



**Contra
Costa
County**

To: Contra Costa County Flood Control District Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: October 22, 2019

Subject: West Antioch Creek at 10th Street Drainage Improvement Project — Source of funds for payment of
Condemnation Action. Project No. 7579-6D8399

RECOMMENDATION(S):

Acting as the governing body of the Contra Costa County Flood Control and Water Conservation District (Flood Control District), APPROVE and AUTHORIZE the Chief Engineer, or designee, to use funds from Flood Control District Fund No. 250500 to pay approximately \$920,000 towards settlement and additional costs incurred in *Contra Costa County Flood Control and Water Conservation District v. Gary A. Eames, et al.*, Case No. C15-02052, as recommended by the Chief Engineer, Antioch area.

FISCAL IMPACT:

Up to \$920,000 from Fund No. 250500 will be used to pay the settlement in the *Eames* case and other Flood Control District expenses related to the *Eames* case. An additional of approximately \$420,000 in Drainage Area 55 (DA 55) funds will be contributed to the settlement.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **10/22/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Diane Burgis, District III
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 22, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Tim Jensen, (925)
313-2390

BACKGROUND:

On June 11, 2019, the Board of Supervisors approved a settlement in litigation titled *Contra Costa County Flood Control and Water Conservation District v. Gary A. Eames, et al.*, Case No. C15-02052 — a condemnation action to acquire property for the West Antioch Creek Channel Improvements project in DA 55. When the settlement was approved, Flood Control District staff anticipated that \$1.4 million in DA 55 funds would be available to pay the Flood Control District's portion of the settlement — \$1.1 million in addition to the \$750,000 already deposited with the State Treasurer — and related litigation costs. After judgment was entered in the *Eames* case on September 16, 2019, staff determined that only approximately \$480,000 is available in the DA 55 fund. Therefore, staff recommends using funds from Flood Control District Fund No. 250500 to pay the balance of the settlement (approximately \$620,000) and the Flood Control District attorney's fees and other costs incurred in the *Eames* case (up to approximately \$300,000). Monies in Fund No. 250500 are not restricted to a particular drainage area and can be used for any Flood Control District expenses.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board Order is not approved, the Flood Control District will not have sufficient funds in the DA 55 account to pay a settlement in the *Eames* case, or its outstanding litigation costs, and the Flood Control District will be exposed to additional liabilities.