Subject: Request by Sutter Butte Flood Control Agency (SBFCA) to Grant Easements for Portions of Levees that Lie Under County Owned Road Rights of Way

Department: Public Works

Contact: Dennis Schmidt (TF) Phone: 530.538.7681

Meeting Date Requested: May 21, 2019

Regular Agenda ☐ Consent Agenda ☒

Department Summary: (Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background as necessary).

SBFCA is in the process of acquiring the necessary easements from government-owned parcels within the Feather River West Levee Project to properly allow maintenance of these newly constructed facilities. Since these are government-owned parcel(s), SBFCA (representing the Sacramento San Joaquin Drainage District [SSJDD]) is only requesting an easement over the parcel for levee operation and maintenance purposes. Currently, State Maintenance Area 7 (MA7) performs the levee operation and maintenance in this area, although it has no formal land right to be on the property and perform operation and maintenance duties. The easement will be transferred to SSJDD, who in turn will transfer the operations and maintenance duties to State MA7. SBFCA is taking this approach with all government owned property within the levee areas in both Butte and Sutter Counties.

SBFCA requests, and the Public Works Department recommends, the Board of Supervisors grant the easements and authorize the Chair to execute the necessary easement documents on behalf of the County.

Fiscal Impact:

Does not apply.

Personnel Impact:

Does not apply.

Action Requested:

Grant easement and authorize the Chair to sign easement documents.

Administrative Office Review: Andy Pickett, Deputy Chief Administrative Officer

Revised: April, 2019
EASEMENT DEED

Feather River West Levee
1479 O.R. 172; 2286 O.R. 542; 86 O.R. 329

COUNTY OF BUTTE ("Grantor") GRANTS to SUTTER BUTTE FLOOD CONTROL AGENCY ("Agency"), a public joint powers authority, and its successors and assignees, an exclusive perpetual easement in, on, over, along, across and beneath that certain real property in the County of Butte, State of California, described in Exhibits A-1, A-2, and A-3, hereinafter called the "Easement Area."

1. The rights herein acquired by the Agency include without limitation:

   a. The Agency may use the Easement Area to construct, operate, maintain, inspect, repair, reconstruct, and improve flood control works, which shall include, but not be limited to, access, haul, and patrol roads, levees, embankments, berms, cut off walls, and relief wells (hereinafter collectively referred to as "Flood Control Works").

   b. The Agency may use the Easement Area to operate and maintain any Flood Control Works in conformity with the Code of Federal Regulations, Corps of Engineers' Standard Operation and Maintenance Manual, and State of California Standards, as the standards may be revised from time to time.

   c. Agency may temporarily or permanently clear and remove from the Easement Area any and all natural or artificial obstructions, improvements, trees and vegetation necessary for construction, operation, maintenance, inspection, repair, reconstruction and improvement of Flood Control Works and for the purpose of emergency flood fights. This provision does not apply to the Grantor’s existing facilities.
d. Agency may temporarily or permanently place or deposit in the Easement Area earth, debris, sediment, or other materials, including materials placed or deposited, necessary for the construction, operation, maintenance, repair, reconstruction and improvement of Flood Control Works and for the purpose of emergency flood fights.

e. Agency may excavate and remove from the Easement Area earth, debris, sediment, or other material for the construction, operation, maintenance, repair, reconstruction, and improvement of Flood Control Works and for the purpose of emergency flood fights.

f. Agency may locate or relocate roads and public utility facilities of Agency or others within the Easement Area.

g. Agency may allow for the flowage of waters and materials across the Easement Area that may result in erosion.

h. Agency shall be permitted to make the rights provided under this easement available to other flood control entities responsible for flood fighting and for the construction, operation, maintenance, inspection, repair, reconstruction and improvement of Flood Control Works.

i. Agency may restrict any use by others which may interfere with any of the uses listed herein or any use necessary or incidental thereto and may exclude trespassers.

2. Agency and its successors and assigns, without limitations, shall exercise the rights granted herein in a manner that minimizes obstructions of public roadways. Any obstructions of public roadways must be temporary and shall be no longer than reasonably necessary under the circumstances.

3. The Grantor and its successors and assigns, without limitations, are precluded from performing the following activities in the Easement Area:

   a. Constructing structures or improvements without approval of an encroachment permit from the Central Valley Flood Protection Board.

   b. Storing any materials or debris.

   c. Erecting any fences which limit the otherwise permissible activities of the Agency.

   d. Exploring, extracting, removing, drilling, mining, or operating through the surface or upper 100 feet of the subsurface to obtain an interest in any materials, including oil and gas. This provision does not apply to the Grantor exploring, drilling or operating groundwater wells pursuant to a permit from the Central Valley Flood Protection Board.

4. The Easement Area may be used by Grantor for roadways, open space, agricultural, and recreational purposes which do not interfere with the purposes of the easement as described herein.
5. The provisions hereof shall inure to the benefit of and be binding upon the Grantor and the Agency and their respective successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this easement this _____ day of ________________, 2019.

GRANTOR

COUNTY OF BUTTE

________________________________________
Signature

________________________________________
Title

Date: ________________________________

Certificate of Acceptance:

This is to certify that the interest in real property conveyed by this Easement Deed from COUNTY OF BUTTE to the SUTTER BUTTE FLOOD CONTROL AGENCY, is hereby accepted on behalf of the SUTTER BUTTE FLOOD CONTROL AGENCY conferred by the Board of Directors of said AGENCY in Resolution Number 2012-01 adopted on January 11, 2012, and the Agency consents to recordation thereof by its duly authorized officer.

Dated _____ By _________________________
Michael Bessette
Interim Executive Director
ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ________________________________

On ______________________ before me, ________________________________
(insert name and title of the officer)

personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________  (Seal)
EXHIBIT A-1

COUNTY OF BUTTE
LEVEE EASEMENT AREA
EAST GRIDLEY ROAD

Being a portion of the Lands of the County of Butte (COB), as described in the Final
Order of Condemnation, recorded in Book 1479 of Official Records, at Page 172, Butte
County Recorder and a portion of East Gridley Road, as shown on the Official Map, filed
in Book 2 of Maps, at Page 131, said County Records, also being a portion of projected
Section 33, Township 18 North, Range 3 East, M.D.B.& M., in Boga Rancho, located in
the unincorporated area, County of Butte, State of California, lying within the parcel
more particularly described as follows:

BEGINNING at a point on the southerly line of the Lands of Bains (Bains), described as
PARCEL II in the Grant Deed, recorded as Document #2006-0050089, said County
Records, also being the most northerly northwest corner of the Sacramento and San
Joaquin Drainage District Easement (SSJDD), described as PARCEL “A” in the
Indenture, recorded in Book 719 of Official Records, at Page 576, said County Records,
said POINT OF BEGINNING being North 55° 57” 29” East, a distance of 1405.26 feet,
more or less, from the southwest corner of said Section 33, also being North 78° 00’ 22”
East, a distance of 3848.28 feet from a found 2-inch brass disk, said disk is shown on
the Parcel Map, filed in Book 139 of Maps, at Page 57, said County Records, as the
South quarter corner of Section 32, Township 18 North, Range 3 East, M.D.B.&M., also
being South 35° 24’ 31” East, a distance of 6571.56 feet from a found 1/2-inch iron pipe,
said pipe shown on said Parcel Map, as the centerline intersection of Larkin Road and
Ord Ranch Road; thence leaving said POINT OF BEGINNING, along the westerly line
of said SSJDD, the following three (3) courses and distances:

1. South 34° 02’ 31” East, a distance of 27.00 feet;

2. South 55° 57’ 29” West, a distance of 66.71 feet;

3. South 33° 20’ 11” East, a distance of 40.08 feet, more or less, to a point of
   intersection with said southeasterly line of said COB;

Thence along said southeasterly line of COB, South 55° 57’ 42” West, a distance of
12.40 feet to a point being 12.00 feet westerly of the existing landslide toe of levee;
thence entering into said COB, along a line being 12.00 feet westerly of and parallel
with said toe of levee, North 49° 01’ 47” West, a distance of 9.14 feet; thence contining
within said COB, North 38° 19’ 54” West, a distance of 58.41 feet, more or less, to a
point of intersection with said southerly line of Bains, also being 9.12 feet westerly of
said toe of levee; thence along said southerly line of Bains, North 55° 57’ 29” East, a
distance of 86.34 feet, more or less, to the POINT OF BEGINNING.

Containing 0.07 Acres, more or less.
Basis of Bearings for this description is the California State Plane Coordinate System, Zone 2, CCS83, Epoch Date 2007, as measured between NGS Stations "LOMO" (N: 2206777.265 E: 6663164.949) and "CREST RM2" (N: 2293149.470 E: 6681087.967). Said Bearing is taken to bear North 11° 43' 23" East.

Distances herein described are Grid distance values. Multiply Grid distances by 1.000076711 to obtain ground distance values.

August 14, 2017

The above legal description is based upon record information only.

END OF DESCRIPTION
EXHIBIT A-2

COUNTY OF BUTTE
LEVEE EASEMENT AREA
2286-OR-542

Being a portion of the Lands of the County of Butte (COB), as described in the Grant Deed recorded in Book 2286 of Official Records, at Page 542, Butte County Recorder, also being a portion of projected Section 16, Township 18 North, Range 3 East, M.D.B. & M., in Fernandez Rancho, located in the unincorporated area, County of Butte, State of California, lying within the parcel more particularly described as follows:

BEGINNING at the northwest corner of Parcel "A", as described in the Final Order and Decree of Condemnation, recorded in Book 720 of Official Records, at Page 243, said County Records, also being a point on the northerly line of said COB and a point on the north line of Lot 32, as shown on the Map entitled "Hatch and Rock Orchard Tract Subdivision No. 2", filed in Book 6 of Maps, at Page 64, said County Records, said POINT OF BEGINNING being North 88° 36' 25" East, a distance of 174.24 feet, more or less, from the northeast corner of said COB, also being South 06° 59' 54" West, a distance of 4350.11 feet from a found 1½-inch iron pipe with brass cap, designated "ORO-B-96-6", as said pipe is shown on the DWR Right-of-Way Map, Dwg No. 04-70, also being North 36° 46' 41" East, a distance of 3614.14 feet from a found 2-inch iron pin, said pin shown on the Record of Survey, filed in Book 137 of Maps, at Page 76, said County Records, as the centerline intersection of Larkin Road and Almond Avenue; thence leaving said POINT OF BEGINNING, entering into and crossing said COB, along the westerly line of said Parcel "A", South 00' 48' 39" East, a distance of 30.00 feet, more or less, to a point of intersection with the south line of said COB, also being the north line of Parcel 4 of the Map entitled "Parcel Map for Clinton W. Moffitt", filed in Book 67 of Maps, at Page 8, said County Records; thence along said south line of COB, South 88° 36' 25" West, a distance of 23.51 feet to a point being 30.00 feet westerly of the existing landside toe of levee; thence entering into and crossing said COB, along a line being 30.00 feet westerly of and parallel with said toe of levee, the following two (2) courses and distances:

1. North 09° 25' 35" East, a distance of 11.18 feet;

2. North 30° 37' 43" East, a distance of 22.43 feet, more or less, to a point of intersection with said north line of COB;

Thence along said north line of COB, North 88° 36' 25" East, a distance of 9.82 feet, more or less, to the POINT OF BEGINNING.

Containing 545 Square Feet, more or less.
Basis of Bearings for this description is the California State Plane Coordinate System, 
Zone 2, CCS83, Epoch Date 2007, as measured between NGS Stations “LOMO” 
(N: 220677.265 E: 6663164.949) and “CREST RM2” (N: 2293149.470 
E: 6681087.967). Said Bearing is taken to bear North 11° 43’ 23” East.

Distances herein described are Grid distance values. Multiply Grid distances by 
1.000076711 to obtain ground distance values.

May 19, 2017

The above legal description is based upon record information only.

END OF DESCRIPTION

[Signature]

PROFESSIONAL LAND SURVEYOR

STATE OF CALIFORNIA

PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

- 3 -
That certain parcel of land lying within the Rio Bonito North Subdivision in Butte County, California, as the same appears on the Map of said Subdivision filed in the office of the County Recorder of Butte County, California, and more particularly described as follows:

Beginning at a point on the center line of Biggs Avenue which point bears N. 00° 48’ W. distant twenty (20) feet from the Northwest corner of Lot No. 28 Rio Bonito North Subdivision, thence N. 00° 48’ W. thirty-five (35) feet to a point, thence S. 89° 10’ W. eight hundred (800) feet to a point, thence S. 00° W. 48’ E. thirty-five (35) feet to a point on the center line of Biggs Avenue, thence following the center line of Biggs Avenue N. 89° 10’ E. eight hundred (800) feet to the point of beginning, containing 0.643 acres more or less.