligations of District to hold and save harmless and to maintain and operate hereunder are limited to the State of California and its agencies described above and the United States and shall not give rise to any cause of action against District by other persons.

5. To the extent that the obligations assumed hereby are validly assumed by another agency, then and to that extent the obligations of District hereunder shall terminate.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

RECLAMATION DISTRICT NO. 900

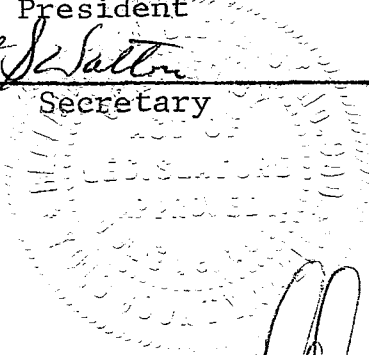
By Arthur J. Jordan
President

By Albert J. Salton
Secretary

THE RECLAMATION BOARD of the State of California

By Stanley W. Kovich

By Wallace McConaugh



-3-

APPROVED BY

Arthur J. Jordan
For Department of Finance

FORM	POLICY	BUDGET
Department of General Services		
APPROVED		
NOV 1 1963		
BY <u>Arthur J. Jordan</u> Asst. Chief Counsel		

D U P L I C A T E

O R I G I N A L

A G R E E M E N T

THIS AGREEMENT is made and entered into by and between THE RECLAMATION BOARD of the State of California, hereinafter referred to as the "Board," and RECLAMATION DISTRICT NO. 900 hereinafter referred to as the "District," on the 19th day of September, 1963, in view of the following circumstances:

WHEREAS, the Congress, by Public Law 86-645, 86th Congress, approved July 14, 1960, authorized a project of bank protection for the Sacramento River and its tributaries, subject to securing assurances that one-third of the total project cost would be assumed by some agency other than the United States, that the United States would be held free and harmless from damages due to the construction works performed under that project, and that project works would be maintained and operated in accordance with the regulations of the Secretary of the Army, upon completion of the work; and

WHEREAS, the Legislature of the State of California authorized Board to give these assurances under the provisions of Sections 12649.1 and 12657 of the Water Code; and

WHEREAS, necessary funds will be appropriated to enable the State to meet the one-third local interest construction contribution in connection with the project, subject to the Board having first received written assurances from a public agency other than the Board agreeing to assume the obligations of maintaining and operating the project and of holding the United States and the State harmless from damages; and

WHEREAS, Board proposes, with the cooperation of the United States, to construct pursuant to the said project certain work to be performed on levees or berms within the jurisdiction or boundaries of District; and

WHEREAS, the proposed project work will be beneficial to lands and properties located within the District and District is willing to undertake the obligation of holding and saving the State and the United States free and harmless from damages arising out of such work and to undertake the maintenance and operation of such work when completed;

NOW, THEREFORE, IT IS HEREBY AGREED THAT:

1. Prior to the commencement of any work to be performed pursuant to said project within the jurisdiction or boundaries of District, Board will submit to District for review and comment the initial set of preliminary plans received by the Corps of Engineers for such work. Such plans or such modified plans as are available to the Board will be submitted as soon as available and not less than thirty (30) days prior to advertising such work for bid, and shall be in substantial conformity with Senate Document #103, 86th Congress, Second Session. Final plans and specifications for such work shall be submitted to District for review and comment at least ten (10) days prior to the opening of bids for such work. Comments of the district to the Board shall be advisory in nature.

2. Board, if funds are available to it, will proceed with the construction of the said work in cooperation with the United States in substantial conformity to the final plans and specifications above referred to.

3. Provided Board has submitted plans and specifications pursuant to paragraph 1 above and the work has been constructed pursuant to paragraph 2, District shall:

(a) Hold and save the United States free from damages due to the above described construction work;

(b) Maintain and operate, in accordance with the regulations prescribed by the Secretary of the Army, said works and improvements above described lying within the jurisdiction or boundaries of District, said maintenance and operation to commence upon turnover by the Corps of Engineers, United States Army, of any unit of completed work of the project to Board; and

(c) Hold and save the State of California, the Sacramento and San Joaquin Drainage District and Board, their successors and assigns, free and harmless from any and all claims arising out of or in connection with the aforesaid obligations assumed by District.

4. It is expressly understood between the parties hereto that the obligations of District to hold and save harmless and to maintain and operate hereunder are limited to the State of California and its agencies described above and the United States and shall not give rise to any cause of action against District by other persons.

5. To the extent that the obligations assumed hereby are validly assumed by another agency, then and to that extent the obligations of District hereunder shall terminate.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

RECLAMATION DISTRICT NO. 900

By

Arthur J. Downer

President

By

Albert J. Salton

Secretary

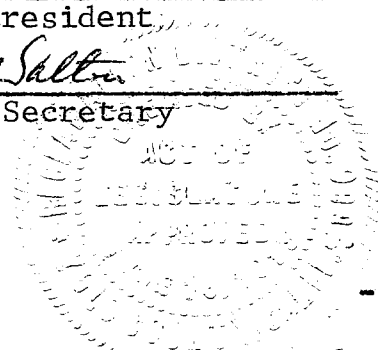
THE RECLAMATION BOARD of the State of California

By

Stanley W. Kromich

By

Wallace M. Cavanaugh



-3-

APPROVED BY

W. D. Ammer
For Department of Finance

105		
FORM	POLICY	BUDGET
Department of General Services		
APPROVED		
NOV 1 1963		
BY	<u>[Signature]</u>	
	Asst. Chief Counsel	

EXCERPT FROM MINUTES OF TRUSTEES MEETING RECLAMATION

DISTRICT NO. 900 HELD SEPTEMBER 6, 1963

The Secretary presented several copies of the Assurance Agreement prepared by the State of California relative to proposed Bank Protection Project. The Secretary noted that he had consulted the attorney for the District and was advised that this agreement was in order. It was regularly moved, seconded and passed that the President and Secretary of the District execute the agreement and return it to the State Reclamation Board, together with a certified copy of the minutes authorizing the execution.

Certified to be a true copy of a portion of the minutes

RECLAMATION DISTRICT NO. 900

By *Albert S. Salter* Secty.

EXTRACT FROM MINUTES OF MEETING OF
THE RECLAMATION BOARD
SEPTEMBER 19, 1963

ASSURANCES

SACRAMENTO RIVER BANK PROTECTION - (7200.60.001)

ASSURANCE AGREEMENT between The Reclamation Board and Reclamation District No. 900 relative to bank protection, Sacramento River, within said district.

Upon motion by Mr. McCormack, seconded by Mr. Vann, and carried unanimously, the Assurance Agreement was accepted and approved and the President and Secretary authorized to execute the same on behalf of the Board.

- - - - -

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss.
Office of The Reclamation Board)

I, HOWARD J. SULLIVAN, Assistant Secretary of The Reclamation Board, do hereby certify that the above is a true and correct extract from minutes of meeting of said Board held on September 19, 1963.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of The Reclamation Board this 23rd day of October, 1963.



HOWARD J. SULLIVAN
Assistant Secretary
The Reclamation Board

(SEAL)

EXCERPT FROM MINUTES OF TRUSTEES MEETING RECLAMATION

DISTRICT NO. 900 HELD SEPTEMBER 6, 1963

The Secretary presented several copies of the Assurance Agreement prepared by the State of California relative to proposed Bank Protection Project. The Secretary noted that he had consulted the attorney for the District and was advised that this agreement was in order. It was regularly moved, seconded and passed that the President and Secretary of the District execute the agreement and return it to the State Reclamation Board, together with a certified copy of the minutes authorizing the execution.

Certified to be a true copy of a portion of the minutes

RECLAMATION DISTRICT NO. 900

By

Secy.

Albert DeSalvo

EXTRACT FROM MINUTES OF MEETING OF
THE RECLAMATION BOARD
SEPTEMBER 19, 1963

ASSURANCES

SACRAMENTO RIVER BANK PROTECTION - (7200.60.001)

ASSURANCE AGREEMENT between The Reclamation Board and Reclamation District No. 900 relative to bank protection, Sacramento River, within said district.

Upon motion by Mr. McCormack, seconded by Mr. Vann, and carried unanimously, the Assurance Agreement was accepted and approved and the President and Secretary authorized to execute the same on behalf of the Board.


- - - - -

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO
Office of The Reclamation Board } ss.

I, HOWARD J. SULLIVAN, Assistant Secretary of The Reclamation Board, do hereby certify that the above is a true and correct extract from minutes of meeting of said Board held on September 19, 1963.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of The Reclamation Board this 23rd day of October, 1963.

(SEAL)

NOV 19 1963

HOWARD J. SULLIVAN
Assistant Secretary
The Reclamation Board

Louis J. Heinzer, Chief Counsel
General Services Agency
State Capitol, Room 5100

October 24, 1963

7200.60.001

Attention: C. O. Thrasher, Jr.,
Associate Counsel

Assurance Agreement

Attached are original and two copies of Assurance Agreement executed by Reclamation District No. 900 and this agency. Attached to each Assurance Agreement are excerpt from minutes of Reclamation District No. 900 meeting and extract from minutes of The Reclamation Board meeting.

Kindly designate your approval of this Assurance Agreement thereon and return it to this agency. Thank you for your attention to this matter.

A. E. McCOLLAM
General Manager

By
THOMAS T. JORDAN
Administrative Adviser

TTJ:dmn
Encls.

Manager		
Asst. Engineer		
Counsel		
R/W Agent		
Accounting		
R/W Engineer		
Des'n Engineer		
Applications		
Negotiation		
Appraisal		
Spec. Pool		

TRUSTEES

A. F. TURNER, PRESIDENT
EARL WITHYCOMBE
GEORGE A. INNES

ALBERT S. WALTON, SECRETARY
830 JEFFERSON BLVD.
PHONE FRONTIER 1-6915

RECLAMATION DISTRICT No. 900
WEST SACRAMENTO, CALIFORNIA

September 11, 1963

State Reclamation Board
1215 O Street
Sacramento, California

Gentlemen:

Re 7200.60.000

Enclosed are two duplicate originals and 1 copy of Assurance Agreement which have been duly signed as requested by the President and Secretary of this district.

Also enclosed are certified copies of excerpt from minutes authorizing execution of the Agreement.

Yours very truly,

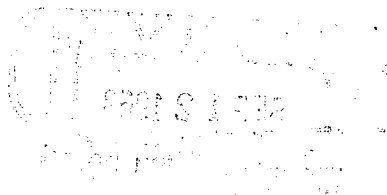
RECLAMATION DISTRICT NO. 900

By



Secretary

Enc.



August 13, 1963

7200.60.000

Mr. Arthur F. Turner, President
Reclamation District No. 900
830 Jefferson
West Sacramento, California

Dear Sir:

Enclosed are two duplicate originals and two copies of a self-explanatory Assurance Agreement relating to the Sacramento River Bank Protection Project.

Before work can proceed on this project in your area, the enclosed Agreement must be executed by the governing Board of your District. This should be done as soon as possible so that preliminary work and right of way acquisition can proceed. Preliminary plans will be sent to you when they are available.

Please leave the date of execution blank, that is, do not enter the date of execution in the documents. Will you, however, attach to the two duplicate originals and one copy, certified copies of the district's governing Board's minutes or resolution authorizing execution of the Assurance Agreement, and return the two duplicate originals and one copy to us. An executed duplicate original will be returned to you when it is fully processed.

It would be very helpful if you could return these documents to us by August 30th, so that the State Reclamation Board could execute the Agreement at its September 5, 1963, meeting.

Thank you for your cooperation in this matter.

Sincerely yours,

A. E. McCOLLAM
General Manager

By
CHARLES H. BOBBY
Administrative Advisor

Manager		
Asst. Engineer		
Counsel	CHB	8-13-63
R/W Agent		
Accounting		
R/W Engineer		
Des'n Engineer		
Applications		
Negotiation		
Appraisal		
Steno. Pool		
Adm. Asst.		

CHB:gg
Enclosures

Enclosure 2

RD 900 and RD 537 Budget Analysis

RD 900 AND RD 537 BUDGET ANALYSIS

February 13, 2018

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1.0 BACKGROUND

In a memo dated August 10, 2017, the Executive Director of the Yolo County Local Agency Formation Commission (LAFCo) requested agency input from the City of West Sacramento ("City"), Reclamation District 900 ("RD 900") and Reclamation District 537 ("RD 537"), referred to herein as the "RDs," concerning the consolidation of flood control responsibility within the City into a single purpose flood control agency.

The City has expressed a willingness to consolidate services within the City either as a merger (where districts would cease to exist) or as creation of a subsidiary district (i.e. districts would remain with City Council members serving as trustees on the RD boards).

RD 900 and RD 537 are opposed to any form of reorganization which would result in a merger of the RDs into the City, or any form of reorganization which would create subsidiary district(s). The RDs believe that they are best-suited to provide responsive and efficient operation and maintenance of flood control facilities at the least possible cost.

The following options were recommended by the Yolo County LAFCo:

- **Option 1–Functional Consolidation:** RD 537 and its board remain intact but contract all day-to-day operations to RD 900 or vice versa.
- **Option 2A-Merger:** The City absorbs the operations of the RDs and the districts would cease to exist.
- **Option 2B-Subsidiary:** the RDs consolidate with one another and become a subsidiary district to the City. The single district would remain with the City Council acting as the RDs' Boards.

To initiate and approve the consolidation of flood control responsibility, LAFCo would need to make a finding that the cost to provide the same or a higher level of **public service would be less than or substantially similar under City governance** and that it **promotes public access and accountability for services**.

This evaluation is focused solely on financial analysis of the three options.

2.0 SUMMARY OF RESULTS

The analysis prepared by the RDs estimates that the cost to perform the current duties for RD 900 and RD 537 would increase by 7% to 25% (\$236,000 to \$795,000/year) depending on how the City charges for staff time and administrative overhead services. The lower percentage assumes that the City charges the RDs for General Support Services at a similar historic rate as charged to the Port and the West Sacramento Area Flood Control Agency (WSAFCA). The higher percentage assumes that the City charges the RDs an Indirect Cost Allocation Plan (ICAP) rate for staff assigned to the RDs.

3.0 APPROACH

The RDs reviewed actual financial data prepared by the City of West Sacramento for both the Port of West Sacramento and the West Sacramento Flood Control Agency to develop assumptions based on publicly available accounting and budget information. Supporting documentation substantiating the assumptions made in this evaluation is included by reference. All reference documents were provided electronically to LAFCo and can be located online. Upon review of the Memorandum dated January 18, 2018 prepared by Economic & Planning Systems, Inc. (EPS), the RDs updated their evaluation to have a similar format and setup as that prepared by EPS. This was done to allow LAFCo staff and Board members to focus their attention on those areas where the RDs have different cost assumptions, or modified cost assumptions based on documented cost information from approved agency budgets, audited financial documents, City prepared staff reports, and City salary schedules.

Both options identified by LAFCo suggest that either one of the RDs or the City take over maintenance responsibility for the State's MA 4. State maintenance areas are formed under Water Code Section 12878.1. State maintenance areas are not required to perform a Proposition 218 compliant ballot proceeding to assess property owner beneficiaries. Instead, State maintenance areas submit an annual budget to the Central Valley Flood Protection Board for approval. The actual costs to complete identified Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) actions are charged to the beneficiaries on property tax bills. Excess revenues are rolled into the following year's budget and reduce the beneficiaries' future tax bills. Deficiencies in revenue are charged to beneficiaries in the following year's tax bills. In order for the State to transfer MA 4 responsibilities, the receiving entity must demonstrate that they have sufficient funding to provide OMRR&R for the levees. A successful Proposition 218 compliant ballot proceeding, where the beneficiaries vote to assess themselves to have the maintenance responsibilities performed at the local level, would be a likely condition for consolidating MA 4 OMRR&R responsibilities. Furthermore, the Central Valley Flood Protection Board would need to approve the transfer of the responsibilities from the State to a local district. While the RDs plan to explore taking over MA 4's responsibilities, it does not make sense at this time to include the cost of OMRR&R of MA 4 in a financial evaluation. It can be inferred that the entity that can provide the least cost OMRR&R of the RDs would also be able to provide the least cost OMRR&R of MA 4.

4.0 ASSUMPTIONS

The assumptions used in the evaluation are organized by each option being considered by the LAFCo.

1. Option 1–Functional Consolidation:

RD 537 and its board remain intact but contract all day-to-day operations to RD 900 or vice versa.

Assumptions:

- Budget numbers are based on RD 900 and RD 537 FY 2017-18 budgets.
- A scaling factor was applied to estimate the cost to complete RD 537 services within the City Boundary. The scaling factor only affects the magnitude of the financial impact and does not affect the underlying evaluation of the increase or decrease in cost to provide identified services. As such, this evaluation assumes the same 20% factor used in the EPS analysis.
- Evaluation of the cost of MA 4 is excluded, as the consolidation of the OMRR&R of State facilities would require a dedicated local funding mechanism and approval by the Central Valley Flood Protection Board. None of the agencies can guarantee consolidation of the MA 4 responsibilities.

2. Option 2A-Merger:

The City absorbs the operations of RD 900 and RD 537 and the Districts would cease to exist. The notes below restate some areas of common agreement but focus primarily on areas where the RDs believe that the assumptions in the EPS report require refinement. The RDs have worked to revise the assumptions based on documentation and actual costs reported by the City within publicly available financial reporting documents.

Assumptions:

- Table A1 summarizes the costs in tables A2, A3 and A4.
- Level of Service is defined as maintaining the same level of current staffing required for the RDs to perform their duties. No reduction in staff is assumed as this would constitute a reduction in the level of service.
- Capital Expenditures, routine OMRR&R and special project expenses are not modified within this evaluation. These represent costs to execute work scoped in FY 2017-18.
- Current RD 900 and 537 staff would be converted to City employees to comply with the Memorandum of Understanding between the City of West Sacramento and the Stationary Engineers Local 39 (“the Union”) (*City Union MOU, Reference R-1*). This is similar to how the City staffs the Port of West Sacramento and WSAFCA.
- This evaluation does not take into consideration increased costs for overtime and standby pay that would be incurred for employees covered by the City Union MOU. The majority of overtime duties required for the RDs are performed by salaried employees. The RDs pay overtime for hourly employees but they do not pay for standby.
- RD 900 is establishing a trust to fund the lifetime medical benefit for qualifying employees (minimum 20 years of service and retire after age 62). The trust fund is intended to fully fund the lifetime medical benefit. The RDs have no other unfunded liabilities. The California Public Employees Retirement System (CalPERS) handles pensions for virtually all City of West Sacramento employees. Each year CalPERS estimates unfunded liabilities for the City of West Sacramento pension plans. The actual costs paid by the City versus employees varies depending on the terms of each pension plan. The City has unfunded liabilities for the following pension plans: 1) Miscellaneous employees, 2) PEPRA Safety Police, 3) Safety Police, 4) Safety Police Second Tier, 5) Safety Fire, and 6) Safety Fire Second Tier. This evaluation does not attempt to quantify the cost of any unfunded liabilities associated with the City’s share of unfunded pension liabilities if the RDs were required to be staffed with City employees.
- **Table A2, ID# 4:** The City’s Union MOU requires some approval by the Union for City employment decisions. This option assumes that all RD employees would be converted to City staff. Staff costs are based on City of West Sacramento Salary Classifications (*City Salary Schedule, Reference*

[R-2](#)). The RDs identified positions within the City Salary Schedule where current staff would likely be placed based on job function and experience. Average salaries were used to estimate salary expense for the analysis.

- **Table A2, ID# 5:** Staff costs are based on City of West Sacramento Salary Classifications. (*City Salary Schedule, [Reference R-2](#)*)
- **Table A2, ID# 7:** Trustee Fees would be avoided costs.
- **Table A2, ID# 8:** Payroll Taxes are based on 8.105% of total salaries for all options.
- **Table A2, ID# 9-13:** These costs are now calculated in line 14.
- **Table A2, ID# 14:** Fringe Benefits set at 43.48% based on an auditor's letter from Richard & Company, LLP included as an attachment to the City of West Sacramento Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ended June 30, 2016 located on the California Policy Center (*CAFR Ending June 30, 2016, Auditor Letter, [Reference R-3, Pg. 232 of 232](#)*).
- **Table A2, ID# 18:** Insurance would be required to cover the regular operations and maintenance activities of RD 900. The portion of the insurance premium associated with liability insurance that covers the trustees "or the City Council" from flood related issues and covers legal costs was removed - the estimate is based on RD 900's current annual insurance premium of \$2,154. Both the Port of West Sacramento and WSAFCA carry similar insurance policies that are not included in the cost of the City General Services. Additional due diligence would be required to provide an accurate estimate of any cost savings that might exist in this category.
- **Table A2, ID# 19:** Office Costs are assumed to be avoided and covered under the general support services fee in line 42.
- **Table A2, ID# 20:** Professional Services include permitting costs for aquatic application of herbicides, engineering services for design of pump stations and Supervisory Control and Data Acquisition (SCADA) services. All of these services would still be provided by consultants. Administration and overhead services provided by the City would only cover costs associated with financial services, legal services to support Board meetings, and auditing support services. The costs were reduced by \$24,000 per year to reflect costs associated with auditing services (\$5,000 to \$8,000 per year) and legal services to attend RD board meetings (\$14,000 to \$20,000 per year). This is based on an average year.
- **Table A2, ID# 23:** Office Rent is assumed to be avoided and covered under the general support services fee in line 42.
- **Table A2, ID# 25:** Assessment Expense is associated with an annual bill from Yolo County for property owned by RD 900. This bill must be paid under all options.
- **Table A2, ID# 30:** Equipment Repair is associated with expenses for repair of equipment such as mowers and back hoes; the RD repairs the equipment in house. The City would incur these costs if they took over responsibility of RD equipment. There would be no cost savings in this category.
- **Table A2, ID# 31:** Equipment Supply is associated with supplies needed for equipment. The City would be required to pay for these costs if they took over responsibility for RD equipment. This is not an area where cost savings would be achieved.
- **Table A2, ID# 33:** RD 900 agrees that there could be some cost savings under Option 2A for Shop Repair. However, the City could also recover these costs and charge for these services. For this evaluation the cost was removed from Option 2A.
- **Table A2, ID# 42:** City of West Sacramento General Administration Services evaluation of costs charged to WSAFCA and Port of West Sacramento range from \$36,600 to \$41,200 per Full Time Employee (FTE) or about 24% to 31% of all personnel expenses. This evaluation assumed the City would charge \$38,000 per FTE. This assumption was based on the FTEs reported in the City Biennial Budget and staff reports prepared by the City and signed by the treasurer for WSAFCA and the Port. (*City Biennial Budget, [Reference R4](#), Port Budget Staff Report, [Reference R5](#) and WSAFCA Budget Staff Report, [Reference R6](#)*)
- **Table A2, ID# 49-50:** Based on the assumption in this evaluation, costs would increase by 9% if the City were to take over RD 900's responsibilities. This would increase costs by approximately \$267,600 more per year to provide the same level of service.
- **Table A2, ID# 52-54:** The City has also charged an ICAP rate to recover administrative and overhead costs for projects that receive State and Federal grant funds. For this evaluation it is assumed that the City would either charge the administrative services fees or charge an ICAP rate. The ICAP rate was assumed to be 108.57% (*CAFR Ending June 30, 2016, Auditor Letter, [Reference R-3, Pg. 232 of 232](#)*) based on City of West Sacramento Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2016. Lines 52 to 54 were included to show how charging an ICAP rate could further increase the cost of the City to provide the services for RD 900. This approach would further increase costs by 24% or approximately \$757,100 per year.

- **Table A3, ID#4** The City's Union MOU requires some approval by the Union for City employment decisions. This option assumes that all RD employees would be converted to City Staff. Staff Costs Based on City of West Sacramento Salary Classifications (**City Salary Schedule, Reference R-2**). The RDs identified positions within the City Salary Schedule where current staff would likely be placed based on job function and experience. Average salaries were used to estimate salary expense for the analysis.
- **Table A3, ID# 6:** Payroll Taxes based on 8.105% of total salaries for all options.
- **Table A3, ID# 7:** Insurance would be required to cover the regular operations and maintenance activities of RD 537. The portion of the insurance premium associated with liability insurance that covers the trustees "or the City Council" from flood related issues was removed and the estimate is based on RD 537's current annual insurance premium of \$1,250. Both the Port of West Sacramento and WSAFCA carry similar insurance policies that are not included in the cost of the City General Services. Additional due diligence would be required to provide an accurate estimate of any cost savings that might exist in this category.
- **Table A3, ID# 8:** Director Fees would be avoided costs.
- **Table A3, ID# 9:** Fringe Benefits set at 43.48% based on an auditor's letter from Richard & Company, LLP included as an attachment to the City of West Sacramento Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ended June 30, 2016 located on the California Policy Center. (**CAFR Ending June 30, 2016, Auditor Letter, Reference R-3, Pg. 232 of 232**)
- **Table A3, ID# 13:** Banking fees are assumed to be avoided costs covered under the City General support services.
- **Table A3, ID# 14:** Legal costs were reduced by \$2,400/year assuming four board meetings per year with attorney costs at \$600/meeting. The remaining legal support services are budgeted to address issues that arise and are performed on an as-needed basis. If the City took over the RD these costs would be passed through and performed by outside legal consultants that specialize in the areas where support was required.
- **Table A3, ID# 21:** Professional Fees for the annual audit would be avoided. The professional service fees for the annual audit are about \$7,000 per year. The professional services budget was reduced from \$20,000 to \$13,000 per year.
- **Table A3, ID# 22:** Office expenses are assumed to be avoided costs covered under the City General support services.
- **Table A3, ID# 23:** Administrative services are assumed to be avoided costs covered under the City General support services.
- **Table A3, ID# 24:** Utilities costs are for the operation of pumping plants and other necessary equipment and would not be reduced.
- **Table A3, ID# 26:** Yolo Handling Charges are banking fees that would be avoided costs covered under the City General support services.
- **Table A3, ID# 30:** City of West Sacramento General Administration Services evaluation of costs charged to WSAFCA and Port of West Sacramento range from \$36,600 to \$41,200 per Full Time Employee (FTE) or about 24% to 31% of all personnel expenses. This evaluation assumed the City would charge \$38,000 per FTE. This assumption was based on The FTEs reported in the City Biennial Budget and Staff Reports prepared by the City and signed by the treasurer for WSAFCA and the Port. (**City Biennial Budget, Reference R4, Port Budget Staff Report, Reference R5 and WSAFCA Budget Staff Report, Reference R6**)
- **Table A3, ID# 33-34:** Based on the assumption in this evaluation, costs would increase by 23% if the City were to take over RD 537's responsibilities. This would increase costs by approximately \$89,300 per year. Table A4 scales all of the cost assumptions in Table A3 by 20% to show how the overall cost of services within the City might be impacted. Taking into consideration the 20% scaling factor, this increases costs by approximately \$17,900 more per year to provide the same level of service. A more comprehensive analysis would be required to accurately capture the RD 537 costs for OMR&R within the City boundaries.
- **Table A3, ID# 36-38:** The City has also charged an ICAP rate to recover administrative and overhead costs for projects that receive State and Federal grant funds. For this evaluation it is assumed that the City would either charge the administrative services fees or charge an ICAP rate. The ICAP rate was set at 108.57% based on City of West Sacramento Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2016 (**CAFR Ending June 30, 2016, Auditor Letter, Reference R-3, Pg. 232 of 232**). Lines 36 to 38 were included to show how charging an ICAP rate could further increase the cost of the City to provide the services for RD 537. This approach would further increase costs by 61% or approximately \$232,600 per year. Table A4 scales all of the cost assumptions in Table A3 by 20% to show how the overall cost of services

within the City might be impacted. Taking into consideration the 20% scaling factor, this increases costs by approximately \$46,500 more per year to provide the same level of service. A more comprehensive analysis would be required to accurately capture the RD 537 costs for OMRR&R within the City boundaries.

3. Option 2B-Subsidiary:

The RDs consolidate with one another and become a subsidiary district to the City. The Districts would remain with the City Council acting as the districts' Board.

Assumptions:

- Table A1 summarizes the costs in tables A2, A3 and A4.
- Level of Service is defined as maintaining the same level of current staffing required for the RDs to perform their duties. No reduction in staff is assumed as this would constitute a reduction in the level of service.
- Capital Expenditures, routine OMRR&R and special project expenses are not modified within this evaluation. These represent costs to execute work scoped in FY 2017-18.
- Current RD 900 and 537 staff would **NOT** be converted to City employees. It is not clear if this would comply with the City's Union MOU. For this analysis it is assumed that the City could approve RD budgets and direct RD staff without converting them to City employees. Further due diligence is required to confirm if this is a valid assumption. The Port of West Sacramento is a separate legal entity staffed with City employees.
- **Table A2, ID# 7:** Trustee Fees would be avoided costs.
- **Table A2, ID# 18:** Insurance would be required to cover the regular operations and maintenance activities of RD 900. The portion of the insurance premium associated with liability insurance that covers the trustees "or the City Council" from flood related issues and covers legal costs was removed and the estimate is based on RD 900's current annual insurance premium of \$2,154. Both the Port of West Sacramento and WSAFCA carry similar insurance policies that are not included in the cost of the City General Services. Additional due diligence would be required to provide an accurate estimate of any cost savings that might exist in this category.
- **Table A2, ID# 19:** Office costs are assumed to be avoided and covered under the general support services fee in line 42.
- **Table A2, ID# 20:** Professional services include permitting costs for aquatic application of herbicides, engineering services for design for pump stations and Supervisory Control and Data Acquisition (SCADA) services. All of these services would still be provided by consultants. Administration and overhead services provided by the City would only cover costs associated with financial services, legal services to support Board meetings, and auditing support services. The costs were reduced by \$17,000 per year to reflect costs associated legal services to support RD Board meetings (\$14,000 to \$20,000 per year).
- **Table A2, ID# 23:** Office Rent is assumed to be avoided and covered under the general support services fee in line 42.
- **Table A2, ID# 25:** Assessment Expense is associated with an annual bill from Yolo County for property owned by RD 900. This bill must be paid under all options.
- **Table A2, ID# 30:** Equipment Repair is associated with expenses for repair of equipment such as mowers and back hoes; the RD repairs the equipment in house. These costs would be incurred by the City if they took over responsibility of RD equipment. There would be no cost savings in this category.
- **Table A2, ID# 31:** Equipment Supply is associated with supplies needed for equipment. The City would be required to pay for these costs if they took over responsibility for RD equipment. This is not an area where cost savings would be achieved.
- **Table A2, ID# 42:** City of West Sacramento General Administration Services evaluation of costs charged to WSAFCA and Port of West Sacramento range from \$36,600 to \$41,200 per Full Time Employee (FTE) or about 24% to 31% of all personnel expenses. This evaluation assumed the City would charge \$38,000 per FTE. This assumption was based on The FTEs reported in the City Biennial Budget and Staff Reports prepared by the City and signed by the treasurer for WSAFCA and the Port. (*City Biennial Budget, [Reference R4](#), Port Budget Staff Report, [Reference R5](#) and WSAFCA Budget Staff Report, [Reference R6](#)*)

- **Table A2, ID# 49-50:** Based on the assumption in this evaluation, costs would increase by 7% if the City were to take over RD 900's responsibilities. This would increase costs by approximately \$229,400 more per year to provide the same level of service.
- **Table A2, ID# 52-54:** The City has also charged an ICAP rate to recover administrative and overhead costs for projects that receive State and Federal grant funds. For this evaluation it is assumed that the City would either charge the administrative services fees or charge an ICAP rate. The ICAP rate was assumed to be 108.57% (*CAFR Ending June 30, 2016, Auditor Letter, Reference R-3, Pg. 232 of 232*) based on City of West Sacramento Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2016. Lines 52 to 54 were included to show how charging an ICAP rate could further increase the cost of the City to provide the services for RD 900. This approach would further increase costs by 21% or approximately \$659,900 per year.
- **Table A3, ID# 7:** Insurance would be required to cover the regular operations and maintenance activities of RD 537. The portion of the insurance premium associated with liability insurance that covers the trustees "or the City Council" from flood related issues was removed and the estimate is based on RD 537's current annual insurance premium of \$1,250. Both the Port of West Sacramento and WSAFCA carry similar insurance policies that are not included in the cost of the City General Services. Additional due diligence would be required to provide an accurate estimate of any cost savings that might exist in this category.
- **Table A3, ID# 8:** Director Fees would be avoided costs.
- **Table A3, ID# 14:** Legal costs were reduced by \$2,400/year assuming four board meetings per year with attorney costs at \$600/meeting. The remaining legal support services are budgeted to address issues that arise and are performed on an as-needed basis. If the City took over the RD these costs would be passed through and performed by outside legal consultants that specialize in the areas where support was required.
- **Table A3, ID# 24:** Utilities costs are for the operation of pumping plants and other necessary equipment and would not be reduced.
- **Table A3, ID# 30:** City of West Sacramento General Administration Services evaluation of costs charged to WSAFCA and Port of West Sacramento range from \$36,600 to \$41,200 per Full Time Employee (FTE) or about 24% to 31% of all personnel expenses. This evaluation assumed the City would charge \$38,000 per FTE. This assumption was based on the FTEs reported in the City Biennial Budget and Staff Reports prepared by the City and signed by the treasurer for WSAFCA and the Port (*City Biennial Budget, Reference R4, Port Budget Staff Report, Reference R5 and WSAFCA Budget Staff Report, Reference R6*).
- **Table A3, ID# 33-34:** Based on the assumption in this evaluation costs would increase by 8% if the City were to take over RD 537's responsibilities. This would increase costs by approximately \$30,400 per year. Table A4 scales all cost assumptions in Table A3 by 20% to show how the overall cost of services within the City might be impacted. Taking into consideration the 20% scaling factor, this increases costs by approximately \$6,100 more per year to provide the same level of service. A more comprehensive analysis would be required to accurately capture the RD 537 costs for OMRR&R within the City boundaries.
- **Table A3, ID# 36-38:** The City has also charged an ICAP rate to recover administrative and overhead costs for projects that receive State and Federal grant funds. For this evaluation it is assumed that the City would either charge the administrative services fees or charge an ICAP rate. The ICAP rate was set at 108.57% based on City of West Sacramento Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2016 (*CAFR Ending June 30, 2016, Auditor Letter, Reference R-3, Pg. 232 of 232*). Lines 36 to 38 were included to show how charging an ICAP rate could further increase the cost of the City to provide the services for RD 537. This approach would further increase costs by 21% or approximately \$79,700 per year. Table A4 scales all cost assumptions in Table A3 by 20% to show how the overall cost of services within the City might be impacted. Taking into consideration the 20% scaling factor, this increases costs by approximately \$16,000 more per year to provide the same level of service. A more comprehensive analysis would be required to accurately capture the RD 537 costs for OMRR&R within the City boundaries.

5.0 ANALYSIS

The analysis in the series of tables included in Attachment A was prepared to compare the cost of the three options cited by LAFCo to provide flood OMRR&R and drainage O&M services within the City of West Sacramento. Table A1 compares the cost estimates for the RDs to continue providing services to two variations of the City Council taking over the responsibilities of the RDs within the City. Table A2 shows the estimated cost for RD 900 or the City to complete O&M of the internal drainage and OMRR&R of the flood control facilities. Table A3 compares the estimated cost for RD 537 or the City to complete O&M of the internal drainage and OMRR&R of the flood control facilities. Table A4 is intended to adjust the total cost to complete O&M of the internal drainage and OMRR&R flood control facilities within the City based on a simple 20% scaling factor. Table A5 shows the City of West Sacramento Salary schedules assumed by employee type in the cost estimates. Table A6 shows actual administrative support costs paid by WSAFCA and the Port to the City and forms the basis for estimating the cost of City administrative support services. The publicly available documents listed in the reference section were used to prepare the cost estimate assumptions.

6.0 CONCLUSIONS

The RDs can provide their services at a lower cost than could the City. The evaluations show that either option that was led by the City would increase costs by approximately 7 to 25 percent depending on how the City charges for general support services and staff time (see Table A1, Lines 71 and 75). The analysis shows an annual cost increase from \$236,000 to \$796,000 per year. Increased costs are primarily due to the fact that the cost of labor and administrative services provided by the City would be higher than the costs for the RDs. Some modest savings could be achieved by the reduction in cost of trustee fees, rent and insurance savings. If it were determined that the MOU between the City and the Union would require conversion of the RD employees to City staff, then no appreciable difference in cost would be achieved between options 2A and 2B. Furthermore, if RDs were staffed by City employees an estimate of the CalPERS pension unfunded liability should be included in the cost evaluation. Any further financial analysis should be prepared based on actual historic costs incurred by the RDs and the City. Future analysis should rely on historic auditable data sources. A more comprehensive estimate of the cost to provide services by RD 537 within the City limits should be performed.

7.0 REFERENCE DOCUMENTS

- R-1: [MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WEST SACRAMENTO AND STATIONARY ENGINEERS, LOCAL 39, Effective July 1, 2016 through June 30, 2019.](#)
- R-2: [City of West Sacramento Fiscal Year 2017-18 Salary Schedule.](#)
- R-3: [City of West Sacramento, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016.](#)
- R-4: [City of West Sacramento, Biennial Budget Fiscal Years 2017-2018 and 2018-2019.](#)
- R-5: [Port of West Sacramento, May 10, 2017 Agenda Report Item #4 Consideration of Port Budget for Fiscal Year 2017-18.](#)
- R-6: [West Sacramento Flood Control Agency, May 25, 2017 Agenda Report Item #3, Workshop on WSAFCA Biennial Administration and Operations Budget and Capital Improvement Budget for Fiscal Years 2017/18 and 2018/19.](#)

ATTACHMENT A

**RD 900 and RD 537
Financial Analysis**

Table A-1

RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis

Budget Unit [NEW]: Reclamation District Maintenance Formatted Fiscal Year 2017-18 Budget

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
1	Budget Unit [NEW]: Reclamation District Maintenance			
2				
3	Personnel Services			
4	5012 RD900 Admin Salary	\$167,000	\$173,000	\$167,000
5	5013 RD900 Field Salary	\$300,000	\$304,000	\$300,000
6	5014 RD900 O. T. Emergency	\$8,000	\$8,000	\$8,000
7	5015 RD900 Trustee Fees	\$8,400	\$0	\$0
8	5021 RD900 Payroll Tax	\$38,500	\$39,311	\$38,500
9	5022 RD900 Retirement	\$60,000	\$0	\$60,000
10	5023 RD900 Hospital Withholdings	\$40,000	\$0	\$40,000
11	5023.02 RD900 Retiree Medical	\$13,500	\$0	\$13,500
12	5025 RD900 Worker's Compensation Insurance	\$50,000	\$0	\$50,000
13	5027 RD900 Dental Insurance	\$3,014	\$0	\$3,014
14	6010 RD537 Management Payroll	\$7,800	\$18,400	\$7,800
15	6010 RD537 Salary	\$1,300	\$0	\$1,300
16	6020 RD537 Payroll Tax	\$1,000	\$1,491	\$1,000
17	6150 RD537 Insurance (Inc. Comp.)	\$4,000	\$3,750	\$3,750
18	6200 RD537 Director Fees	\$800	\$0	\$0
19	X COWS City Benefits Allocation [1]	\$0	\$218,878	\$0
20	Total Personnel Services	\$703,314	\$766,830	\$693,864
21				
22	Operations and Maintenance			
23	5110 RD900 Insurance	\$44,500	\$42,346	\$42,346
24	5130 RD900 Office	\$15,000	\$0	\$0
25	5140 RD900 Professional Services	\$150,000	\$126,000	\$133,000
26	5140.02 RD900 Permits and Fees	\$12,000	\$12,000	\$12,000
27	5145 RD900 Assessment Preparation	\$15,000	\$15,000	\$15,000
28	5150 RD900 Office Rent	\$15,000	\$0	\$0
29	5170 RD900 Assessment Collection	\$12,000	\$12,000	\$12,000
30	5180 RD900 Assessment Expense	\$10,000	\$10,000	\$10,000
31	5220 RD900 Uniforms	\$5,000	\$5,000	\$5,000
32	5242 RD900 Tools	\$10,000	\$10,000	\$10,000
33	5260 RD900 Fuel	\$35,000	\$35,000	\$35,000
34	5270 RD900 Power	\$85,000	\$85,000	\$85,000
35	5410 RD900 Equipment Repair	\$25,000	\$25,000	\$25,000
36	5415 RD900 Equipment Supply	\$40,000	\$40,000	\$40,000
37	5417 RD900 Major Equipment	\$500,000	\$500,000	\$500,000
38	5420 RD900 Shop Repair	\$10,000	\$0	\$10,000
39	5425 RD900 Shop Supply	\$8,000	\$8,000	\$8,000
40	5427 RD900 Trash Removal	\$10,000	\$10,000	\$10,000
41	5435 RD900 Spray Equipment and Supply	\$45,000	\$45,000	\$45,000
42	6000 RD900 Levee OMRR&R	\$200,000	\$200,000	\$200,000
43	7000 RD900 Internal Drainage OMRR&R	\$1,189,066	\$1,189,066	\$1,189,066
44	3025 RD537 Bank Fees	\$25	\$0	\$25

**RD 900 and RD 537
Financial Analysis**

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
45	6050 RD537 Legal	\$1,600	\$1,120	\$1,120
46	6100 RD537 Equipment Maintenance	\$17,600	\$17,600	\$17,600
47	6120 RD537 Flood Supplies	\$400	\$400	\$400
48	6121 RD537 Flood Fight Training	\$1,000	\$1,000	\$1,000
49	6125 RD537 Levee Maintenance	\$14,000	\$14,000	\$14,000
50	6130 RD537 Ditch Maintenance	\$12,000	\$12,000	\$12,000
51	6250 RD537 Dues and Public Notices	\$760	\$760	\$760
52	6300 RD537 Professional Fees	\$4,000	\$2,600	\$4,000
53	6350 RD537 Office Expense	\$100	\$0	\$100
54	6400 RD537 Admin Services	\$4,200	\$0	\$4,200
55	6450 RD537 Utilities	\$5,000	\$5,000	\$5,000
56	6455 RD537 Fuel	\$400	\$400	\$400
57	6500 RD537 Yolo Handling Charge	\$280	\$0	\$280
58	Total Operations and Maintenance	\$2,496,931	\$2,424,292	\$2,447,297
59				
60	Non-Operating			
61	X General Support Services [1] [2]	\$0	\$273,600	\$273,600
62	Total Non-Operating	\$0	\$273,600	\$273,600
63				
64	Less Reimbursements for RD 537 Administration			
65	X Reimbursements for Administrative Costs	-\$21,000	\$0	\$0
66	Total Reimbursements for RD 537 Administration	-\$21,000	\$0	\$0
67				
68	Total Budget Unit [NEW]: RD Maintenance	\$3,179,245	\$3,464,722	\$3,414,761
69				
70	Increase in Total Budget Unit [NEW]: RD Main.	\$0	\$285,477	\$235,516
71	Percent Increase in Budget	0%	9%	7%
72				
73	X COWS ICAP [108.57%*Sum(Items 4:6,9:15,19)]		\$784,178	\$706,372
74	Increase in Total Budget with ICAP Costs: RD Main.	\$0	\$796,055	\$668,288
75	Percent Increase in Budget with ICAP Rate	0%	25%	21%

Sources: Reclamation District 900 Draft Fiscal Year Budget Report 2017-2018; Reclamation District 537 Draft Fiscal Year Budget Report 2017-2018; City of West Sacramento CAFR, Biannual Budgets and annual reporting: RD 900 Manager and Board, RD 537 Board, Port Budget, WSAFCA Budget.

[1] Under Option 2A: Merger, General Fund Support Services is estimated as an annual expenditure of \$38,000 per FTE based on Port and WSAFCA actual charges.

[2] Under Option 2B: Subsidiary Districts, General Fund Support Services Is estimated as a monthly expenditure of \$38,000 per FTE based on Port and WSAFCA actual charges.

**RD 900 and RD 537
Financial Analysis**

**Table A-2
RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis
RD 900 Formatted Fiscal Year 2017-18 Budget**

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
1	Budget Unit [NEW]: Reclamation District Maintenance			
2				
3	Personnel Services			
4	5012 RD900 Admin Salary	\$167,000	\$173,000	\$167,000
5	5013 RD900 Field Salary	\$300,000	\$304,000	\$300,000
6	5014 RD900 O.T. Emergency	\$8,000	\$8,000	\$8,000
7	5015 RD900 Trustee Fees	\$8,400		
8	5021 RD900 Payroll Tax	\$38,500	\$39,311	\$38,500
9	5022 RD900 Retirement	\$60,000		\$60,000
10	5023 RD900 Hospital Withholdings	\$40,000		\$40,000
11	5023.02 RD900 Retiree Medical	\$13,500		\$13,500
12	5025 RD900 Worker's Compensation Insurance	\$50,000		\$50,000
13	5027 RD900 Dental Insurance	\$3,014		\$3,014
14	X COWS City Benefits Allocation [1]		\$210,878	
15	Total Personnel Services	\$688,414	\$735,189	\$680,014
16				
17	Operations and Maintenance			
18	5110 RD900 Insurance	\$44,500	\$42,346	\$42,346
19	5130 RD900 Office	\$15,000		
20	5140 RD900 Professional Services	\$150,000	\$126,000	\$133,000
21	5140.02 RD900 Permits and Fees	\$12,000	\$12,000	\$12,000
22	5145 RD900 Assessment Preparation	\$15,000	\$15,000	\$15,000
23	5150 RD900 Office Rent	\$15,000		
24	5170 RD900 Assessment Collection	\$12,000	\$12,000	\$12,000
25	5180 RD900 Assessment Expense	\$10,000	\$10,000	\$10,000
26	5220 RD900 Uniforms	\$5,000	\$5,000	\$5,000
27	5242 RD900 Tools	\$10,000	\$10,000	\$10,000
28	5260 RD900 Fuel	\$35,000	\$35,000	\$35,000
29	5270 RD900 Power	\$85,000	\$85,000	\$85,000
30	5410 RD900 Equipment Repair	\$25,000	\$25,000	\$25,000
31	5415 RD900 Equipment Supply	\$40,000	\$40,000	\$40,000
32	5417 RD900 Major Equipment	\$500,000	\$500,000	\$500,000
33	5420 RD900 Shop Repair	\$10,000		\$10,000
34	5425 RD900 Shop Supply	\$8,000	\$8,000	\$8,000
35	5427 RD900 Trash Removal	\$10,000	\$10,000	\$10,000
36	5435 RD900 Spray Equipment and Supply	\$45,000	\$45,000	\$45,000
37	6000 RD900 Levee OMRR&R	\$200,000	\$200,000	\$200,000

**RD 900 and RD 537
Financial Analysis**

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
38	7000 RD900 Internal Drainage OMRR&R	\$1,189,066	\$1,189,066	\$1,189,066
39	Total Operations and Maintenance	\$2,435,566	\$2,369,412	\$2,386,412
40				
41	Non-Operating			
42	X General Support Services [1] [2]		\$266,000	\$266,000
43	Total Non-Operating		\$266,000	\$266,000
44				
45	Less Reimbursements for RD 537 Administration			
46	X Reimbursements for Administrative Costs	-\$21,000		
47	Total Reimbursements for RD 537 Administration	-\$21,000	\$0	\$0
48				
49	Total Budget Unit [NEW]: RD Main.	\$3,102,980	\$3,370,601	\$3,332,426
50	Percent Increase in Budget	0%	9%	7%
51				
52	X COWS ICAP [108.57% * Sum(Lines4:6;9:14)]		\$755,515	\$696,492
53	Total Budget Unit [NEW] with ICAP Costs: RD Maint.	\$3,102,980	\$3,860,115	\$3,762,918
54	Percent Increase in Budget with ICAP Rate	0%	24%	21%

Source: Reclamation District 900 Draft Fiscal Year Budget Report 2017-2018; City of West Sacramento; EPS.

[1] The City identifies benefits allocation for employees at 43.48 percent of salaries.

[2] Under Option 2A: Merger, General Fund Support Services is estimated as an annual expenditure of \$38,000 per FTE. It is assumed that RD 900 employees equate to a total of 7 FTEs.

[3] Under Option 2B: Subsidiary Districts, General Fund Support Services is estimated as a monthly expenditure of \$38,000 per FTE. It is assumed that RD 900 employees equate to a total of 7 FTEs.

The Districts modified assumption in the City evaluation based on additional supporting documentation.

**RD 900 and RD 537
Financial Analysis**

**Table A-3
RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis
RD 537 Formatted Fiscal Year 2017-18 Budget**

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
1	Budget Unit [NEW]:Reclamation District Maintenance			
2				
3	Personnel Service			
4	6010 RD537 Management Payroll (Kyle Lang GM)	\$39,000	\$92,000	\$39,000
5	6010.1 RD537 Salary (Pay Part Time People)	\$6,500		\$6,500
6	6020 RD537 Payroll Tax	\$5,000	\$7,457	\$5,000
7	6150 RD537 Insurance (\$3,786 Gen liability, \$1,250 Public	\$20,000	\$18,750	\$18,750
8	6200 RD537 Director Fees	\$4,000		
9	X COWS City Benefits Allocation [1]		\$40,002	
10	Total Personnel Services	\$74,500	\$158,208	\$69,250
11				
12	Operations and Maintenance			
13	3025 RD537 Bank Fees	\$125		\$125
14	6050 RD537 Legal	\$8,000	\$5,600	\$5,600
15	6100 RD537 Equipment Maintenance [1]	\$88,000	\$88,000	\$88,000
16	6120 RD537 Flood Supplies [1]	\$2,000	\$2,000	\$2,000
17	6121 RD537 Flood Fight Training [1]	\$5,000	\$5,000	\$5,000
18	6125 RD537 Levee Maintenance [1]	\$70,000	\$70,000	\$70,000
19	6130 RD537 Ditch Maintenance [1]	\$60,000	\$60,000	\$60,000
20	6250 RD537 Dues and Public Notices	\$3,800	\$3,800	\$3,800
21	6300 RD537 Professional Fees (Audit needed if they are	\$20,000	\$13,000	\$20,000
22	6350 RD537 Office Expense	\$500		\$500
23	6400 RD537 Admin Services	\$21,000		\$21,000
24	6450 RD537 Utilities [1]	\$25,000	\$25,000	\$25,000
25	6455 RD537 Fuel [1]	\$2,000	\$2,000	\$2,000
26	6500 RD537 Yolo Handling Charge [1] (Banking Fees)	\$1,400		\$1,400
27	Total Operations and Maintenance	\$306,825	\$274,400	\$304,425
28				
29	Non-Operating			
30	X General Support Services [1] [2]		\$38,000	\$38,000
31	Total Non-Operating		\$38,000	\$38,000
32				
33	Total Budget Unit [NEW]: RD Main.	\$381,325	\$470,608	\$411,675
34	Percent Increase in Budget	0.0%	23%	8%
35				
36	X COWS ICAP [108.57% * Sum(Lines 4:5;9)]		\$143,314	\$49,399
37	Total Budget Unit [NEW] with ICAP Costs: RD Main.	\$381,325	\$613,923	\$461,074
38	Percent Increase in Budget with ICAP	0.0%	61%	21%

Source: Reclamation District 537 Fiscal Year Budget Report 2017-2018; City of West Sacramento; EPS.

[1] Based on estimates of acreage and area maintained, approximately 20 percent of the RD 537 area is within the City boundary.

[2] Under Option 2A: Merger, General Fund Support Services is estimated as an annual expenditure of \$38,000 per FTE. It is assumed that RD 537 for 0.5 FTE's for a total cost of \$19,000.

[3] Under Option 2B: Subsidiary Districts, General Fund Support Services is estimated as a monthly expenditure of \$38,000. It is assumed that RD 537 for 0.5 FTE's for a total cost of \$19,000.

The Districts modified assumption in the City evaluation based on additional supporting documentation.

**RD 900 and RD 537
Financial Analysis**

**Table A-4
RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis
RD 537 Formatted Fiscal Year 2017-18 Budget Scaled by 20%**

ID Number	Item	Existing Situation: No Change	Option 2A: Merger	Option2B: Subsidiary Districts
1	Budget Unit [NEW]:Reclamation District Maintenance			
2				
3	Personnel Service			
4	6010 RD537 Management Payroll (Kyle Lang GM)	\$7,800	\$18,400	\$7,800
5	6010.1 RD537 Salary (Pay Part Time People)	\$1,300	\$0	\$1,300
6	6020 RD537 Payroll Tax	\$1,000	\$1,491	\$1,000
7	6150 RD537 Insurance (\$3,786 Gen liability, \$1,250 Public	\$4,000	\$3,750	\$3,750
8	6200 RD537 Director Fees	\$800	\$0	\$0
9	X COWS City Benefits Allocation [1]	\$0	\$8,000	\$0
10	Total Personnel Services	\$14,900	\$31,642	\$13,850
11				
12	Operations and Maintenance			
13	3025 RD537 Bank Fees	\$25	\$0	\$25
14	6050 RD537 Legal	\$1,600	\$1,120	\$1,120
15	6100 RD537 Equipment Maintenance [1]	\$17,600	\$17,600	\$17,600
16	6120 RD537 Flood Supplies [1]	\$400	\$400	\$400
17	6121 RD537 Flood Fight Training [1]	\$1,000	\$1,000	\$1,000
18	6125 RD537 Levee Maintenance [1]	\$14,000	\$14,000	\$14,000
19	6130 RD537 Ditch Maintenance [1]	\$12,000	\$12,000	\$12,000
20	6250 RD537 Dues and Public Notices	\$760	\$760	\$760
21	6300 RD537 Professional Fees (Audit needed if they are	\$4,000	\$2,600	\$4,000
22	6350 RD537 Office Expense	\$100	\$0	\$100
23	6400 RD537 Admin Services	\$4,200	\$0	\$4,200
24	6450 RD537 Utilities [1]	\$5,000	\$5,000	\$5,000
25	6455 RD537 Fuel [1]	\$400	\$400	\$400
26	6500 RD537 Yolo Handling Charge [1] (Banking Fees)	\$280	\$0	\$280
27	Total Operations and Maintenance	\$61,365	\$54,880	\$60,885
28				
29	Non-Operating			
30	X General Support Services [1] [2]	\$0	\$7,600	\$7,600
31	Total Non-Operating		\$7,600	\$7,600
32				
33	Total Budget Unit [NEW]: RD Main.	\$76,265	\$94,122	\$82,335
34	Percent Increase in Budget	0%	23%	8%
35				
36	X COWS ICAP [108.57% * Sum(Lines 4:5;9)]		\$28,663	\$9,880
37	Total Budget Unit [NEW] with ICAP Costs: RD Main.	\$76,265	\$122,785	\$92,215
38	Percent Increase in Budget with ICAP	0%	61%	21%

Source: Reclamation District 537 Fiscal Year Budget Report 2017-2018; City of West Sacramento; EPS.

[1] Based on estimates of acreage and area maintained, approximately 20 percent of the RD 537 area is within the City boundary.

[2] Under Option 2A: Merger, General Fund Support Services is estimated as an annual expenditure of \$38,000 per FTE. It is assumed that RD 537 for 0.5 FTE's for a total cost of \$19,000.

[3] Under Option 2B: Subsidiary Districts, General Fund Support Services is estimated as a monthly expenditure of \$38,000. It is assumed that RD 537 for 0.5 FTE's for a total cost of \$19,000.

The Districts modified assumption in the City evaluation based on additional supporting documentation.

RD 900 and RD 537

Financial Analysis

Table A-5

RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis

Equivalent City Positions for RD 900 and RD 537 Staff

City Position [1]	A	Salary [2]			Fringe Benefits [3]				
		Low B	High C	Average D=(B+C)/2	Total E=A*D	Low F	High G	Average H=(F+G)/2	Total I=A*H
RD 900 Administrative Staff									
Public Works Operations Mgr. (RD Mgr.)	1.00	\$106,260	\$129,144	\$118,000	\$118,000	\$46,202	\$56,152	\$51,000	\$51,000
Administrative Assistant	1.00	\$49,548	\$60,228	\$55,000	\$55,000	\$21,543	\$26,187	\$24,000	\$24,000
Total RD 900 Administrative Costs	2.00	\$155,808	\$189,372	\$173,000	\$173,000	\$67,745	\$82,339	\$75,000	\$75,000
RD 900 Field Staff									
Facilities Maintenance Worker	2.00	\$48,096	\$58,452	\$53,000	\$106,000	\$20,912	\$25,415	\$23,000	\$46,000
Facilities Maintenance Worker, Senior	1.00	\$52,920	\$64,332	\$59,000	\$59,000	\$23,010	\$27,972	\$25,000	\$25,000
Mechanic I	1.00	\$42,120	\$51,204	\$47,000	\$47,000	\$18,314	\$22,263	\$20,000	\$20,000
Equipment and Facilities Superintendent	1.00	\$82,848	\$100,680	\$92,000	\$92,000	\$36,022	\$43,776	\$40,000	\$40,000
Total RD 900 Field Staff	5.00	\$225,984	\$274,668	\$251,000	\$304,000	\$98,258	\$119,426	\$108,000	\$131,000
RD 537 Field Staff									
Equipment and Facilities Superintendent	1.00	\$82,848	\$100,680	\$92,000	\$92,000	\$36,022	\$43,776	\$40,000	\$40,000
Total RD 537 Field Staff	1.00	\$82,848	\$100,680	\$92,000	\$92,000	\$36,022	\$43,776	\$40,000	\$40,000
Total	7.00	\$381,792	\$464,040	\$424,000	\$477,000	\$166,003	\$201,765	\$183,000	\$206,000

Notes:

[1] Positions based on existing staffing at RD 900 and RD 537 and estimate of equivalent positions within the City of West Sacramento Salary Schedule effective July 1, 2016.

[2] Salary information based on City of West Sacramento salary schedule.

[3] Fringe Benefits at 43.48% of salary based on City of West Sacramento June 30, 2016 Comprehensive Annual Financial Report.

[4] Indirect cost allocation at 108.57% of the sum of the salary and Fringe Benefits based on City of West Sacramento June 30, 2016 Indirect Cost Allocation Plan (ICAP).

RD 900 and RD 537

Financial Analysis

Table A-6

RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis

General Administrative Support Services

Fiscal Year	Port (516-9700)					WSAFCA (615-9040)				
	A	B	C	D=C/A	E=C/B	F	G	H	I=H/F	J=H/G
	Port FTE's [1]	Personnel Expenses [2]	Admin Expenses [2]	Admin per FTE (\$/FTE)	Admin % of Personnel (%)	WSAFCA FTE's [1]	Personnel Expenses [3]	Admin Expenses [3]	Admin per FTE (\$/FTE)	Admin % of Personnel (%)
2016-17	2.500	\$325,000	\$100,000	\$40,000	30.8%	6.875	\$930,212	\$249,600	\$36,305	26.8%
2017-18	2.500	\$334,750	\$103,000	\$41,200	30.8%	6.875	\$1,042,158	\$251,712	\$36,613	24.2%
2018-19	2.500	\$344,793	\$106,090	\$42,436	30.8%	6.875	\$1,070,101	\$254,114	\$36,962	23.7%

Notes:

[1] Full Time Employee data based on City of West Sacramento Biennial Budget Reports.

[2] Based on personnel and administrative support expenses reported at May 10, 2017 Port meeting in Agenda Report #4. All expenses coded to account 5950 included as Admin.

[3] WSAFCA expenses based on Agenda Report prepared and signed by the City Treasurer for the May 25, 2017 WSAFCA special meeting.

[*] Average cost for FY 17-18 per FTE is \$38,906. This analysis assumed a cost of \$38,000 per FTE for Fiscal Year 17-18.

ATTACHMENT B

Table B-1:
RD 900 AND RD 537 Levee and Drainage OMRR&R Budget Analysis
Projected Contributions for the City of West Sacramento Pension Plan - CalPERS Unfunded Accrued Liabilities

CalPERS Plan	Projected Future Employer Contributions (Assumes 7.375% Return for Fiscal Year 2016-17)						
	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Miscellaneous	\$2,320,636	\$2,767,000	\$3,080,000	\$3,495,000	\$3,821,000	\$4,085,000	\$4,311,000
PEPRA Safety Fire	\$1,406	\$3,000	\$5,500	\$8,100	\$11,000	\$13,000	\$14,000
Safety Fire	\$1,305,652	\$1,620,000	\$1,851,000	\$2,139,000	\$2,386,000	\$2,556,000	\$2,700,000
Safety Fire Second Tier	\$396	\$760	\$1,300	\$1,900	\$2,400	\$2,800	\$3,100
Safety Police	\$910,653	\$1,145,000	\$1,327,000	\$1,551,000	\$1,743,000	\$1,873,000	\$1,982,000
Safety Police Second Tier	\$784	\$2,600	\$5,700	\$9,000	\$12,000	\$15,000	\$17,000
Total	\$4,539,527	\$5,538,360	\$6,270,500	\$7,204,000	\$7,975,400	\$8,544,800	\$9,027,100

Source:
[CalPERS Public Agency Actuarial Valuation Reports](#)

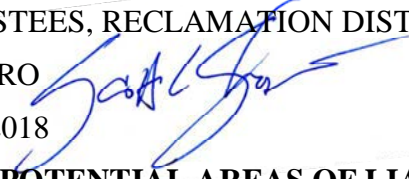
Notes:
The table shows the required and projected West Sacramento employer contributions (before cost sharing) for the next six fiscal years.

Enclosure 3

Downey Brand LMA Liability Memo

MEMORANDUM

VIA E-MAIL

To: BOARD OF TRUSTEES, RECLAMATION DISTRICT NO 537
From: SCOTT L. SHAPIRO 
Date: FEBRUARY 12, 2018
Re: **OVERVIEW OF POTENTIAL AREAS OF LIABILITY FOR LOCAL MAINTAINING AGENCIES**

You have asked that we provide an overview of potential areas of liability that may be relevant to a local maintaining agency (LMA) operating and maintaining portions of the State Plan of Flood Control. You have told us that this analysis will be shared with the Yolo County LAFCo as it considers potential consolidation or elimination of LMAs. Our understanding is that you wish me to utilize my background as not only counsel for several dozen local agencies, but also as General Counsel for the California Central Valley Flood Control Association, a non-profit association consisting of all manner of LMAs including Reclamation Districts, Levee Districts, Cities, Counties, Joint Powers Agencies, and agencies created by the Legislature under special acts.

Overview of the State Plan of Flood Control

Roughly 1600 miles of levees in the Sacramento and San Joaquin Valleys are known as the State Plan of Flood Control facilities. These facilities, defined under Water Code section 9611, include levees that were constructed or improved in a partnership with the U.S. Army Corps of Engineers (USACE), including the levees protecting the City of West Sacramento. Under its Federal authorities, the USACE may receive funding from Congress to construct or modify levees. As a condition precedent to such construction, a non-Federal interest must first agree to hold harmless and indemnify the Federal government and to operate, maintain, repair, replace, and rehabilitate (OMRR&R) the levees (all as discussed below); the Federal role is limited to construction and improvement. In our Valley, the Central Valley Flood Protection Board (CVFPB) has signed up to OMRR&R these State Plan of Flood Control facilities. However, under state law, in order for the CVFPB to take on this role, it must first ensure a local maintaining agency (LMA) will both perform the OMRR&R as well as indemnify and hold harmless both the State and the Federal government. Both Reclamation District No. 900 (RD900) and Reclamation District No. 537 (RD537) are LMAs that have previously agreed to these responsibilities. Thus, a consideration of whether the City of West Sacramento should replace the two RDs first requires an understanding not only of the RDs duties and authorities,

but also the potential liabilities of the RDs under existing and future agreements, the California constitution, statutes, and case law.

Sources of Obligations and Potential Liability

There are a number of sources of potential obligations and liability that affect the RDs, all of which would transfer to the City if it became the LMA. This memorandum assumes that the LAFCo process would result in all obligations automatically transferring, although it is possible that certain agreements with the State would need to go through a permissive process and that LAFCo could not unilaterally reassign a contract.¹

A. Agreements for Operation and Maintenance of the System

In the 1950s all LMA signed relatively simple operation and maintenance agreements with the State, to support its obligations under statute and contract with the United States. Since that time, as standards have changed, the form of agreement has continued to be updated, and a new OMRR&R agreement now exists. LMAs must sign the new OMRR&R agreement in order to receive funding from the State for levee improvement projects. As you know, the West Sacramento Area Flood Control Agency has been the recipient of over \$100 million of State funding thus far, and thus the OMRR&R agreement is now the relevant form of agreement. Execution of the new OMRR&R agreement with the CVFPB is now in process and will need to be executed by the LMAs, whether that be the RDs or the City.

The OMRR&R Agreement has significant language in it that creates potential liability on the part of the LMA, whoever that be. Key provisions of the agreement are attached as Attachment A. However, it is worth noting that:

- The LMA not only commits to perform all necessary OMRR&R, it also agrees to both indemnify the State of California as well as the Government, which is defined as the Federal government. This obligation includes any claims based upon inverse condemnation, arising from the operation, maintenance, repair, replacement, or rehabilitation of the Project. Further, it includes protecting the State from any responsibility for claims or damages arising out of work performed by the State on the Project for which the State may be held liable and any claims based upon inverse condemnation.

¹ While LAFCo law suggests that obligations could be reassigned, the obligations of the RDs are pursuant to an agreement with the State, which is itself subsidiary to an agreement with the Federal government, at least raising questions. We have not researched the issue of whether the Federal law here would pre-empt LAFCo law, requiring the State to affirmatively agree to replace an RD with the city as a new LMA, but the Federal role, the statutory nature of the OMRR&R obligation, and the statutory hierarchy of Federal, State, and local certainly suggests that the State may need to agree to an assignment.

- The LMA commits to be responsible for any liability arising out of hazardous materials that may be found on the site, whether placed there by the LMA or not. By way of example, in 2016 the Three Rivers Levee Improvement Authority discovered buried materials under the Yuba River levee and shouldered 100% of the cost of cleaning up those hazardous materials.
- If the State is not happy with the work done by the LMA, the State may do the work and then bill the LMA for the cost of the work done, which the LMA must pay or be in breach of contract.
- The LMA also has certain administrative duties beyond that of simple OMRR&R, such as updating the O&M manual annually, providing notices to protected residents if instructed to by the State, and providing reports to the State.

B. Agreements for Special Projects

In addition to significant capital improvement projects such as the one WSAFCA is leading, the Federal government occasionally comes to the table with projects to address erosion or storm damage under the authority of the Sacramento River Bank Protection Project or the Public Law (PL) 84-99 Rehabilitation Program. In each of these cases, the Federal government signs agreements with the State, which the State then signs with the LMA. Key provisions of the agreement used for this work are attached as Attachment B. Similar to the OMRR&R agreement, the LMA commits to the following:

- The LMA not only commits to perform all necessary O&M, it also agrees to both indemnify the State of California as well as the Government, which is defined as the Federal government.
- The LMA commits to be responsible for any liability arising out of hazardous materials that may be found on the site, whether placed there by the LMA or not.
- If the State or Federal Government is not happy with the work done by the LMA, the State may do the work and then bill the LMA for the cost of the work done, which the LMA must pay or be in breach of contract.
- The LMA is also responsible for funding all environmental mitigation with arises from its O&M of the project.

C. Obligations arising under the California Constitution and Case Law

Over the course of half a dozen flood cases in California, the rules associated with liability for levee failure have come into sharper focus. As explained in *Belair v. Riverside County Flood Control District* (1988) 47 Cal.3d 550, where lands have historically been subject to flooding, and where lands are flooded as a result of the design, construction, operation or maintenance of a

flood control structure, liability under inverse condemnation is established if the public agency acted pursuant to an unreasonable plan. To determine reasonableness, the courts have looked at a series of 15 different factors across the many different cases. In this case of West Sacramento's levee system, because construction and design of the modern system² has been handled by the U.S. Army Corps of Engineers, by the State of California, and by WSAFCA, the only relevant "plan" that must be evaluated from an LMA perspective is that of operation and maintenance. It is worthy to note that several of the 15 factors speak to the financial resources of the public agency and whether those resources were applied properly. Where the public agency is a Reclamation District with a single source of funding, this factor is easy to apply. Where, however, the public agency is a city with a general fund and multiple sources of funding, some of the factors seem to suggest that the court will look to those funds as well to determine whether the public was properly protected. See discussions of the various factors in *Bunch v. Coachella Valley* (1997) 15 Cal.4th 432, *Belair* (discussed supra), *Locklin v. City of Lafayette* (1994) 7 Cal.4th 327, *Paterno v. State of California* (2003) 113 Cal. App. 4th 998, and *Akins* (discussed infra).

Unreasonable maintenance plans have been alleged in a number of different inverse condemnation cases, although in those cases the court ultimately found that the failure resulted instead from design (see e.g., *Paterno*). The *Akins* case however, presented a more relevant discussion, even if the case ultimately settled during a remand following an appellate holding which established the relevant test. *Akins v. California* (1998) 61 Cal.App.4th 1. *Akins* dealt with two areas of flooding, but relevant for this discussion was the failure to properly sandbag, and re-sandbag, a gap in the Arcade Creek levee at the Rio Linda bridge, during the high water of 1986. As a result of this operational failure, plaintiffs sued the LMA (American River Flood Control District),³ the State of California, and the City and County of Sacramento. The City and County offered nuisance settlement amounts of \$45,000 each early in the case which were snatched up by the plaintiffs to fund the prosecution of the case. A decade later, the remaining parties ultimately settled for \$22 million in damages arising from the operational failure at the bridge. While the State picked up the lion's share of the settlement, American River Flood Control District ultimately paid \$2.2 million for its claimed role of unreasonable operation of the system, which approximated the balance remaining on its insurance policy after millions had already been used from that policy to provide defense to the inverse condemnation claim for more than 10 years. Our current understanding is that insurance companies are no longer writing new policies to cover inverse condemnation claims.

² It is our understanding that the original RD900 levee system was constructed by local landowners and RD900. Therefore, if an unimproved section of levee were to fail from unreasonable design or construction, RD900 could be a proper defendant.

³ Reclamation District 1000 was also sued, but apparently for operational issues associated with the other area of flooding.

D. Other Obligations.

This section is merely to note that various statutory duties exist as well for whatever entity is the LMA (*see e.g., Water Code sections 8370 and 12642*), and that under the Government Claims Act, statutory duties do allow government entities to be sued for negligence, nuisance, and trespass as well.

Distinctions between the City and RDs in the payment of damages

Another issue for consideration is the extent to which (and the sources from which) an RD or the City could pay a judgment if it/they were found liable under any of the authorities discussed above. Reclamation Districts have limited authority to raise funds: except for some very rare older districts in certain counties, they have no general property tax revenues and instead are limited to the use of any insurance policies and then the imposition of assessments under Water Code section 50000 et seq. This authority is of course further limited by the constraints of Proposition 218. In the event that a Reclamation District was found liable, and the plaintiff sought to collect on a judgment for which adequate resources didn't exist, the district's only option would be to put a proposed assessment to pay the judgment before the voters for support. While it might seem that a judgment would negate the need for Proposition 218 compliance, the courts have found otherwise:

[E]ven if the payment of the district's debt would confer special benefits on the properties within the district, the property owners would still have the right to vote on the question whether they wished to obtain the special benefits by paying the debt. Proposition 218 was quite clear about the fact that its provisions were to be "liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent." (Ballot Pamp., Gen. Elec. (Nov. 5, 1996) text of Prop. 218, § 5, p. 109, italics added, and reprinted in *1108 Historical Notes, 2A West's Ann. Cal. Const. (2001 supp.) foll. art. XIII C, p. 33.)

Ventura Group Ventures, Inc. v. Ventura Port Dist. (2001) 24 Cal.4th 1089, 1107-08. Thus, to the extent that a Reclamation District's liabilities exceed its means to pay that debt, the debt is only paid if the voters approve assessing themselves.

In contrast, we are unaware of any restriction that would protect a city's general fund or other non-dedicated funds in such a circumstance. While a city could propose a special assessment to pay off a debt, in the event that the voters declined to approve such an assessment, once relevant insurance policies are exhausted it would appear that the judgment holder could force payment of the debt from any general funds held by the City that were not otherwise protected by law. From the perspective of a plaintiff, having the city as an LMA is a superior options because it increases the likelihood that a judgment could be paid. But from the perspective of a resident within an RD or a City, having a city as an LMA is an inferior option as the resident's general tax dollars

for services such as fire and police could be used to instead pay a judgment, decreasing the services otherwise offered by the city.⁴

⁴ We acknowledge that the City of West Sacramento is currently within the WSAFCA JPA, but do not see that as relevant to this analysis. While it is possible a claim could be made against the JPA, the RDs, and the City right now, if it was a claim arising out of the duties of the LMA (operation and maintenance), then it would only potentially lie as to the RDs as LMAs. Currently neither the City or WSAFCA have a role in operation and maintenance of the levees, and as noted by the *Paterno* court, liability will not spread to all defendants with roles in the project if the claim is specific for design, or construction, or operation and maintenance, and they do not all have roles in that regard. Thus, any claim made now for damages arising out of an unreasonable operation or maintenance plan can only result in liability for the RDs, even though the City is in a joint powers agency with the RDs.

ATTACHMENT A – KEY PROVISIONS OF OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND REHABILITATION AGREEMENT

NOW, THEREFORE, IT IS HEREBY AGREED:

For purposes of this OMRR&R Agreement, the terms below are defined as indicated:

“**Board:**” The State of California Central Valley Flood Protection Board or any successor thereto.

“**Department:**” The State of California Department of Water Resources.

“**Funding Recipient:**” A public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, which is the signatory to ... this OMRR&R Agreement.

“**OMRR&R:**” Operation, maintenance, repair, replacement, and rehabilitation of the Project.

“**State Plan of Flood Control:**” The state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations described in Public Resources Code section 5096.805(j).

SECTION I: Obligations of the Funding Recipient

A. General Obligations. The Funding Recipient agrees to the following:

1. To perform OMRR&R for the Project, including all mitigation features of the Project, without limitation, in accordance with the Project design specifications, environmental permits, environmental impact reports, regulations, and directions prescribed by the State, all without any cost to the State. The duties of the Funding Recipient to perform OMRR&R for all Project features shall be performed in a manner that does not diminish the flood protection afforded by or jeopardize the structural integrity of the Project and the flood control system of which the Project is part. The duties of the Funding Recipient pursuant to this paragraph are described further in Section I-B below.
2. To hold and save the federal government and the State, their representatives, officers, directors, employees, including their attorneys and other persons, as well as their successors and assigns, free and harmless from any and all claims and damages, including claims based upon inverse condemnation, arising from the operation, maintenance, repair, replacement, or rehabilitation of the Project.
3. To hold and save the federal government and the State, their representatives, officers, directors, employees, including their attorneys and other persons, as well as their successors and assigns free and harmless from any and all claims or damages arising out of or in connection with the obligations herein assumed by the Funding Recipient, including any responsibility for claims or damages arising out of work performed by the State on the Project for which the State may be held liable and any claims based upon inverse condemnation.

B. Specific Obligations to Operate, Maintain, Repair, Replace, and Rehabilitate

1. The Funding Recipient hereby accepts responsibility for the completed Project or functional portion thereof. The Funding Recipient will develop an Interim Standard Operation and Maintenance Manual for the Project as required by the Funding

Agreement. The Funding Recipient agrees that it will be responsible for OMRR&R of the completed Project or functional portion thereof as further explained in: (1) the Interim Standard Operation and Maintenance Manual for the Project and (2) any applicable Supplement to the Interim Standard Operation and Maintenance Manual for the Project. The Funding Recipient acknowledges that changes to the Interim Standard Operation and Maintenance Manual may be made by the State and the USACE before the document becomes final and that the Funding Recipient shall be responsible for OMRR&R in accordance with any revised version of the Operation and Maintenance Manual for the Project or any Supplement to the Operation and Maintenance Manual.

2. The Funding Recipient hereby gives State the right to enter, at reasonable times and in a reasonable manner, upon the Project Site and land which it owns or controls for access to the Project Site for the purpose of: (i) conducting subsequent inspections to verify that the Funding Recipient is complying with its obligations under this OMRR&R Agreement; and (ii) operating, maintaining, repairing, replacing, or rehabilitating any part of the Project located at or accessible by the Project Site in conjunction with any present or future flood control plan if in the reasonable judgment of State the Funding Recipient fails to comply with its obligations under this OMRR&R Agreement. In the event the State assumes title to any of the land to which the Funding Recipient and Local Maintaining Agency needs access to fulfill the obligations set forth in the paragraph, the State grants an irrevocable license to the Funding Recipient and Local Maintaining Agency to enter the land to fulfill its obligations under this OMRR&R Agreement.
3. If the Funding Recipient has failed or refused to perform the obligations set forth in this OMRR&R Agreement or the requirements of the manuals mentioned above, the State may take appropriate actions including proceedings to establish a maintenance area under Water Code section 12878 et seq.

If the Funding Recipient has failed or refused to perform the obligations set forth in this OMRR&R Agreement or the requirements of the manuals mentioned above, and for any reason the State is not able to take appropriate actions under these provisions of law, then the State may take appropriate actions under this OMRR&R Agreement as follows: If the failure or refusal constitutes, in the sole discretion of the State, a threat to the continued ability of that functional portion of the Project to perform in a manner necessary to provide its designed level of flood protection, then the State may itself perform the necessary work or do so by contract. The State may in its sole discretion develop a work plan and present it to the Funding Recipient with instructions that if the Funding Recipient does not agree to carry out the work plan within the time specified in the work plan, the State will perform the necessary work or do so by contract. The Funding Recipient will reimburse the State for the costs of performing such work in accordance with the procedures set forth in this OMRR&R Agreement. No completion, operation, maintenance, repair, replacement, or rehabilitation by the State shall operate to relieve the Funding Recipient of responsibility to meet the Funding Recipient's obligations as set forth in this OMRR&R Agreement, or to preclude the State from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this OMRR&R Agreement.

C. Additional Obligations:

1. The Funding Recipient shall annually update the Interim Operation and Maintenance Manual for the Project prepared pursuant to the Funding Agreement.
2. The Funding Recipient shall annually update the safety plan for the Project prepared pursuant to the Funding Agreement. The Funding Recipient agrees to use best efforts to ensure that the updated safety plan is integrated into any other Funding Recipient emergency plan and is coordinated with the state emergency plan.

3. The Funding Recipient shall provide reports to the Board as follows: (1) The Funding Recipient shall provide copies to the Board of the Project Completion Report and Project Construction Performance Reports prepared pursuant to the Funding Agreement; and (2) If requested to do so by the Board, the Funding Recipient shall provide copies to the Board of the operation and maintenance reports required pursuant to Water Code section 9140(a) that pertain to the Project. The Board may modify these reporting requirements as needed to ensure that it has adequate information with which to perform its responsibilities under this OMRR&R Agreement.

SECTION II: Hazardous Substances

The Funding Recipient acknowledges State may incur obligations with respect to hazardous substances regulated under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (42 U.S.C. §§ 9601-9675); California Hazardous Substances Account Act, (Health & Saf. Code, § 25310 et seq.) or other statutes or regulations (collectively referred to as "state and federal Hazardous Substances Laws") on lands necessary for Project construction and OMRR&R to the extent the Funding Recipient fails to comply with its obligations under this OMRR&R Agreement. The Funding Recipient agrees:

- A. That in the event that the Funding Recipient discovers through an environmental investigation or other means that any lands, easements, or rights of way that have been acquired or provided for the Project contain hazardous substances regulated under state and federal Hazardous Substances Laws, the Funding Recipient shall promptly notify the State of that discovery.
- B. That in the event hazardous substances regulated under state and federal Hazardous Substances Laws have been found, the Funding Recipient shall initiate and complete any and all necessary response and cleanup activity required under state and federal Hazardous Substances Laws, which shall include any studies and investigations necessary to determine the appropriate response to the contamination. Payment for the costs of such necessary response and cleanup activity as required under state and federal Hazardous Substances Laws shall be made by the Funding Recipient. In the event that the Funding Recipient fails to provide the funds necessary for response and cleanup activity required under state and federal Hazardous Substances Laws or to otherwise discharge the Funding Recipient's responsibilities under this Paragraph B, then the State may perform the necessary response and cleanup activity, and the Funding Recipient shall reimburse the State in accordance with the procedures set out in this OMRR&R Agreement. If the State performs the necessary response and cleanup activity required under state and federal Hazardous Substances Laws, the State shall consult with the Funding Recipient concerning the selection of the person(s) to perform the work, the amount of money to be spent on the work, the scope of the work, and any other aspect of response and cleanup activity.
- C. That the Funding Recipient shall consult with the State in order to ensure that responsible persons under state and federal Hazardous Substances Laws ultimately bear all necessary response and cleanup costs as defined in state and federal Hazardous Substances Laws.
- D. That the Funding Recipient shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will control and minimize the release or threatened release of hazardous substances regulated under state and federal Hazardous Substances Laws on lands necessary for Project construction, operation, maintenance, repair, replacement, or rehabilitation.
- E. That in the event that the State, their representatives, officers, directors, employees, including their attorneys and other persons, as well as their successors and assigns, are found to be liable under state and federal Hazardous Substances Laws for the release or threatened release of hazardous substances arising out of the operation, maintenance, repair, replacement, or rehabilitation of the Project, then the Funding Recipient shall indemnify and hold the State, their representatives, officers, directors, employees, including their attorneys and other persons, as well as their successors and assigns, harmless from any response or cleanup costs for which the

State, their representatives, officers, directors, employees, including their attorneys and other persons, as well as their successors and assigns, may be found to be liable under state and federal Hazardous Substances Laws.

- F. No decision made or action taken pursuant to any provision of this Section of the Project OMRR&R Agreement shall relieve any responsible person from any liability that may arise under state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the State or the Funding Recipient of any right to seek from any responsible person as defined by state and federal Hazardous Substances Laws the recovery, contribution of, or indemnification from costs incurred by the State or the Funding Recipient for response or cleanup activity required under state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the State of any other right or remedy provided by law.

... ..

SECTION IV: Procedures for Reimbursing the State

If the Funding Recipient fails to fulfill its obligations under this Agreement and if the failure or refusal constitutes, in the sole discretion of the State, a threat to the continued ability of the flood project to perform in a manner necessary to provide its designed level of flood protection, then the State, after notifying the Funding Recipient and providing a sixty (60) day opportunity to cure period, may in its sole discretion develop a work plan and present it to the Funding Recipient with instructions that if the Funding Recipient does not agree to carry out, or is unable to carry out, the work plan within the time specified in the work plan, the State will perform the necessary work or do so by contract. The Funding Recipient will reimburse the State for the costs of performing such work in accordance with the procedures set forth in this Agreement. No completion, operation and maintenance, by the State shall operate to relieve the Funding Recipient of responsibility to meet the Funding Recipient's obligations as set forth in this Agreement, or to preclude the State from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this Agreement.

SECTION IX: Standard Conditions

... ..

- 4. **SUCCESSORS AND ASSIGNS:** This OMRR&R Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this OMRR&R Agreement or any part thereof, rights hereunder, or interest herein by the Funding Recipient shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.
- 5. **INSPECTION OF BOOKS, RECORDS, AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this OMRR&R Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this OMRR&R Agreement. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this OMRR&R Agreement, and State may take any other action it deems necessary to protect its interests, after complying with paragraph V of the OMRR&R Agreement.

... ..

- 26. **FUNDING RECIPIENT NAME CHANGE:** Approval of the State's Project Manager is required to change the Funding Recipient's name as listed on this OMRR&R Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

ATTACHMENT B – KEY PROVISIONS OF
LOCAL COOPERATION AGREEMENT
FOR PL 84-99 OR SACRAMENTO BANK PROTECTION PROJECTS

SECTION I: Obligations of the Board and DISTRICT

... ..

C. DISTRICT agrees to the following:

1. To operate and maintain the Project, including, without limitation, slope protection features, berms, plantings, embedded woody material, and related features constructed as part of the Project in accordance with the Project design specifications, environmental permits, environmental impact reports, regulations, and directions prescribed by the state and federal government, the Government, and the Board, all without any cost to the Board. The duties of DISTRICT to operate and maintain all Project features shall be performed in a manner that does not diminish the flood protection afforded by or jeopardize the structural integrity of the Project or the SRFCP. The specific duties of the DISTRICT pursuant to this paragraph are described in Section II below.

2. To hold and save the Board, its representatives, officers, directors, employees, and other persons acting in their capacity on behalf of the Board, as well as its successors and assigns, to the extent permitted by State law, free and harmless from any and all claims and damages arising from the construction, operation, or maintenance of the Project;

To hold and save the Government, its representatives, officers, directors, employees, and other persons acting in their capacity on behalf of the Government, as well as its successors and assigns, free and harmless from any and all claims and damages due to the construction, operation, and maintenance of the Project, except for claims or damages due to the fault or negligence of the Government or its contractors.

3. To hold and save the State and the Board, its representatives, officers, directors, employees, including its attorneys and other persons, as well as its successors and assigns, to the extent permitted by State law, free and harmless from any and all claims or damages arising out of or in connection with the obligations herein assumed by DISTRICT, including any responsibility for claims or damages arising out of work performed by the Government or Board for which the Government or the Board may be held liable.

D. DISTRICT shall inform landowners and other affected interests of the extent of protection afforded by the Project, using data provided by the Board, not less than once each year, if so requested in writing by the Board.

- E. DISTRICT agrees to mitigate, as otherwise required by law, for any environmental impacts of work performed by DISTRICT pursuant to Section I.C.1 of this Agreement without any costs to the State or the Board.

SECTION II: Obligations to Operate and Maintain

- A. Upon completion of the Project or any functional portion thereof as determined by the Government, the Board shall turn the completed Project or functional portion thereof, including all required lands and rights acquired by or on behalf of the Board, over to DISTRICT. DISTRICT accepts responsibility for operation and maintenance of the completed Project or functional portion thereof in accordance with the then-applicable Operation and Maintenance Manual, to be provided to DISTRICT under this Section II.A., as required by Water Code sections 8370, 12642, and 12828 and Section I.C. of this Agreement.

The Government has agreed that when it turns over this Project to the Board, it will be accompanied by (1) the Standard Operation and Maintenance Manual for the SRFCP and (2) the applicable Supplement to the Standard Operation and Maintenance Manual, SRFCP. The Board shall provide the manual and supplement to DISTRICT.

- B. DISTRICT hereby gives the Government and the Board the right to enter, at reasonable times and in a reasonable manner, upon land which it owns or controls for access to the Project for the purpose of: (i) constructing the repairs under the Project; (ii) performing any of their other obligations under this Agreement; (iii) conducting subsequent inspections to verify that the DISTRICT is complying with its obligations under this Agreement; and (iv) operating, maintaining, repairing, replacing, or rehabilitating any part of the Project for a maximum of 10 years
- C. Upon notification by the Board prior to or during construction of the Project, DISTRICT shall remove, alter, relocate, or reconstruct at no cost to the Board: any and all improvements owned or controlled by DISTRICT that are located on or affecting the Project site as may be determined necessary by the Government or the Board in order to operate, maintain, repair, replace, or rehabilitate any part of the Project located at or accessible by the Project site in conjunction with operation, maintenance, repair, replacement, or rehabilitation of the Project, or to meet any other obligations under this Agreement; or if such improvements are damaged by any cause other than by the Government or it's contractor.
- D. If DISTRICT has failed or refused to perform the obligations set forth in this Agreement and that failure or refusal constitutes, in the opinion of the Government or the Board, a threat to the continued ability of that functional portion of the Project to perform in a manner necessary to provide its designed level of flood protection or if DISTRICT fails or refuses to meet its obligations pursuant to this Agreement or the requirements of the manuals mentioned above, then the Board or Government may perform the necessary work either with their own forces or by contract. DISTRICT will reimburse the Board or Government for the costs of performing that work.

... ..

F. Mitigation for Vegetation Removal to Meet Operation and Maintenance Requirements

In the event that vegetation is partially or completely damaged or removed by DISTRICT in the course of carrying out its obligations to operate and maintain the Project under this Agreement, then only if otherwise required by law DISTRICT shall mitigate for the affected vegetation in accordance with State and federal laws and without cost to the State or the Board.

... ..

SECTION VI: Hazardous Substances

DISTRICT acknowledges that the Board may incur obligations with respect to hazardous substances regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC Sections 9601-9675; California Hazardous Substances Account Act, Calif. Health & Safety Code sections 25310 et seq. or other statutes or regulations (collectively referred to as "state and federal Hazardous Substances Laws") on lands necessary for Project construction, operation, and maintenance. DISTRICT agrees:

- A. That in the event that Government, Board, or DISTRICT discovers through an environmental investigation or other means that any lands, easements, or rights of way that have been acquired or provided for the Project contain hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws at levels requiring a response under those laws, Board and DISTRICT shall promptly notify each other of that discovery.

- B. That in the event hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws have been found at levels which would require a response under those laws if the Project was initiated upon lands, easements, or rights of way acquired or provided for the Project by the State or the Board, then in conjunction with the Board's obligations under the Cooperation Agreement that it has executed with the Government, the Government, the Board and DISTRICT shall determine whether to initiate construction of the Project, or if already in construction, whether to continue with the construction of the Project, or to terminate construction of the Project for the convenience of the Government, the Board, and DISTRICT. Should the Government, the Board, and DISTRICT determine to proceed or continue with the construction after considering any liability that may arise under CERCLA, DISTRICT shall be responsible, as between the Board and DISTRICT, for any and all necessary clean up and response costs, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of the Project as defined in this Agreement. In the event that the Government, the Board, an DISTRICT elect to proceed with the construction but that DISTRICT fails to provide any funds it has agreed to pay and which are necessary to pay for clean up and response costs or to otherwise discharge its obligations under this paragraph, the Government and the State may terminate or suspend work on the Project.

- C. In the event that the Government, the Board, and DISTRICT elect to continue with construction of the Project, DISTRICT shall consult with the Board in order to ensure that responsible persons under CERCLA and/or other state and federal Hazardous Substances Laws ultimately bear all necessary response and cleanup costs as defined in CERCLA and/or other state and federal Hazardous Substances Laws.
- D. That DISTRICT shall operate and maintain the Project in a manner that will control the intentional or negligent release or threatened release of hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws on lands necessary for Project construction, operation, or maintenance.
- E. That in the event that the Government or Board, or their representatives, officers, directors, employees, and other persons acting in their capacity on behalf of the Government or Board, as well as their successors and assigns, are found to be liable under CERCLA and/or other state and federal Hazardous Substances Laws for the release or threatened release of hazardous substances arising out of the operation and maintenance of the Project, then DISTRICT shall indemnify the Government and Board, their representatives, officers, directors, employees, and other persons acting in their capacity on behalf of the Government or Board, as well as their successors and assigns, for any response or cleanup costs for which the Government or Board, their representatives, officers, directors, employees, and other persons acting in their capacity on behalf of the Government or Board, as well as their successors and assigns, are found to be liable under CERCLA and/or other state and federal Hazardous Substances Laws, except DISTRICT shall not indemnify the Government for such response or cleanup costs which result from negligence of the Government or its contractors during construction.
- F. No decision made or action taken pursuant to any provision of this Section of the Agreement shall relieve any responsible person from any liability that may arise under CERCLA and/or other state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the Board or DISTRICT of any right to seek from any responsible person as defined by CERCLA and/or other state and federal Hazardous Substances Laws the recovery, contribution of, or indemnification from costs incurred by the Board or DISTRICT for response or cleanup activity required under CERCLA and/or other state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the Board of any other right or remedy provided by law.
- G. As between DISTRICT and the Board, DISTRICT shall be considered the operator of the Project for purposes of liability under CERCLA and/or other state and federal Hazardous Substances Laws. This provision is not intended to alter the legal designation of operator, except as between the Board and DISTRICT.

Enclosure 4

System-Wide Improvement Framework Letter of Intent

October 6, 2017

Ms. Leslie Gallagher
Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Suite 151
Sacramento, CA 95821

Subject: System-Wide Improvement Framework Letter of Intent for the West Sacramento Levee System from the West Sacramento Area Flood Control Agency

Dear Ms. Gallagher:

The West Sacramento Area Flood Control Agency (WSAFCA) is submitting this revised System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) for reinstatement of the West Sacramento Levee System (National Levee Database System ID: 5205000903) to an active status in the Public Law (PL) 84-99 Rehabilitation Program (RP). WSAFCA is submitting this LOI on behalf of the State of California Department of Water Resources (DWR), Reclamation District (RD) 537 and RD 900.

Signed Letters of Support from each of these three Local Maintaining Agencies (LMAs) are attached. Also attached is a Supplemental Information Package intended to meet the requirements contained in Paragraph 7.a of the U.S. Army Corps of Engineers (USACE) Memorandum, Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs) dated November 29, 2011.

The USACE conducted a Periodic Inspection (PI) of the West Sacramento – Sac Yolo South Levee System in 2014. This levee system protects both the urban basin associated with the City of West Sacramento (City) as well as the rural basin to the south protecting the town of Clarksburg and extending to Miner Slough. USACE transmitted the results of this PI in a letter dated July 24, 2015. This letter indicated that the PI resulted in an Unacceptable rating for this levee system. Since issuing the PI, USACE agreed with WSAFCA's request to bifurcate the West Sacramento - Sac Yolo South Levee System at the South Cross Levee. This decision was documented in a letter from USACE to WSAFCA dated April 22, 2016.

A Draft LOI and Supplemental Information Package were submitted to CVFPB on January 12, 2016, with comments received from the CVFPB on March 8, 2016 and from the USACE on April 28, 2016. These comments were addressed in a revised package that was submitted to CVFPB on January 18, 2017. Additional comments were received on the revised package from the USACE on January 25, 2017 and on February 24, 2017. These comments were addressed in a revised LOI submitted on March 3, 2017. Finally, USACE provided comments based on a revised review checklist on May 5, 2017, which have been addressed in this revised LOI. Documentation of these comments and the corresponding responses by WSAFCA are included in this resubmittal.

WSAFCA, its member agencies, and DWR are committed to systematically resolving levee deficiencies that steadily reduce flood hazards and consequences in a risk-prioritized manner over time. WSAFCA is committed to facilitating the development of a SWIF over the next two years with the intent of addressing the unacceptable deficiencies identified in the PI using a "worst-first" strategy to achieve this reduction in flood hazards and consequences. The LMAs are aware of the Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to PL 84-99 dated 21 March 2014

We respectfully request that you support this LOI and endorse it forward to the USACE for review and approval on our behalf. We appreciate your assistance with this matter and look forward to further coordination with you and your staff. If you have any questions regarding this letter, please feel free to contact me at (916) 371-1483.

Respectfully,



Kenric Jameson
General Manager
West Sacramento Area Flood Control Agency

cc: William Denton/RD-900
Kris Pigman/RD-537
Mark List/ DWR (MA-4)
Eric Nagy/Larsen Wurzel & Associates
Paige Caldwell/US Army Corps of Engineers

DEPARTMENT OF WATER RESOURCES

DIVISION OF FLOOD MANAGEMENT

P.O. BOX 219000

SACRAMENTO, CA 95821-9000



November 19, 2015

Mr. William Edgar, President
Central Valley Flood Protection Board
3310 El Camino Avenue, Suite 151
Sacramento, California 95821

Dear Mr. Edgar,

The West Sacramento Area Flood Control Agency (WSAFCA) is preparing a Letter of Intent (LOI) to develop a System-Wide Improvement Framework (SWIF) for the West Sacramento Levee System. WSAFCA will be leading the SWIF effort for the basin. The Department of Water Resources (DWR), Reclamation District (RD) 900 and RD 537 maintain portions of this levee system. DWR operates and maintains two sections of this system including levee reaches along the left bank of the Sacramento Bypass and along the right bank of the Sacramento River (Maintenance Area 4). RD 900 and RD 537 both operate and maintain the remaining portions of the levee system along the Sacramento River and the Yolo Bypass. RD 900 operates and maintains the South Cross Levee. As a partner maintaining agency in the basin, DWR intends to cooperate with WSAFCA, RD 900 and RD 537, as needed, through the SWIF development effort within the parameters of our maintenance responsibilities and practices, in a manner consistent with the principles and strategies embodied in the Central Valley Flood Protection Plan (CVFPP).

It is important to note that some of the unacceptable issues highlighted by United States Army Corps of Engineers (USACE) periodic inspections are beyond the reasonable scope of responsibility of the local maintaining agency. In order to make steady progress in reducing flood risk for the people and property receiving protection from federal project levees, public entities at the local, State, and federal levels can best serve the public by collaborating on remediation of levee defects that transcend the technical and financial resource capabilities associated with annual maintenance programs. DWR is developing a number of programs to cost share with Local Maintaining Agencies (LMA's) on certain types of repairs which exceed their resource capabilities, as well as a new program to address larger-scale levee repairs and improvements. Regarding the difficult situation with encroachments, we applaud Central Valley Flood Protection Board (CVFPB) for its commitment to reinforce its role in resolving encroachment related issues such as abandoned pipelines and structures within the easements, including efforts to supplement the CVFPB's authority to carry out encroachment enforcement actions.

The overall goal of resolving levee deficiencies on a systemic level in order to steadily reduce flood hazard and consequence in a risk-prioritized manner over time, is a common theme articulated in three key documents: (1) WSAFCA's LOI; (2) the Central Valley Flood

Protection Plan (CVFPP), adopted by CVFPB on June 29, 2012; and (3) USACE's "Policy for Development and Implementation of SWIF's" dated November 29, 2011.

Accordingly, in order for DWR to participate as a levee maintainer and support LOI's (and associated SWIF's) for levee systems that include State-maintained levees, all proposed actions regarding such levees must be consistent with the CVFPP and its implementation under the State Systemwide Investment Approach. For the levees it maintains, DWR will:

- develop a plan for remediation of deficiencies reasonably ascribed to annual maintenance;
- collaborate with local and federal partners in pursuing remediation of deficiencies beyond the reasonable scope of annual maintenance;
- remove and modify unauthorized encroachments consistent with CVFPB enforcement actions and DWR's responsibilities;
- continue to implement animal control measures consistent with the USACE Operations and Maintenance Manual for Unit No. 116 and DWR's Rodent Abatement/Damage Reduction and Rehabilitation Program; and
- manage levee vegetation according to the Levee Vegetation Management Strategy embodied in the CVFPP and associated Conservation Framework, which includes removal of vegetation found to present an unacceptable threat.

In performing these activities, it must be recognized that State levee maintenance (whether performed within state maintenance areas funded by local beneficiaries pursuant to California Water Code (CWC) section 12878, or performed pursuant to CWC section 8361 and funded through the State's highly constrained and volatile General Fund), is subject to funding challenges similar to those faced by LMA's.

We look forward to working with the CVFPB, WSAFCA, RD 900, RD 537, and USACE in this important effort to improve the long-term functioning of the Central Valley flood protection system.

Sincerely,



Mark List, Acting Chief
Flood Maintenance Office

cc: Kenric Jameson, Manager



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • FAX: (916) 371-1494

January 13, 2016

Ms. Leslie Gallagher, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Suite 151
Sacramento, CA 95821

Subject: West Sacramento Levee System, System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) – Reclamation District 900 Letter of Support


Dear Ms. Gallagher:

The U.S. Army Corps of Engineers (USACE) presented the results of a Periodic Inspection (PI) conducted on the West Sacramento – Sac Yolo South Levee System in a letter dated July 24, 2015. This letter indicated that the PI resulted in an Unacceptable rating for this levee system. Based on the USACE Memorandum titled *Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (PL) 84-99*, dated March 21, 2014, an Unacceptable rating results in an Inactive status in the PL 84-99 Rehabilitation Program.

The West Sacramento Area Flood Control Agency (WSAFCA) is leading an effort to develop and submit a System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) on behalf of the agencies responsible to operate and maintain the levees protecting the City of West Sacramento. These agencies include the California Department of Water Resources Maintenance Area No. 4, Reclamation District (RD) 900, and RD 537.

RD 900 strongly supports its neighboring levee maintaining agencies and WSAFCA's effort to develop and implement a SWIF. RD 900 supports the SWIF LOI under development and requests immediate transmittal of this LOI by the Central Valley Flood Protection Board (CVFPB) to USACE. We appreciate your assistance with this matter and look forward to further coordination with you and your staff. If you have any questions regarding this letter, please feel free to contact Mr. Kenric Jameson at (916) 371-1483.

Respectfully,


William E. Denton, President
Reclamation District 900

RECLAMATION DISTRICT No. 537
Post Office Box 822, West Sacramento, CA 95691w

January 12, 2016

Ms. Leslie Gallagher, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Suite 151
Sacramento, CA 95821

Subject: West Sacramento Levee System, System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) – Reclamation District 537 Letter of Support

Dear Ms. Gallagher:

The U.S. Army Corps of Engineers (USACE) presented the results of a Periodic Inspection (PI) conducted on the West Sacramento – Sac Yolo South Levee System in a letter dated July 24, 2015. This letter indicated that the PI resulted in an Unacceptable rating for this levee system. Based on the USACE Memorandum titled *Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (PL) 84-99*, dated March 21, 2014, an Unacceptable rating results in an Inactive status in the PL 84-99 Rehabilitation Program.

The West Sacramento Area Flood Control Agency (WSAFCA) is leading an effort to develop and submit a System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) on behalf of the agencies responsible to operate and maintain the levees protecting the City of West Sacramento. These agencies include the California Department of Water Resources Maintenance Area No. 4, Reclamation District (RD) 900, and RD 537.

RD 537 strongly supports its neighboring levee maintaining agencies and WSAFCA's effort to develop and implement a SWIF. RD 537 supports the SWIF LOI under development and requests immediate transmittal of this LOI by the Central Valley Flood Protection Board (CVFPB) to USACE. We appreciate your assistance with this matter and look forward to further coordination with you and your staff. If you have any questions regarding this letter, please feel free to contact Kenric Jameson at (916) 371-1483.

Respectfully,


Kristen Pigman, President
Reclamation District 537

Courtesy Copy: WSAFCA, RD-900, MA-4, MBK

WSAFCA SWIF LOI

Supplemental Information Package

1.0 INTRODUCTION

The West Sacramento Area Flood Control Agency (WSAFCA) is submitting this System-Wide Improvement Framework (SWIF) Letter of Intent (LOI) for reinstatement of the West Sacramento Levee System, National Levee Database (NLD) System ID: 5205000903, to an active status in the Public Law (PL) 84-99 Rehabilitation Program (RP). WSAFCA is submitting this LOI on behalf of the three Local Maintaining Agencies (LMAs) responsible for operation and maintenance of the subject levee system; the State of California Department of Water Resources (DWR), Reclamation District (RD) 537 and RD 900. This Supplemental Information Package is intended to meet the requirements contained in Paragraph 7.a of the U.S. Army Corps of Engineers (USACE) Memorandum, *Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)* dated November 29, 2011.

A Draft LOI and Supplemental Information Package were submitted to CVFPB on January 12, 2016, with comments received from the CVFPB on March 8, 2016 and from the USACE on April 28, 2016. These comments were addressed in a revised package that was submitted to CVFPB on January 18, 2017, which had a comment response table included as an attachment. Additional comments were received from the USACE on January 25, 2017 and from USACE Headquarters on February 24, 2017. This Supplemental Information Package has been revised to address the additional comments, which have been included in the attached comment response table.

2.0 BACKGROUND

The USACE conducted a Periodic Inspection (PI) of the West Sacramento – Sac Yolo South Levee System (NLD System ID: 5205000902) levee system between July 28th and September 4th, 2014. This levee system protected both the urban basin associated with the City of West Sacramento (City) as well as the rural basin to the south protecting the town of Clarksburg and extending to Miner Slough. The USACE transmitted the results of this PI to the LMAs in a letter dated July 24, 2015, which indicated that the PI resulted in an Unacceptable rating for the levee system and the system was deemed inactive in the PL 84-99 RP consistent with the USACE Memorandum titled *Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (PL) 84-99*, dated March 21, 2014.

The South Cross Levee (SCL) is located at the southern limit of the City near River Mile 51.6 of the Sacramento River, bisecting the West Sacramento – Sac Yolo South Levee System, but was not included as part of the system. RD 900 initiated coordination with the USACE in 2011 regarding the potential for the SCL to serve as a point of hydraulic separation for the system as well as to achieve eligibility under the PL 84-99 RP for the SCL as a non-Federal Flood Control Work. A formal request for a final determination regarding both these issues was made in a letter to the USACE from RD 900 dated November 3, 2015. On April 22, 2016, the USACE transmitted an Initial Eligibility Inspection (IEI) Letter for the SCL that summarized inspection of the SCL in November 2013 that supported bringing the SCL into the flood control system. The results of the IEI were used to bifurcate the West Sacramento – Sac

Yolo South Levee System into the West Sacramento Levee System (NLD System ID: 5205000903) and the SacYolo South Levee System (NLD System ID: 5205000902). This LOI and Supplemental Information Package has been prepared for the West Sacramento Levee System, which is shown on Figure 1.

3.0 LEVEL SYSTEM & SEGMENT IDENTIFICATION

The following sections describe the West Sacramento Levee System as shown in the IEI Letter report, as well as providing information pertaining to the construction of the existing levees and the population and infrastructure that is protected.

3.1 Levee System and Segment Identification

The West Sacramento Levee System (NLD System ID: 5205000903) is comprised of 12 levee segments that are maintained through the combined efforts of RD 900 (4), RD 537 (2), Maintenance Area 4 (2), and the USACE (3). The Central Valley Flood Protection Board (CVFPB) is the non-Federal sponsor for this system, with the exception of the SCL which is owned and operated by RD 900. USACE, DWR, RD 537, and RD 900 together have maintenance responsibilities for these 12 levee segments, which are identified and rated in the most recent inspections as described in **Table 3.1**.

NLD Segment Name	NLD Segment ID Number	Latest Inspection Type	Rating ¹
Maintenance Area 04 (MA04)	5204000581	Periodic	U
Sacramento Bypass – Unit 2, South Levee (SAC2)	5204001032	Periodic	U
RD 0537 – Lovdal – Unit 1, Sacramento River south of Sac Bypass (LOVS)	5204000762	Periodic	U
RD 0537 – Lovdal – Unit 2, Yolo Bypass (LOV2)	5204000763	Periodic	M
RD 0900 – West Sacramento – Unit 1, Sacramento River north of Deep Water Channel (WS1N)	5204000891	Periodic	U
RD 0900 – West Sacramento – Unit 1, Sacramento River south of Deep Water Channel (WS1S)	5204000894	Periodic	U
RD 0900 – West Sacramento – Unit 2, Yolo Bypass north of Deep Water Channel (WS2N)	5204000893	Periodic	U
RD 0900 – West Sacramento – Unit 2, Yolo Bypass south of Deep Water Channel (WS2S)	5204000892	Periodic	M
Sacramento River DWSC – Navigation Levee (DWSC) ²	5204000895	Periodic	U
Sacramento River DWSC – Port Levee North (DWSC) ^{2,3}	5204000896	NA	NA
Sacramento River DWSC – Port Levee South (DWSC) ^{2,3}	5204000897	NA	NA
RD 0900 – West Sacramento – South Cross Levee (WSCL)	5204000890	Initial Eligibility	M

1) U – Unacceptable; MA – Minimally Acceptable; NA – No Rating Available

2) Levee maintained by the USACE.

3) Levee not inspected as part of previous PI, no ratings available.

3.2 Levee Segment Description

The West Sacramento Levee System levees are located along the Sacramento River, Sacramento Bypass, Yolo Bypass and the Sacramento River Deep Water Ship Channel (DWSC). The levee system is located

predominantly within Yolo County and surrounds the City. A physical description of the levee segments is included in **Table 3.2**. A map showing the location of each segment is included in **Figure 1**. This LOI is only applicable to the segments not maintained by the USACE (DWSC, DWS1, and DWS2), as these three segments do not affect eligibility in the PL 84-99 RP.

Table 3.2 Levee Segment Descriptions				
Segment	River / Channel	LMA	Description	Levee Length (Miles)
MA04	Sacramento River	DWR	Extends east and south from the Interstate 80 bridge to the Tower Bridge on the right bank of the Sacramento River	3.47
SAC2	Sacramento Bypass	DWR	Extends west from the Sacramento River to the Yolo Bypass on the left bank of the Sacramento Bypass	1.79
LOVS	Sacramento River	RD 537	Extends southeast from the Sacramento Bypass to the Interstate 80 bridge on the right bank of the Sacramento River	0.60
LOV2	Yolo Bypass	RD 537	Extends southeast from the Sacramento Bypass to the Union Pacific Railroad (UPRR) line on the left bank of the Yolo Bypass	1.17
WS1N	Sacramento River	RD 900	Extends southwest from the Tower Bridge to the north of the DWSC on the right bank of the Sacramento River	1.59
WS1S	Sacramento River	RD 900	Extends south and southwest from the south of the DWSC to the east side of the West Sacramento South Cross Levee on the right bank of the Sacramento River	6.67
WS2N	Yolo Bypass	RD 900	Extends southwest and south from the UPRR line to the north of the DWSC on the left bank of the Yolo Bypass	2.51
WS2S	Yolo Bypass	RD 900	Extends south from the south of the DWSC to the west side of the West Sacramento South Cross Levee on the left bank of the Yolo Bypass	2.74
DWSC	Deep Water Ship Channel	USACE	Extends south and southwest from the DWSC to the Sacramento River on the left bank of the Yolo Bypass	18.97
DWS1	Deep Water Ship Channel	USACE	Extends east from the Yolo Bypass to the Sacramento River along the north bank of the DWSC	3.22
DWS2	Deep Water Ship Channel	USACE	Extends west from the Sacramento River to the Yolo Bypass along the south bank of the DWSC	3.50
WSCL	N/A	RD 900	Extends west from the Sacramento River to the DWSC connecting the southern ends of WS1S and WS2S.	1.22

3.3 Construction History

Levee construction in one form or fashion has been on-going in the vicinity of the City since its settlement in the middle of the 19th century by landowners seeking to protect individual property. These landowners eventually formed flood control and reclamation districts to construct a more

substantial and organized system of levees. RD 900 was formed in 1911 through an act of the California State legislature and immediately embarked upon a campaign of levee construction coincident with its legal boundary. This included levee construction along the Sacramento River and what is now the Yolo Bypass in 1911 and ultimately included construction of the SCL in 1915. All levees constructed by RD 900 used construction techniques standard for the time.

The primary construction technique involved use of a clamshell to excavate material from the waterside of the proposed levee alignment and placement of the material in a pile to form the levee. This construction method often resulted in a levee comprised of river sediments or surface borrow materials available immediately adjacent to the proposed levee alignment. In the case of the Yolo Bypass levee east of the DWSC and the SCL, this linear excavation at the waterside levee toe also resulted in the creation of a permanent water feature.

The levees constructed by RD 900 along the Sacramento River and the Yolo Bypass were adopted into the Sacramento River Flood Control Project (SRFCP) through Congressional authorization of the Flood Control Act of 1917. While the SCL was not adopted into the Federal levee system, it was designed and constructed in the same period of time using the same standards.

Following authorization of the Flood Control Act of 1944, Congress and the State of California approved improvement of the existing levees and the construction of additional bypasses to provide increased flood risk reduction. Construction of the West Sacramento – Sac Yolo South Levee System was completed in the 1950s and 1960s with the completion of various maintenance and improvement projects since then.

3.4 Population and Industry at Risk

The West Sacramento Levee System encompasses approximately 13,000 acres of industrial, commercial, and residential development with an estimated value of \$4.53 billion as damageable property. The City of West Sacramento has a population of approximately 49,000 residents as well as 13 essential services facilities and ten at risk population facilities. Critical transportation facilities pass through the system including a Union Pacific Railroad (UPRR) main line as well as Interstate 80 and US Highway 50.

4.0 LEVEE SYSTEM DEFICIENCY DESCRIPTIONS

The following sections summarize identified levee deficiencies from the PI Report and IEI Report for the West Sacramento Levee System, as well as a preliminary cost estimate to address those deficiencies. WSAFCA has not been provided with the results of the Levee Screening process and associated risk assessment performed by the USACE using the results of the PI. The levee system was accredited by the Federal Emergency Management Agency (FEMA) and they were notified of the results of the PI. Note that accreditation by FEMA is not an objective of the SWIF.

4.1 Description of Deficiencies

The PI identified several unacceptable individual observations using the USACE *Flood Damage Reduction Segment/System Inspection Report*. These observations were separated into two groups; (1) those deemed critical in that individual observations “likely prevents performance in the next flood event” and resulted in overall category ratings of unacceptable, and (2) individual observations rated unacceptable

but deemed “not likely to prevent performance in next flood event” that resulted in overall category ratings of minimally acceptable.

4.1.1 Categories with Overall Ratings of Unacceptable

The PI Report and IEI Report identified four unacceptable deficiency categories, including Encroachments, Closure Structures, Erosion and Bank Caving, and Animal Control.

- **Encroachments** – The guidance document defines Unacceptable as “Unauthorized encroachments or inappropriate activities noted are likely to inhibit operations and maintenance, emergency operations, or negatively impact the integrity of the levee.” Three (3) levee segments in the West Sacramento Levee System received an Unacceptable rating in this category (MA04, WS1N, and WS1S).
- **Closure Structures** – The guidance document defines Unacceptable as “Closure structure in poor condition. Parts missing or corroded. Placing equipment may not be available within the anticipated warning time. The storage vaults cannot be opened during the time of inspection. Components of closure are not clearly marked and installation instructions/procedures are not readily available. Trial erections have not been accomplished in accordance with the O&M Manual.” One (1) levee segment in the West Sacramento Levee System received an Unacceptable rating in this category (WS2N).
- **Erosion and Bank Caving** – The guidance document defines Unacceptable as “Erosion or caving is occurring or has occurred that threatens the stability and integrity of the levee. The erosion or caving has progressed into the levee section or into the extended footprint of the levee foundation and has compromised the levee foundation stability.” One (1) levee segment in the West Sacramento Levee System received an Unacceptable rating in this category (WS1S).
- **Animal Control** – The guidance document defines Unacceptable as “Animal borrow control program is not effective or nonexistent. Significant maintenance is required to fill existing burrows, and the levee will not provide reliable flood protection until this maintenance is complete.” Four (4) levee segments in the West Sacramento Levee System received an Unacceptable rating in this category (LOVS, MA04, SAC2, AND WS1N).

4.1.2 Categories with Individual Ratings of Unacceptable

The PI Report and IEI Report identified seven minimally acceptable (M) deficiency categories with individual observations rated unacceptable, including Slope Stability, Vegetation Growth, Sod Cover, Settlement, Depressions/Rutting, Cracking and Riprap Revetments & Bank Protection. Though the system was given an overall rating of M for these categories, the individual deficiencies will need to be addressed within two years of the date of the IEI Report for Segment WSCL and within two years of the date of the USACE summary letter for the remaining segments in order to avoid an unacceptable rating for the next PI and subsequent classification as inactive in the PL 84-99 RP.

- **Slope Stability** – The guidance document defines Unacceptable as “Major slope stability problems (ex. deep seated sliding) identified that must be repaired to reestablish the integrity of the levee embankment.” One (1) levee segment in the West Sacramento Levee System received an Unacceptable rating in this category (WS2S).
- **Vegetation Growth** – The guidance document defines Unacceptable as “Significant vegetation growth (brush, weeds, or any trees greater than 2 inches in diameter) is present within the

zones described above and must to be removed to reestablish or ascertain levee integrity." All levee segments inspected for the PI and IEI in the West Sacramento Levee System received an Unacceptable rating in this category.

- **Sod Cover** – The guidance document defines Unacceptable as "Over 50% of the sod cover is missing or damaged over a significant portion or portions of the levee embankment." Three (3) levee segments in the West Sacramento Levee System received an Unacceptable rating in this category (LOVS, MA04 and SAC2).
- **Settlement** – The guidance document defines Unacceptable as "Obvious variations in elevation over significant reaches. No records exist or records indicate that design elevation is compromised." One (1) levee segment in the West Sacramento Levee System received an Unacceptable rating in this category (SAC2).
- **Depressions/Rutting** – The guidance document defines Unacceptable as "There are depressions greater than 6 inches deep that will pond water." Six (6) levee segments in the West Sacramento Levee System received an Unacceptable rating in this category (LOVS, MA04, SAC2, WS1N, WS1S and WS2S).
- **Cracking** – The guidance document defines Unacceptable as "Cracks exceed 6 inches in depth. Longitudinal cracks are longer than the height of the levee and/or exhibit vertical movement along the crack. Transverse cracks extend through the entire levee width." One (1) levee segment in the urban portion of West Sacramento Levee System received an Unacceptable rating in this category (LOV2).
- **Riprap Revetments & Bank Protection** – The guidance document defines Unacceptable as "Significant riprap displacement, exposure of bedding, or stone degradation observed. Scour activity is undercutting banks, eroding embankments, or impairing channel flows by causing turbulence or shoaling. Rock protection is hidden by dense brush, trees, or grasses." One (1) levee segment in the West Sacramento Levee System received an Unacceptable rating in this category (WS1S).

4.1.3 Summary of Category Ratings

A summary of identified deficiencies by category from the PI Report and the IEI Report is included in **Table 4.1**. Those categories highlighted in red are rated unacceptable in the inspection reports, with immediate corrective action needed. Those categories highlighted in yellow are categories that have individual observations rated unacceptable that need to be addressed within two years of the IEI for Segment WSCL and within two years of the USACE letter summarizing PI Results. Though this latter collection of observations did not affect eligibility in the PL 84-99 program, the LMAs will need to address the deficiencies in order to prevent an inactive status in the future.

Table 4.1 Periodic Inspection Segment Ratings by Levee Embankment Item												
Levee Embankment Deficiency	West Sacramento – Sac Yolo South Levee System											
	MA04	SAC2	LOV1	LOV2	WS1N	WS1S	WS2N	WS2S	WSCL	DWSC	DWS1	DWS2
Encroachments	U	M	M	M	U	U	M	M	M	M	NA	NA
Closure Structures	NA	NA	NA	NA	NA	NA	U	NA	NA	NA	NA	NA
Slope Stability	M	A	M	A	M	M	A	M	A	M	NA	NA
Erosion & Bank Caving	M	M	A	A	M	U	M	M	A	U	NA	NA
Animal Control	U	U	U	M	U	M	M	M	A	U	NA	NA
Vegetation Growth	M	M	M	M	M	M	M	M	M	M	NA	NA
Sod Cover	M	M	M	M	A	M	M	M	NA	M	NA	NA
Settlement	A	M	A	A	A	M	A	M	A	M	NA	NA
Depressions/Rutting	M	M	M	A	M	M	M	M	A	U	NA	NA
Cracking	A	A	A	M	A	A	M	M	A	M	NA	NA
Riprap Revetments & Bank Protection	M	A	M	A	M	M	A	NA	NA	NA	NA	NA

1) A = Acceptable; M – Minimally Acceptable; U = Unacceptable; NA = Not Applicable

2) Segments DWSC, DWS1 and DWS2 are maintained by the USACE, ratings are provided for information only.

4.1.4 Summary of Individual Observations Rated Unacceptable

A summary of the number of unacceptable observations in each segment not maintained by the USACE is included in **Table 4.2**. As shown, Encroachments and Vegetation Growth were the most frequently observed deficiencies and were found in all segments.

Table 4.2 Summary of Unacceptable Rated Items per Segment										
Levee Embankment Deficiency	West Sacramento – Sac Yolo South Levee System									
	MA04	SAC2	LOVS	LOV2	WS1N	WS1S	WS2N	WS2S	WSCL	Total
Encroachments	57	6	19	2	23	52	10	17	3	189
Closure Structures	0	0	0	0	1	0	2	0	0	3
Slope Stability	0	0	0	0	0	0	0	1	0	1
Erosion & Bank Caving	1	1	0	0	0	4	0	2	0	8
Animal Control	3	2	3	1	1	0	0	1	0	11
Vegetation Growth	11	7	5	4	5	15	2	5	8	62
Sod Cover	3	1	1	0	0	0	0	0	0	5
Settlement	0	1	0	0	0	0	0	0	0	1
Depressions/Rutting	2	1	1	0	3	18	0	2	0	27
Cracking	0	0	0	1	0	0	0	0	0	1
Riprap Revetments & Bank Protection	0	0	0	0	0	5	0	0	0	5

4.2 Overview for SWIF Approach

The LMAs associated with the West Sacramento Levee System are committed to implementing a “worst-first” approach to correcting outstanding deficiencies identified through the recent PI and IEI on a system-wide basis to restore the levee system to USACE operation and maintenance standards with priority given to eligibility criteria identified in the Interim Policy cited above. However, a significant number of the unacceptable deficiencies in the Encroachment and Closure Structure categories are expected to require an extended amount of time to successfully resolve. The resolution of these deficiencies is expected to take more than two years based on the three following reasons:

- Environmental Permitting – The removal and/or rehabilitation of some encroachments will require environmental permitting including Federal and State consultation regarding potential effects to threatened and endangered species.
- Real Estate Acquisition – The removal, rehabilitation, and/or formal recognition of some encroachments will require the acquisition of permanent easements over parts of the flood risk reduction system where no real property interests are currently held.
- Coordination with Other Agencies – The development, exercise, and implementation of the Emergency Action Plans necessary to activate closure structures at the Union Pacific Railroad and Interstate 80 will require extensive coordination with other Federal, State, and local agencies, including USACE.

The adoption of the SWIF approach will optimize overall flood risk reduction by providing a detailed plan with associated milestones that can be used to ensure that the identified deficiencies are corrected in the appropriate order (i.e. most significant findings will be prioritized) and to the USACE operation and maintenance standards while still allowing the West Sacramento Levee System to remain in the PL 84-99 RP. With the support and input of the USACE, the LMAs will be able to address the concerns raised in the PI and IEL reports systematically and efficiently.

4.3 Preliminary Cost Estimate

A preliminary cost estimate was prepared based on the findings included in the PI Report to provide an initial estimate of the work necessary to address the individual items rated “unacceptable” during the inspections. The following bullets describe the assumptions utilized in the preparation of these estimates.

- **Encroachments** – The most significant number of observations was for encroachments into the levee. These included power poles, retaining walls, access ramps, structures, pipes, concrete debris, and other items observed in the field. The relocation of utility poles was the largest cost contribution to the encroachment line item, with 234 poles identified for relocation. Other high cost items include (1) the inspection, permitting or removal of pipes crossing through the levee, (2) the removal of concrete debris used as slope protection throughout the system, and, (3) infilling of various ditches. A 20% soft cost was added to the assumed costs for encroachment removal to account for coordination and design.
- **Closure Structures** – This rated item includes the inoperable William G. Stone Lock on the DWSC and two closure structure within Segment WS2N; one at a railroad crossing and one for a bike path near the railroad crossing. The William G Stone Lock has been inoperable for several years and modifications will be determined based on its projected usage, but it is assumed the lock will remain inoperable and only minor modifications are required. Portions of the bike path closure structure were missing potentially due to vandalism. New hardware will need to be provided and the operation of the closure should be added to the O&M Manual. The crossing at the railroad was in good condition but was not included in the O&M Manual and no trial closures had been performed, so anticipated costs were minimal.
- **Slope Stability** – One instance of slope stability was observed in the slope of the landside toe ditch in Segment WS2S. WSAFCA is currently identifying mitigation for this observation including a planning level cost for this effort. Costs were taken from this planning level estimate for the specific deficiency identified in the PI Report.
- **Erosion and Bank Caving** – Several instances of erosion were found on the waterside slope and toe throughout the system. A preliminary estimate of materials needed to protect eroded areas was prepared with assumptions related to the extent of rock that would be needed. Material cost was combined with a 20% soft cost for design and construction and a 10% soft cost for environmental permitting.
- **Animal Control** – Animal control deficiencies will be addressed as part of ongoing maintenance activities, but costs were included for the preparation of a formal Animal Control Plan.
- **Vegetation Growth** – Costs have been included for tree and stump removal along the levee crown, landside slope, and landside toe. Riverside slope vegetation growth was not included in the preliminary estimate based on WSAFCA’s intent to apply for a vegetation variance. The

mowing of tall grasses and removal of small shrubs were included in this cost estimate as they are part of normal O&M practices.

- **Sod Cover** – The PI Report identified locations where sod cover was not sufficient on the levee slopes. The assumption was made that repairs would consist of minor slope treatment to repair rutting or rills, followed by the application of seed to the slopes and establishment per normal maintenance processes.
- **Settlement** – A comparison was made between recent survey data and the design grade for the levees. One stretch of Segment SAC2 was found to be deficient in this area. The preliminary estimate provides for the raising of approximately 0.5 miles of Segment SAC2 up to one foot. The estimate assumes a crown raise is sufficient (i.e. no additional footprint will be required). The estimate also includes a confirmatory survey to determine the extents of the freeboard deficiency, as well a soft cost of 30% for design, construction, and permitting.
- **Depressions/Rutting** – Depressions and rutting would be repaired and the slope of the levee reseeded. These areas are generally small in extent along the levee slope or crown.
- **Cracking** – One area was found to have excessive cracking on the landside slope in Segment LOV2. Costs were included to excavate and regrade this portion of levee.
- **Riprap Revetments & Bank Protection** – Riprap and revetment that was found to be deficient was generally due to excessive vegetation preventing inspection or minor displaced rock. The preliminary cost estimate includes provisions to remove vegetation and the addition of rock as needed, to be completed by the LMAs.

The following table provides a summary of the preliminary cost estimate that was prepared for the LOI. These costs include soft costs (permitting, design, agency coordination, etc.) as described above and a 20% contingency to reflect the preliminary nature of the estimates.

Table 4.3 Preliminary Cost Estimate	
Encroachments	\$3,836,100
Closure Structures	\$50,000
Slope Stability	\$14,500
Erosion & Bank Caving	\$622,300
Animal Control	\$20,000
Vegetation Growth	\$283,300
Sod Cover	\$27,800
Settlement	\$329,000
Depressions/Rutting	\$67,500
Cracking	\$10,000
Riprap Revetments & Bank Protection	\$85,200
Total	\$5,345,700

4.4 Preliminary Screening of Deficiencies

A screening process will be adopted during preparation of the SWIF that will define the order with which these deficiencies will be addressed, consistent with the “worst-first” approach and the guidance included in the Interim Policy document cited above. As noted in the transmittal of the final PI results, WSAFCA will prioritize those deficiencies that have “resulted in an Unacceptable System Rating and seriously impair the functioning of the flood damage reduction system and pose an unacceptable risk to public safety.” Deficiencies that meet this criterion would include areas with extensive erosion/bank caving, encroachments that were deemed to have potentially significant impacts on the performance of the levee system, as well as the deficiencies identified on the closure structures within the system. Encroachment that would be addressed during the first phase of work would include penetrations through the levee that had significant deficiencies, such as absent positive closure devices, poor physical condition, or improper abandonment, as well as other types of encroachments that impair operation and maintenance of the levee system, such as locked gates blocking access points, broken concrete debris with exposed rebar on the levee slope, or concrete walls cut into the levee slope.

Analyses would be performed on the remaining deficiencies to determine the extent of the needed mitigation and the most cost-effective approach to be used, including encroachments and eroded areas that did not pose an immediate threat to the system.

As noted in the GRR, a variance is being sought for vegetation along the levees to allow for vegetation on the lower portion of the waterside slope and along the waterside toe (the current levee vegetation guidance document does not allow vegetation on the waterside and landside slopes as well as 15-foot wide zones at both the waterside and landside toe). Vegetation that does not comply with the variance would be removed in accordance with USACE criteria.

5.0 COMMITMENT OF RESOURCES

5.1 Levee Improvements within Basin

Since 2007, WSAFCA, in partnership with DWR, has spent over \$72 million toward the planning, design, and construction of levee improvements for the West Sacramento Levee System. This includes the completion of approximately \$36 million for three Early Implementation Projects clearly demonstrating a history of commitment to funding critical flood risk reduction actions. This funding was provided by DWR through Proposition 1E Bond funds and locally matched with funds from WSAFCA.

WSAFCA awarded the Southport Project construction contract in November 2016 for levee improvements along Segment WS1S consisting of a setback levee combined with in place repairs. The project is scheduled for completion by December 2018. The Southport Project will address the deficiencies identified in the PI for Segment WS1S as well as some deficiencies noted in the IEI Report for Segment WSCL.

Work was completed subsequent to issuance of the Draft Final PI Report to remove a trench from the levee within Segment WS2S. Photos of the repairs were provided to the USACE and the ratings were revised for the Final PI Report. Plans are underway to replace an existing toe ditch with a pipe on Segment WS2S that will address encroachment and slope stability deficiencies. Construction is anticipated to be completed in the Summer of 2017.

5.2 Local Revenue Sources

WSAFCA formed an assessment district to fund flood risk reduction activities in 2007. There is no sunset provision on the assessment district and it is available to secure bonds, lines of credit, or other financing sources to capitalize improvements. The assessment district includes a maximum 2% annual escalation rate that the WSAFCA Board has adopted every year since the passage of the assessment. The assessment is a combined capital and operation and maintenance (O&M) assessment and 15.2% of the annual collections are used to supplement O&M activities for the City, RD 900 and RD 537. The assessment district allows for an adjustment of the O&M funds based on the actual needs of the maintaining agencies. Any additional maintenance costs in RD 900 and RD 537 maintenance areas can be funded by the existing assessment district. The WSAFCA assessment district in State Fiscal Year 2016-2017 is projected to produce \$4.9 million in annual proceeds of which \$745,000 is allocated for O&M. WSAFCA has appropriated assessment funding to address emergency response and can appropriate sufficient funding to address the issues identified within the SWIF.

In addition to WSAFCA, all three local maintaining agencies (LMA's) have similar annual sources of revenue to fund O&M activities. RD 900 and RD 537 also have assessment districts formed without sunset provisions to fund O&M. The State of California Maintenance Area 4, through California Water Code Section 12878, collects funds for O&M through fees collected directly from the beneficiaries of the levee.

WSAFCA also uses its assessment as well as revenue generated through sales taxes and an in-lieu development fee to directly pay for improvements. The local property assessments have supported the issuance of bonds for \$9.9 million in 2008, \$12.0 million in 2011 and \$30.7 million in 2015. A portion of the 2015 bond proceeds were used to retire the 2008 bonds netting WSAFCA approximately an additional \$21.4 million in bond proceeds. In total WSAFCA has secured bond proceeds for \$43.3 million and analysis performed by WSAFCA estimates their total bonding capacity of its assessment district at greater than \$50 million depending on financing terms and time of issuance.

5.3 Comparison of Costs to Revenue Sources

The preliminary cost estimate described above includes deficiencies that will be addressed through the Southport Project scheduled for completion in 2018. This includes the relocation of over half of the identified utility poles, tree removal, the removal of large quantities of concrete debris, the repair of erosion deficiencies, and the removal of other types of encroachments (gates, pipes, etc.). The net remaining costs to address deficiencies identified in the PI Report after the construction of the Southport Project would be \$2,938,200.

Up to 50% of the annual proceeds of \$745,000 generated from the WSAFCA Assessment District can be applied to the correction of deficiencies identified in the PI Report. Financial contributions from the State of California, RD 900, and RD 537 will be in addition to this commitment. The remaining repairs will be accomplished on a worst-first basis through a combination of (1) O&M activities funded by WSAFCA and/or the LMAs, (2) capital improvements funded by WSAFCA in partnership with DWR under the Urban Flood Risk Reduction Program, or, (3) capital improvements funded by WSAFCA in partnership with DWR and USACE through the recently reauthorized West Sacramento Project. These corrections are expected to occur over a 4 to 7-year timeline.

6.0 INTERIM RISK REDUCTION MEASURES

In accordance with *Engineering and Construction Bulletin 2016-8, Interim Risk Reduction Measures (IRRM) for Levee Safety* prepared by the USACE in 2016, an Interim Risk Reduction Measure Plan will be prepared by WSAFCA to provide, at a minimum:

- An overview of operation and maintenance and/or performance concerns
- The identification of potential failure modes and associated consequences for each of the four scenarios identified in the bulletin
- The identification of alternatives to reduce the probability of inundation, both structural and nonstructural
- An overview of other considerations for environmental and economic impacts
- Preliminary schedules and costs associated with the implementation of the IRRMs
- An overview of internal and external communication protocol

An IRRM is an interim action meant to reduce inundation risks for areas protected by a levee system with identified levee safety issues while comprehensive solutions are being analyzed. The two inundation scenarios of most interest to the subject levee system are a breach prior to overtopping and a malfunction of levee system components.

The IRRMs identified in the construction bulletin that WSAFCA has implemented to date include the following:

- Preparation of a specific response plans with “trigger conditions” to implement identified actions
- Conducting appropriate emergency exercises that plan for a range of failure scenarios
- Working with local communities to promote flood mitigation and emergency response
- Implementation of a communication plan that actively advises the population about the condition of the levee system and the associated potential inundation risk.

Upon acceptance of this LOI, WSAFCA would implement the following IRRMs:

- Put in place emergency supply contracts and actively stockpile floodfighting materials (rock, sand, sand bags, etc.)
- Improve and increase inspection and monitoring before anticipated flood events as well as during and after such events to detect worsening conditions.
- Conduct engineering investigations and analyses to determine potential failure modes.

Examples of the community’s on-going effort towards the implementation of the IRRMs identified above are described in more detail in the following section.

6.1 Examples of WSAFCA’s Implementation of IRRMs

WSAFCA, through a close partnership with the City, already has an extensive program for flood risk communication and education in place. This communication program includes annual meetings with various community groups, including the West Sacramento Chamber of Commerce, as well as annual flood risk notifications mailed to all residents, businesses and property owners. WSAFCA received the national award for *Flood Outreach and Awareness* from the Association of State Floodplain Managers (ASFPM) in 2014.

The flood risk education program includes a longstanding partnership with the Washington Unified School District. This partnership seeks to reach students at all grade levels through: research projects and journalism articles for high school students; informational flyers for middle school; and take home information and poster contest regarding flood preparedness for the elementary students with the theme, “Plan, Pack, Protect”. This year the program introduced a brand new educational video game developed by WSAFCA for Grades 1 through 4 that teaches students how to be prepared for a possible flood emergency by developing a plan, packing an emergency kit, and protecting their homes with flood insurance.

In addition to the flood risk communication and education, WSAFCA also has a comprehensive emergency preparedness program involving modern emergency planning and response tools. Annual pre-flood season coordination meetings are held that include representatives from the City, LMAs, DWR, Yolo County Office of Emergency Services, USACE, and the Federal Emergency Management Agency (FEMA). WSAFCA and the City also sponsor annual emergency response exercises which range from desktop to full scale field exercises.

In 2014, WSAFCA received a grant from DWR to revise the City’s Flood Emergency Response Plan. The grant included the development of a web-based Dynamic Flood Mapping Tool which can be accessed by any computer or smart phone. The Dynamic Flood Mapping Tool:

- Can be used in the Emergency Operations Center or in the field by incident command staff.
- Simulates levee breach scenarios at virtually any location in the West Sacramento levee system
- 1- and 2-D hydraulic models illustrate depth of inundation over time
- Used in support of flood preparedness exercises
- Used for real-time flood emergency response and evacuation

The tool allows the user to select a levee failure location; then it describes where flood water will flow, how quickly it will travel, and how deep it will get so emergency response personnel can determine evacuation priorities, evacuation routes, and where evacuees should shelter. Embedded in the tool are a number of data layers including: evacuation routes, critical infrastructure, sensitive populations, and shelters. This communication program will be updated as part of the SWIF development.

The City of West Sacramento prepared a Flood Specific Hazard Annex Emergency Operation Plan in March of 2016 to provide specific procedures to guide the City public safety response and the coordination of operations with other jurisdictions. The plan included the roles and responsibilities of the City in response to threats from a range of scenarios. The existing Emergency Operation Plan will be updated to include new IRRM’s implemented as a result of SWIF LOI acceptance and as part of the SWIF development.

7.0 INTERAGENCY COLLABORATION

There are a number of current collaborative efforts relative to the West Sacramento Levee System that will contribute positively to SWIF development. These efforts are described as follows:

- West Sacramento General Reevaluation Report – USACE, CVFPB, and WSAFCA are currently partners in the development of the GRR for the levee system under consideration for development of the SWIF. This provides the Federal, State, and local governments an

opportunity to integrate flood risk reduction strategies across multiple programs and funding streams.

- Lower Sacramento – Delta North Regional Flood Management Team – WSAFCA currently coordinates with other local agencies in the region regarding land use, flood risk reduction, environmental sustainability, and regional economic development issues in the region. This forum provides an opportunity to learn lessons from other LMAs in the region facing similar flood risk challenges.
- Urban Flood Risk Reduction Project Implementation – WSAFCA currently partners with DWR to plan, design, and construct Early Implementation Projects at high risk sites consistent with recommendations included in the West Sacramento GRR. This collaboration provides an opportunity to coordinate levee improvement projects with maintenance investments in order to maximize the use of limited available funding by reducing stranded investment.

The development of the SWIF and resolution of the remaining unacceptable deficiencies will require extensive coordination between WSAFCA, USACE, CVFPB, DWR, and the LMA's among other local, State, and Federal agencies. This collaborative planning is expected to occur as follows:

- WSAFCA – Oversight and facilitation, financing, real estate acquisition, capital improvements, and levee certification
- USACE – Encroachment remediation, updates to operations and maintenance manuals, emergency action plans and emergency response, levee standards, and Section 404/408 permits, monitoring of milestones of the SWIF
- CVFPB – Real Estate issues and encroachment permitting and compliance
- FEMA – Levee certification and emergency action plans and emergency response
- Federal & State Resource Agencies (USFWS, National Marine Fisheries Service, California Department of Fish and Wildlife [CDFW], State Historic Preservation Office) – Environmental and historical resources management
- DWR – Operations and maintenance, emergency response, financing, levee standards, capital improvements, and coordination with State Plan of Flood Control
- City of West Sacramento & Yolo County – Land use planning and regulations, emergency response, flood risk communication and education
- LMAs – Encroachment remediation, operations and maintenance, and emergency response

WSAFCA will also seek partnerships with local community groups, local and state government and non-governmental agencies as needed in order to facilitate the SWIF.

8.0 ANTICIPATED PERMIT & CONSULTATION REQUIREMENTS

The development and implementation of the SWIF will require consultation with a number of resource, regulatory, and permitting agencies. Many endangered and threatened species are found in the region. Listed species found in the Sacramento River and/or Yolo Bypass include but are not limited to the following:

- Valley Elderberry Longhorn Beetle
- Delta Smelt
- Green Sturgeon

- Central Valley Steelhead
- Central Valley Chinook Salmon
- California Red-Legged Frog
- California Tiger Salamander
- Giant Garter Snake
- Western Pond Turtle
- Swainson's Hawk

The removal of riparian vegetation and/or the removal or modification of encroachments may impact one or more of the above listed species as well as other non-listed species. Consultation with the United States Fish and Wildlife Service, NMFS and CDFW would be required in any instance where the action could impact these listed species. Vegetation removal and encroachment removal or modification may also involve actions such as alterations in the streambed or disturbance to waters of the United States and as such could require consultation and permits with CDFW and USACE.

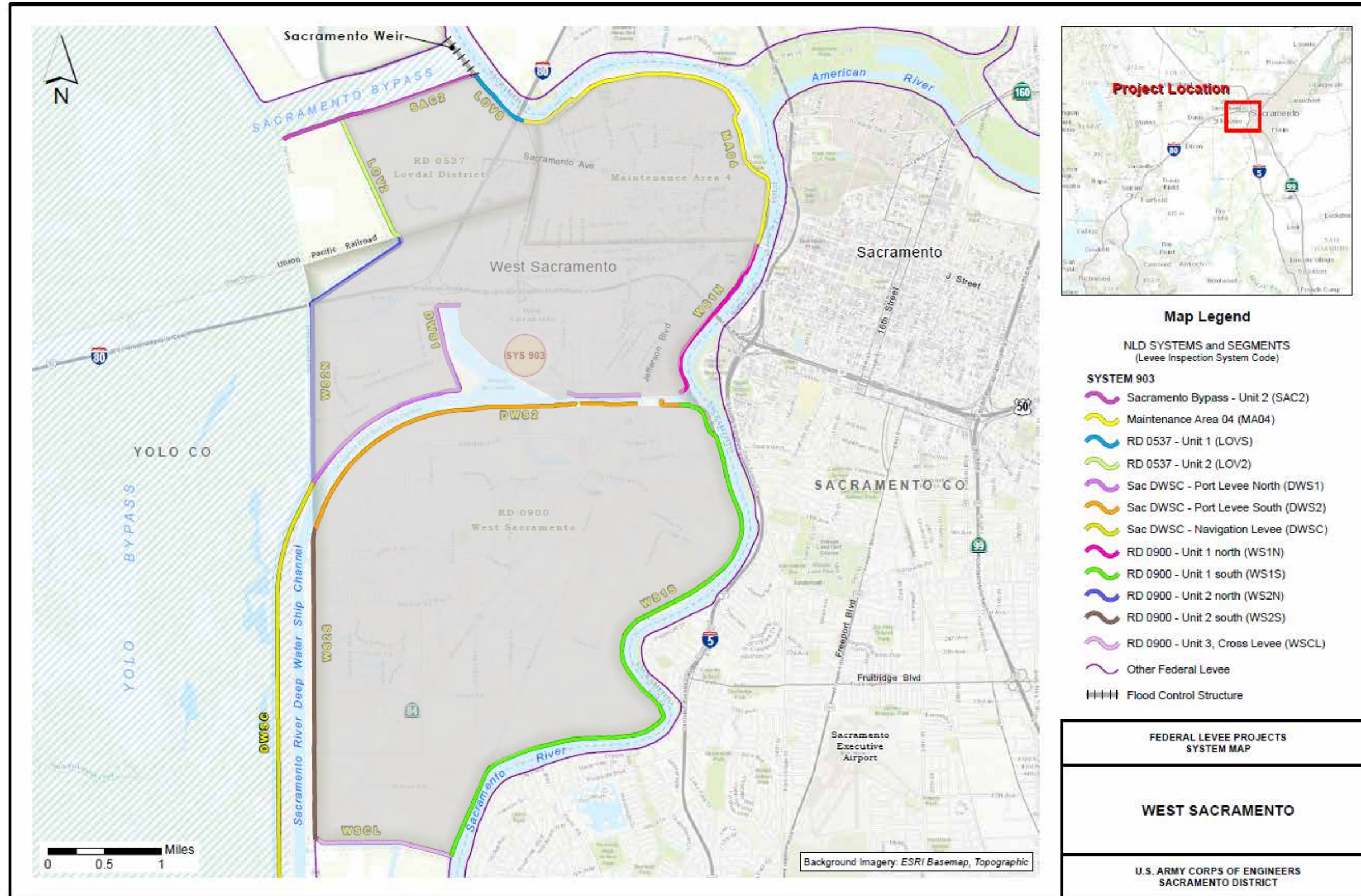
In addition to consultation under fish and wildlife protection authorities and other environmental regulations, encroachment remediation and/or modifications to the levee system will require consultation between WSAFCA, USACE, CVFPB, and the LMA as well as individual encroachment owners and landowners. The CVFPB is responsible for enforcing encroachment permit terms and conditions and has a process in place for such enforcement. It includes research of permit and as-built records, informal coordination with easement- and land-owners, noticing, and potentially public hearings. This process can take a significant amount of time and can become litigious.

The permits and approvals reasonably expected as required to implement the corrective actions to be outlined in the SWIF include the following:

- National Environmental Policy Act (NEPA)
- California Environmental Quality Act (CEQA)
- USFWS & NMFS – Endangered Species Consultations
- CDFW – Streambed Alternation Agreement
- CVFPB – Encroachment Permit
- USACE – Section 408 Approval
- California Regional Water Quality Control Board - Clean Water Act, Section 401 Permit
- USACE – Clean Water Act, Section 404 Permit

9.0 Conclusion

Given the anticipated scope of necessary work, WSAFCA respectfully requests that the levee system listed in Table 3.1 above retains "active" status in the PL 84-99 RP while the SWIF plan is developed. WSAFCA asks that this initial request be granted for 2 years, to allow adequate time to develop a successful SWIF plan.



Map Prepared by Jim Mars

FEB 2016

Figure 1. West Sacramento Levee System

West Sacramento Levee System - System-Wide Improvement Framework
Response to Comments - Draft Letter of Intent and Supplemental Information Packet

Reviewer	Date	Location/Criteria	Comment	Response
M. Janolo CVFPB	3/8/2016	Cover Letter	1) Please add the following statement in the cover letter: "[Levee Sponsor] is aware of the Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (P.L.) 84-99 dated 21 March 2014."	Statement added to cover letter.
M. Janolo CVFPB	3/8/2016	1) Identification of levee system or systems.	System Name is West Sacramento – SacYolo South Levee System. NLD Identification number is 205000902. Section 1.0 of the LOI states the reinstatement request only applies to the urban portion of the system (537, 900, and DWR). Table 3.1 shows nine levee segments including the South Cross Levee. Requirement not satisfied. USACE has not made a determination on the hydraulic separability of the levee system. As it is, the LOI is incomplete because it does not cover the entire levee system as is currently defined in the NLD.	The LOI and SIP have been revised to reflect the modifications from the USACE Initial Eligibility Inspection that split the system into two. The LOI is now solely pertaining to the West Sacramento Levee System, NLD ID 5205000903. The NID has been updated and the information revised in the LOI.
M. Janolo CVFPB	3/8/2016	2) Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction	LOI does not include a table quantifying all unacceptable deficiencies. It does discuss how a worst-first prioritized approach will improve and optimize overall flood risk reduction. Requirement not satisfied. Please include a table showing the number of unacceptable deficiencies and provide a "preliminary" ranking based on risk perception, e.g., critical deficiencies should be highest ranked.	Table 4.2 added to Section 4.1 summarizing the number of unacceptable observations in each category. A brief discussion was added to Section 4.2 to provide a preliminary ranking of the deficiencies to be addressed, with more detailed analyses to be performed as part of the SWIF.
M. Janolo CVFPB	3/8/2016	3) Demonstration that significant non-federal resources have been, or will be, committed for developing and/or implementing the SWIF.	LOI indicates that \$72M funded through CA's Prop 1E Bond have been spent towards planning, designing, and construction of levee improvements, with \$36M going towards completion of EIPs. Additionally, West Sac. residents approved annual parcel assessment dedicated for levee improvement projects back in 2007. And in 2008, Measure V was approved by residents, requiring new development in the city to meet 200-year level of protection, or pay an in-lieu fee. Requirement satisfied.	Comment noted
M. Janolo CVFPB	3/8/2016	4) Anticipated Interim Risk Reduction Measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system wide deficiencies.	LOI states that ongoing annual meeting with West Sac. Chamber of Commerce is in place. There is also an annual flood risk notification that goes out to residents. In addition, Section 6.0 discusses flood risk education program that teaches students about flood risks, flood preparedness drills, and an educational video game that teaches students flood preparedness skills. WSAFCA also developed the Dynamic Flood Mapping Tool, a web-based application that can be accessed via PC or smart phone. Requirement satisfied.	Comment noted
M. Janolo CVFPB	3/8/2016	5) Brief description of existing or planned interagency collaborative efforts that will contribute positively to SWIF development, implementation and oversight	LOI provides a good overview of the collaborating agencies and their role in SWIF development. Requirement satisfied.	Comment noted
M. Janolo CVFPB	3/8/2016	6) List of anticipated state and federal permits and consultation requirements needed to implement SWIF.	A listing of possible endangered and threatened species is also included. Good listing of permits that will be required. Requirement satisfied.	Comment noted
USACE	4/28/2016	1) Identification of levee system or systems.	a. Indicate the number of systems and segments Update system and segment descriptions to reflect the updated levee system definition that separates West Sacramento levee system. Use the RD 900 Initial Eligibility Inspection results as a reference. NLD ID will be 5205000903, West Sacramento levee system. b. Indicate who is the non-Federal sponsor Are all of the agencies involved considered sponsors or are some LMAs? Clearly denote. c. Indicate each segment rating. Indicate if the systems are inactive, or when they will become inactive. In addition, note which segments are maintained by USACE, as they would be outside of other LMAs' scope of O&M work. d. Indicate if/when the systems will be placed in inactive status e. Include a description of the levee system, including its construction history. f. Indicate if an approved vegetation variance is in place or if one will be applied for. Add a statement noting whether the levee system has a vegetation variance or may apply for one in the future. g. Include the population at risk and the amount of industrial infrastructure at risk. h. Include a general map showing the levee and protected area. Update map to only include northern, West Sacramento levee system. Can use the map included in the RD 900 IEI results document.	a. Description of system and segments revised per IEI report and NLD. b. Sponsors are shown in Table 3.2. c. Segment ratings are shown in Table 3.1. d. Section 2.0, last sentence shows the system to be inactive following PI report results. e. Description included in 3.1, construction history included in Section 3.3. f. There is no current variance but the LMA is intending to pursue a variance to allow vegetation on the lower portion of the waterside slope and along the waterside toe as discussed in the GRR. Language added to the last paragraph of section 4.2. g. Section 3.4 includes a description of the population at risk and other infrastructure. h. Map from IEI report imported into SIP as figure 1.
USACE	4/28/2016	2) Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction.	a. Indicate how SWIF will improve and optimize over all flood risk reduction. b. The intent of SWIF is to provide time for levee system sponsors to repair deficiencies in accordance with USACE Operation and Maintenance (O&M) standards. The LOI shall clearly state the non-Federal sponsor intention to repair deficiencies to comply with USACE O&M standards.	a. Discussion added to end of Section 4.2. b. Sentence added to first paragraph of Section 4.2.
USACE	4/28/2016	3) Demonstration that significant non-federal resources have been, or will be, committed for developing and/or implementing the SWIF.	a. Discuss sponsor actions taken so far to address the unacceptable deficiencies (may have to discuss work since the previous year's routine inspection). b. Discuss the overall rough cost for rectification work, identify the approximate shortfall, and indicate what funding avenues will be pursued to obtain the necessary funding. Include a rough (order-of-magnitude) cost estimate and identify shortfall, if any.	a. A description of the Southport project was added to Section 5.0 to reflect ongoing progress. The IEI does describe some progress between the PI report and the IEI. b. Costs for the work to be completed are not known at this time. This information will be included in the SWIF once more data is obtained. Funding sources are discussed at depth in Section 5.2.
USACE	4/28/2016	4) Anticipated Interim Risk Reduction Measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system wide deficiencies.	No comments	Comment noted.
USACE	4/28/2016	5) Brief description of existing or planned interagency collaborative efforts that will contribute positively to SWIF development, implementation and oversight	a. Indicate if there are any known endangered and/or threatened species under the Endangered Species Act and what interagency collaborative efforts are planned.	Section 8.0 includes a discussion of listed species commonly found in the region as well as a discussion regarding potential coordination and consultation with several federal and state agencies.
USACE	4/28/2016	6) List of anticipated state and federal permits and consultation requirements needed to implement SWIF.	a. If a major modification to the federal flood control work will be needed or permitting for encroachments is needed then make sure Section 408 is included in the list of permitting actions.	Section 8.0 includes the USACE 408 Permit as one of the potential requirements as part of the SWIF.
B. Briskin USACE	1/25/2017	1) Identification of levee system or systems.	i. In Table 3.1, add Segment ID for the WSCL segment, which is 5204000890	Segment ID added.
B. Briskin USACE	1/25/2017	3) Demonstration that significant non-federal resources have been, or will be, committed for developing and/or implementing the SWIF.	b. Include rough cost and brief discussion of whether available funding will cover the required work	Cost information added to Section 4.3. Section 5.3 added discussing how preliminary costs compare to available funding.
B. Briskin USACE	1/25/2017	4) Anticipated Interim Risk Reduction Measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system wide deficiencies.	a. State that the IRRM Plan will be prepared in accordance with USACE ECB 2016-8.	Statement added to Section 6.0.
M. Jordan USACE	2/24/2017	1) Identification of levee system or systems.	This objective is not met. Please verify/clarify which segments are included in the WSLS. If Table 3.1 is correct regarding which levees are covered by the LOI then please remove discussion on the SCL as a separate system which would otherwise reduce the number to 11 or show it as a separate system. I see there was a previous comment regarding same issue of which segments are actually in the WSLS. Add a column or asterisk showing which three levees are Corps maintained. Add a map that shows the leveed area.	All 12 levee segments are included in the WSLS. The SCL is not discussed as a separate system but rather as a new levee that was recently incorporated into the WSLS as part of the bifurcation of the previous levee system. Discussion of bifurcation limited to the needed information to explain why some segments do not have ratings from the PI. Note 2 added to Table 3.1 for levee segments maintained by the USACE. Figure 1 at the end of the document shows the leveed area (taken from USACE IEI report for Segment WSCL).

M. Jordan USACE	2/24/2017	2) Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction.	This objective is not met. Please make reference to the interim policy when determining the priorities and a first guess of which deficiencies are considered risk drivers. Refer to the preliminary screening conducted by the Corps. Table 4.1 reflects only nine levee systems vs. 12 shown in Table 3.1. To keep things consistent include the 3 levees that are Corps maintained in this table and just show them as Corps maintained. This way the tables match and one does not have to read the long explanation to get the picture.	Section 4.4 added to provide additional details regarding preliminary order with which deficiencies will be addressed based on letter accompanying the Final PI Report and the policy guidance. USACE maintained segments added to Table 4.1 and notes added.
M. Jordan USACE	2/24/2017	3) Demonstration that significant non-federal resources have been, or will be, committed for developing and/or implementing the SWIF.	This objective is not met. Please indicate amount of funds made available each year to make corrections and how much dedicated to O&M. Indicate what corrective work has been performed since the inspections and the approximate cost.	Section 5.0 revised to more clearly outline available funding from the various maintaining agencies and WSAFCA, with a discussion of O&M budget and available funding for repairs. See first paragraphs of 5.2 and 5.3 for added details. Corrective work completed since the issuance of the PI Report includes design for the Southport Project, which is anticipated to be completed by December 2018 and discussed in Section 5.1. Work was completed within Segment WS2S to remove a trench through the levee by the LMA but no costs are available - text added to Paragraph 5.1. Also added to Paragraph 5.1 was a discussion on plans to replace an existing toe trench with a pipe in Segment WS2S in the Summer of 2017.
M. Jordan USACE	2/24/2017	6) List of anticipated state and federal permits and consultation requirements needed to implement SWIF.	This objective is not met. Please add a concluding statement per the template.	Concluding statement added to Section 9.0.
USACE	5/5/2017	Identification of Levee System 8. Maps showing the leveed area provided.	Show the leveed area (e.g. shade the area protected by the levee)	Light gray shading added to Figure 1.
USACE	5/5/2017	Identification of Levee System 10. Risk characterization (risk screening such as LSAC) is provided if available along with key recommendations or LOI states risk assessment is not yet completed.	Summarize levee screening if it has been completed. Otherwise, state that risk assessment is not yet completed.	WSAFCA has not been provided with results of the levee screening risk assessment. Sentence added to end of first paragraph of Section 4.1.
USACE	5/5/2017	Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction. 2. The LOI states intent is to restore levee to USACE O&M standards with priority given to eligibility criteria identified in the Interim Policy.	Use this language.	Language added to the first sentence of Paragraph 4.2.
USACE	5/5/2017	Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction. 8. If NFIP accredited has FEMA been notified, if not accredited no FEMA notification required.	Add info on FEMA notification, whether it was done or if it is not required.	The levee system was accredited by FEMA and they were notified of the results of the PI. Sentence added to end of first paragraph of Section 4.1.
USACE	5/5/2017	Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction. 9. State if NFIP accreditation an objective of the SWIF.	Item not checked, no comment provided.	NFIP accreditation is not an objective of the SWIF. Sentence added to end of first paragraph of Section 4.1.
USACE	5/5/2017	Anticipated Interim Risk Reduction Measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system wide deficiencies. 4. Additional IRRMs are identified that will be implemented immediately upon acceptance of this LOI until permanent solutions completed. (Screening risk assessment is a good source of IRRM's to implement right away.)	Item not checked, no comment provided.	Section 6 revised to outline what IRRMs WSAFCA has implemented to date and those that would be implemented upon acceptance of the LOI.
USACE	5/5/2017	Anticipated Interim Risk Reduction Measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system wide deficiencies. 5. States that there will be an Emergency Action Plan and risk communication plan as part of the SWIF IRRMP	Item not checked, no comment provided.	Communication program and Emergency Operation Plan are described in Section 6.1 as examples of WSAFCA's implementation of IRRMs.
USACE	5/5/2017	Brief description of existing or planned interagency collaborative efforts that will contribute positively to SWIF development, implementation and oversight. 2. Milestones will be monitored by USACE 3. Seeking partnerships with local community groups, local and state government and non-governmental agencies and provides description	For both items 2, 3 - add these statements to this section of the LOI.	2. Language added to USACE collaborative bullet in Section 7. 3. Sentence added to end of Section 7 for collaboration with other groups and agencies.

Enclosure 5

RD 900 Letter dated September 18th, 2017



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • email: wsrcd@pacbell.net

September 18, 2017

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

Re: *Response of Reclamation District No. 900 to August 10, 2017 Letter Concerning Yolo LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach*

Dear Ms. Crawford and Members of the Yolo LAFCo Governing Board:

Reclamation District Number 900 ("RD 900"), which was formed by special act of the California Legislature in 1911 and is governed by the Reclamation District Act, is opposed to any form of reorganization which would result in a merger of RD 900 or Reclamation District No. 537 ("RD 537") into the City of West Sacramento, or any form of reorganization which would create a new independence special district with reclamation and flood control responsibilities or altering the governance of RD 900 or RD 537.

RD 900's boundaries are co-extensive with the boundaries of the City of West Sacramento with the exception of the northerly end of the City of West Sacramento which lies within the boundaries of RD 537. RD 900, RD 537 and the City of West Sacramento are the three members of the West Sacramento Area Flood Control Agency ("WSAFCA"), a joint exercise of powers agency created in 1994 under the Joint Exercise of Powers Act (California Government Code Sections 6500 et seq.) for the purpose of financing and providing facilities and works necessary to achieve a 1 in 200 year storm event level of flood protection for the area within its boundaries, which are co-extensive with the boundaries of the City of West Sacramento. WSAFCA is governed by a three member board with each of the reclamation district members appointing one member from their governing boards of trustees and the City of West Sacramento appointing one member from its city council.

RD 900 operates and maintains 14 miles of levees along the west bank of the Sacramento River, across the district at its southern boundary which is co-extensive with the southern boundary of the City of West Sacramento, thence along the deep water ship channel to the north, and operates and maintains a system of drainage ditches and canals, pumping plants, and several storm water detention basins which protect the lands within its boundaries from flooding from the river system or from storm water runoff. RD 537 performs the same function for levees, ditches, canals and pumping plants protecting the northern portion of the City of West Sacramento. A

portion of the levee protecting the northern portion of the City of West Sacramento is maintained by State Maintenance Area 4.

RD 900 believes there should not be any change of organization of the types described above for a number of reasons:

1. Reclamation districts are very well suited to perform the flood protection functions described above efficiently and well, and RD 900 and RD 537 have done so without major incident since their formation;
2. Merging both RDs into the City of West Sacramento or consolidating them into a new independent district would:
 - a. Violate the terms of the Joint Powers Agreement;
 - b. Terminate an existing WSAFCA flood assessment made under the 1982 Improvement Act and approved by the landowners within the City of West Sacramento in a Proposition 218 election, and violate covenants made in support of issued and sold revenue bonds totaling approximately \$40,000,000.00 utilized for early implementation levee improvement projects and to be utilized to provide a portion of the local share required for a federally authorized flood control project to complete levee modifications around the City of West Sacramento by the United States Army Corps of Engineers (the "Corps"); and
 - c. Would create an atmosphere of administrative political upheaval for WSAFCA after WSAFCA and the reclamation districts developed a solid reputation with the Federal Emergency Management Agency ("FEMA"), the Corps, Members of Congress and the State of California at a sensitive time when WSAFCA must demonstrate its financial capability to support its local share of the cost of the federally authorized flood control project.
1. Reclamation districts are very well suited to perform the flood protection functions described above efficiently and well, and RD 900 and RD 537 have done so without major incident since their formation.

The reclamation districts are best suited to provide responsive and efficient operation and maintenance of the flood control facilities protecting the City of West Sacramento. Reclamation districts are single purpose special districts, having as their sole purpose the provision of flood control for lands within their boundaries. They are governed by efficient boards of trustees, whose members tend to have no reason for political grandstanding or aspirations for higher office. The sole requirement for use of reclamation district funds is the provision of flood control, and there are no competing financial interests creating temptation for the use of flood control funds, as would be the case if a city were to be the provider of flood protection. Both RD 900 and RD 537 have earned the respect of the California Department of Water Resources, the Central Valley Flood Protection Board, the Corps and FEMA and have provided operation and maintenance of the existing flood control facilities since their formation with no major

incidents. Their staffs are lean, focused and dedicated to providing flood control and protection for lands within their boundaries.

A merger of the reclamation districts into the City ignores the value to the citizens of West Sacramento of the institutional relationships that WSAFCA, RD 900 and RD 537 have built with state and federal regulators over the past decades. Over the past twenty years, ever since the floods of 1997, the three agencies have been at the forefront of flood protection in the Central Valley.

- 2.a. Reorganization which merges two of the three members of WSAFCA into the City of West Sacramento member or creates a new independent district would violate the terms of the Joint Powers Agreement.

There are limitations within the WSAFCA Joint Powers Agreement which would preclude any reorganization which dissolves a party or two of the three current parties.

The WSAFCA Joint Powers Agreement (the "JPA") is written in such a manner as to provide checks and balances by virtue of having three independent members represented by individual members of their governing boards. For example, Section 16 of the JPA provides a right to each party to veto an assessment or construction or acquisition of works or facilities. The JPA may be rescinded and the agency terminated only by unanimous written consent of the parties (Section 32 of the JPA), and no party may withdraw without the unanimous consent of the parties (Section 34 of the JPA). The dissolution of a reclamation district party to the JPA would be the equivalent of a withdrawal by operation of law which would not be consented to by either RD 900 or RD 537. Also, the dissolution of both reclamation districts through reorganization would effect a termination of WSAFCA without the consent of RD 900 or RD 537.

Additionally, new Section 39 added by Amendment to the JPA which was required by policy resolution of the Central Valley Flood Protection Board in conjunction with construction funding agreements entered into between the California Department of Water Resources and WSAFCA to finance the early implementation projects provides that the JPA may not be rescinded or terminated or the agency dissolved so long as it has outstanding project commitments (which it will have into infinity under Operation, Maintenance, Repair, Rehabilitation and Replacement Agreements entered into with the Central Valley Flood Protection Board) unless the relevant member or members of the agency first provide such reasonable written assurances regarding the project commitments as the Central Valley Flood Protection Board may request, and, similarly, this section provides that no party may withdraw so long as the agency has such commitments unless the withdrawing party first provides such reasonable written assurances regarding the project commitments as the Central Valley Flood Protection Board may request.

- 2.b. Reorganization which merges two of the three members of WSAFCA into the third member or creates a new independent district would have the effect of terminating WSAFCA and its flood assessment and would violate covenants made in support of issuance of approximately \$40,000,000.00 in bonds.

A joint powers agency requires at least two public agencies in order to transact business. As Government Code section 6502 expressly states: "If authorized by their legislative or other governing bodies, *two or more public agencies* by agreement may jointly exercise any power common to the contracting parties...." (Gov. Code § 6502.) As one California court recently noted, "a JPA needs ... two public agency members to conduct business." (See *San Diegans for Open Government v. City of San Diego* (2015) 242 Cal.App.4th 416, 448, n. 14 [even if third agency was not properly included in JPA, JPA could still conduct business because at least two public agencies were members]; see also *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal.App.4th 354, 362 [once at least two public agencies agreed to create a separate entity, a JPA/local public agency was created for purposes of the Brown Act].)

Should WSAFCA be terminated, its flood assessment passed by the landowners within the City of West Sacramento would, by operation of law, be terminated which would be violative of covenants made in support of the issued and sold bonds totaling approximately \$40,000,000.00 and cause a default in bond payments.

- 2.c. A reorganization of either or both of RD 900 or RD 537 would create an atmosphere of administrative political upheaval for WSAFCA after WSAFCA and the reclamation districts developed a solid reputation with FEMA, the Corps, Members of Congress and the State of California at a sensitive time when WSAFCA must demonstrate its financial capability to support its local share of the cost of the federally authorized flood control project.

Completion of levee improvements necessary to achieve a 1 in 200 year level of flood protection for the City of West Sacramento will require that remaining work, beyond the early implementation projects already completed by WSAFCA and the Southport Levee Improvement Project currently under construction, be accomplished by the Corps under the Federally authorized flood protection project.

As we approach possible Congressional appropriation to permit the authorized Federal flood protection prospect to move forward, WSAFCA will need to demonstrate its ability to provide its share of the necessary local funding. This will require landowner approval of an additional flood assessment by WSAFCA to create the ability to issue and sell further bonds. The stability of WSAFCA must be preserved for the confidence of the landowner/voters and for the Corps and Congress. This is no time to create local political upheaval by altering the structure of WSAFCA or causing its termination by operation of law.

Sincerely,

Reclamation District No. 900

By: 

Kenric Jameson, General Manager/Secretary


Bryan Turner, Trustee


William E Denton, Trustee


Peter Palamidessi, Trustee


Daniel F. Ramos, Trustee


Philip Hinkel, Trustee

cc: Reclamation District No. 537
James M. Day, Jr.
David Aladjem

Enclosure 6

RD 900 Letter dated December 4th, 2017



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • email: wsrd@pacbell.net

December 4, 2017

Yolo County Local Agency Formation Commission
Attn: Christine Crawford, Executive Officer
625 Court Street, Suite 203
Woodland, CA 95695

Re: *Reclamation District No. 900 & 537 Comments Concerning Yolo LAFCo 2017 MSR
Governance Recommendations for the West Sacramento Reach*

Dear Ms. Crawford and Members of the Yolo LAFCo Governing Board:

Background

Formed in 1911, Reclamation District (RD) 900 is responsible for operating and maintaining 13.6 miles of levees, 38 miles of drainage canals and ditches, 6 detention basins that collect and remove storm water within the 11,000 acres of land located in its jurisdiction including 90% of the City of West Sacramento, and for repairing and replacing 9 pump stations containing 33 pumps and district equipment.

Formed in 1889, Reclamation District (RD) 537 is responsible for operating and maintaining facilities similar to those of RD 900, but at a reduced number within the City Limits. RD 537's boundaries currently extend north of the City of West Sacramento and include both levee and internal drainage facilities.

RD 900 and RD 537 are also member agencies in the West Sacramento Area Flood Control Agency (WSAFCA) Joint Powers Authority (JPA) formed to upgrade levees to meet urban 200-year level of flood protection required by SB 5 (2007). Once levee improvements are completed, RD 900 and RD 537 will assume ongoing O&M. In addition, RD 900 provides administrative support for RDs 537 and 827.

The 2014 Yolo County Flood Governance Study, which was prepared for the Lower Sacramento/Delta North Region and funded by the Department of Water Resources, found that reclamation districts are best suited to conduct routine O&M and on-site emergency response. The 2016 Department of Water Resources rating concludes that the levee segment/system would perform as intended in a future flood event. The District has the resources to fund planned levee and drainage improvements. The Districts, along with WSAFCA, are working to meet urban 200-year flood protection by 2025 as required by the state.

Both RD 900 and RD 537 are managing their finances well and operate within their financial means and do not have any debt. The Districts have adequate reserves to provide for unexpected maintenance if necessary. In 2016 the residents of West Sacramento passed a new assessment for RD 900. This new assessment increased RD 900's budget from \$1,100,000

annually to approximately \$3,300,000. RD 900 can increase its assessment by 2.25% yearly as needed to keep up with inflation. RD 537 is currently not charging the property owners within its boundaries the maximum amount allowed under their current assessment.

LAFCO Recommendations discussion

RD 900 and RD 537 are opposed to any form of reorganization which would result in a merger of RD 900 or RD 537 into the City of West Sacramento, or any form of reorganization which would create a new independent special district with reclamation and flood control responsibilities or altering the governance of RD 900 or RD 537 by making them subsidiary districts to the City of West Sacramento.

RD 900 Manager Kenric Jameson has met with the Board of Trustees for both RD 900 and RD 537 and has been authorized to inform LAFCo that both districts are in agreement that having RD 900 and RD 537 functionally merge would provide a more uniform level of maintenance and flood fighting capabilities. The Districts look forward to working with Yolo County LAFCO, the California Department of Water Resources (DWR), the United State Army Corps of Engineers, and the West Sacramento Area Flood Control Agency, in an effort to further enhance coordination amongst agencies that provide flood protection services within the City of West Sacramento as detailed in LAFCO's recommended action.

Sincerely,

Reclamation District No. 900 & 537

By:


Kenric Jameson, Manager RD 900


Bryan Turner, President RD 900


Thomas Ramos, Trustee RD 537

Enclosure 7

RD 537 Letter dated September 21st, 2017

RECLAMATION DISTRICT No. 537

Post Office Box 822, West Sacramento, CA 95691

September 21, 2017

Christine Crawford
Executive Officer
Yolo County Local Agency Formation Commission
625 Court Street, Suite 203
Woodland, California 95695

Re: Response of Reclamation District No. 537 to August 10, 2017 Letter Concerning Yolo
LAFCo 2017 MSR Governance Recommendations for the West Sacramento Reach

Dear Ms. Crawford:

The Board of Trustees of Reclamation District No. 537 ("RD 537") held a special meeting on September 20, 2017 to discuss the August 10, 2017 letter from the Yolo County Local Agency Formation Commission ("LAFCo") regarding the municipal services review for the West Sacramento Reach. We also reviewed the letter to you dated September 18, 2017 from Reclamation District No. 900 ("RD 900").

The Board of Trustees strongly endorses the position taken by RD 900 in its September 18 letter to LAFCo. As described in that letter, we believe that reorganizing RD 537 and RD 900 into the City of West Sacramento would have profound and dire consequences for the residents of West Sacramento. We do not believe that such a reorganization would save our ratepayers any money; indeed, we believe that moving our flood protection function from a single-purpose district to a general law city is almost guaranteed to increase the costs of providing the service. Moreover, we believe that the political turmoil that such a proposal is likely to create undermines the ability of the West Sacramento Flood Control Agency (WSAFCA) to obtain the necessary financial resources to provide the residents of West Sacramento the 200-year flood protection mandated by California law. Consequently, we urge LAFCo to abandon any effort to reorganize RD 537 or RD 900 with the City of West Sacramento and, instead, to find in the municipal services review that the two reclamation districts are providing necessary public services at the least possible cost.

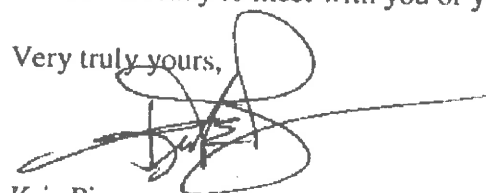
LAFCo is also in the process of considering the potential consolidation of several reclamation districts in the Elkhorn area north of the City of West Sacramento. RD 537 is actively involved in those discussions and is working with the other potentially affected agencies to develop a proposal that would provide flood protection services more effectively in the area north of the Sacramento Bypass. That potential consolidation, however, would have no effect on the southern portion of RD 537 and, consequently, should not be used by LAFCo as an excuse to reorganize the southern portion of RD 537 and RD 900 into the City of West Sacramento. Even if the proposed consolidation of the Elkhorn districts were to occur, the southern portion of RD 537 still has independent utility, a firm source of funding and extensive experience in providing flood protection to our constituents. Thus, consolidation into the City of West Sacramento would serve no beneficial purpose.

For all of these reasons, we urge LAFCo to reach the following conclusions in the municipal services review:

- (1) The existing flood control districts in the Elkhorn area and within the City of West Sacramento are providing flood protection services effectively and efficiently.
- (2) It is possible that the consolidation of the flood control districts in the Elkhorn area could provide an enhanced level of flood protection more efficiently; those districts are working together to determine whether or not such enhanced and more efficient services are possible. However, it is premature for LAFCo or any other party to evaluate such a proposal until the districts involved in the potential consolidation develop a plan.
- (3) The consolidation of RD 537 and RD 900 into the City of West Sacramento would impair the provision of public services to the residents of West Sacramento for the reasons stated above and in the RD 900 letter to LAFCo dated September 18, 2017. Accordingly, no such proposal should be pursued by LAFCo or others.

RD 537 is ready to meet with you or your staff, if you so desire, to discuss this matter further.

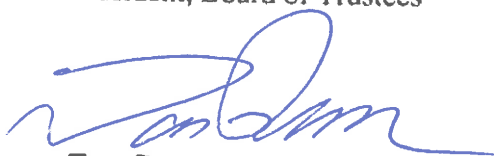
Very truly yours,



Kris Pigman
President, Board of Trustees



Kent Lang
Trustee



Tom Ramos
Trustee