

# SUPPLEMENTAL BENEFITS FUND

## STEERING COMMITTEE

### REGULAR QUARTERLY MEETING



Oroville City Hall – Council Chambers  
1735 Montgomery Street  
Oroville, California 95965

**OCTOBER 24, 2018**

**5:30 P.M.**

**AGENDA**

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*This meeting may be broadcast remotely via audio and/or video conference at the following addresses:  
Cota Cole, LLP, 200 Fred Kane Dr. #200, Monterey, CA 93940, (916) 223-3434*

#### **CALL TO ORDER**

#### **PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

**Committee Members (voting):** FRRPD; Gary Emberland, FRRPD; Linda Dahlmeier, City of Oroville; Linda Draper, City of Oroville; Victoria Smith, FRRPD (Vice Chairperson); Scott Thomson (Chairperson), City of Oroville

#### **Advisory Members (non-voting):**

Committee Members DWR – Eric See; SWC – Tim Haines, Michael Melanson (alternate); American Rivers – Steve Rothert, Dave Steindorf (alternate); Chamber of Commerce – Kevin Zeitler

#### **RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS**

This is the time the SBF Chairperson will invite anyone in the audience wishing to address the SBF on a matter that is on the agenda. When that item comes up on the agenda, you will be asked to step to the podium, repeat your name for the record, and make your presentation, or ask questions, regarding the agenda item. Following your remarks, the SBF Steering Committee and/or staff may respond to your comments or questions. *Under Government Code section 59454.3 the time allotted for presentations may be limited. Presentations are limited to three minutes per person.*

#### **CONSENT CALENDAR**

- 1. APPROVAL OF THE MINUTES OF THE JULY 25, 2018, REGULAR MEETING –**  
minutes attached
- 2. APPROVAL OF THE MINUTES OF THE AUGUST 27, 2018, SPECIAL MEETING –**  
minutes attached

**3. REIMBURSEMENT FROM THE SUPPLEMENTAL BENEFITS FUND TO THE CITY OF OROVILLE FOR ADMINISTRATIVE EXPENSES – staff report**

The Committee may consider a request for reimbursement to the City of Oroville, in the amount of \$14,033.77 covering July 1, 2018 through September 30, 2018 for SBF Administrative expenses. Staff Report (Jordan Daley, SBF Program Specialist<sup>1</sup>)

Committee Action Requested: **INFORMATIONAL ONLY**

**UPDATES**

**4. Feather River Conceptual Plan (FRPC) “A Vision for the Future of the Low Flow Channel” (Jordan Daley, SBF Program Specialist)**

All edits to the FRCP were completed and an electronic version was provided to the SBF Steering Committee on September 5, 2018 and published on the City of Oroville SBF page. Printed copies are in the process of being produced and will be distributed to the Steering Committee at a later date.

**5. Oroville Area Chamber of Commerce**

The SBF Steering Committee on January 17, 2018 approved a request from the Oroville Area Chamber of Commerce for funding in the amount of \$50,000 to assist in marketing for the Oroville Region for a 12-month period. Due to the administrative personnel changes at the Chamber, the quarterly report has not been received. It will be included in the next SBF Steering Committee meeting.

**6. 2018 NOFA**

On October 11, 2018 a workshop was held with 18 attendees. The PowerPoint presentation from the workshop was published after the meeting on the City of Oroville SBF page. To date we have had a few inquiries and have met with three potential applicants. The closing date for all applications October 25, 2018 at 4pm. Once applications are received we will begin the vetting process and set a special meeting (date to be determined) of the SBF Steering Committee.

**7. Upstate Community Enhancement Foundation (Event Coordinator)**

The Salmon Festival was held on Saturday September 22, 2018, preliminary reports indicate attendance at the Fish Hatchery was up however overall attendance was less than last year. A complete report will be provided at the next quarterly meeting.

**REGULAR BUSINESS**

**8. The committee will receive information regarding the purchase of ten (10) Motorola T465 Two Way Radios in the amount of \$470.00 plus tax and shipping. Staff report (Jordan Daley, SBF Program Specialist)**

Committee Action Requested: **(1) RECEIVE INFORMATION AND APPROVE REQUEST (2) OR PROVIDE DIRECTION.**

9. **The committee will receive a contract modification request to increase funding for Marciniak Consulting Services in the amount of \$12,000. Staff report** (Bill LaGrone, Assistant SBF Fund Administrator)

Committee Action Requested: **(1) RECEIVE INFORMATION AND APPROVE REQUEST (2) OR PROVIDE DIRECTION.**

#### **STEERING COMMITTEE ADVISORY MEMBERS AND STAFF COMMENTS**

10. **DEPARTMENT OF WATER RESOURCES ADVISOR REPORT** (Eric See)  
Verbal report
11. **STATE WATER CONTRACTORS ADVISOR REPORT** (Tim Haines or Michael Melanson, alternate) Verbal report
12. **SUPPLEMENTAL BENEFITS FUND PROGRAM SPECIALIST REPORT** (Jordan Daley, SBF Program Specialist) Written report

#### **CORRESPONDENCE –**

Notification letter from the Federal Energy Regulatory Commission regarding Project No.2100-187. Order Denying Temporary Amendment to Recreation Plan (copy attached).

#### **HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS**

This is the time the SBF Chairperson will invite anyone in the audience wishing to address the SBF Steering Committee on a matter not listed on the agenda to step to the podium, state your name for the record and make your presentation. **Presentations are limited to 3 minutes.** Under Government Code Section 54954.2, The Council is prohibited from taking action except for a brief response by the SBF Steering Committee or staff to a statement or question relating to a non-agenda item.

#### **SBF CHAIRPERSON CALL FOR AGENDA ITEMS**

The SBF Chairperson will request agenda items from the Steering Committee, SBF Advisors, and SBF Staff for the January 23, 2019 Regular Quarterly Meeting of the SBF Steering Committee.

#### **ADJOURNMENT**

The meeting will be adjourned. The next regular quarterly meeting of the Supplemental Benefits Fund Steering Committee will be held on Wednesday, January 23, 2019 at 5:30 p.m.

***Accommodating Those Individuals with Special Needs*** – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

# Consent Calendar

**SBF Steering Committee Meeting**

**October 24, 2018**



## SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE



### JULY 25, 2018 – REGULAR MEETING

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**Note:** the following minutes provide a succinct recap of actions taken at the meeting. A complete recorded transcript is available by contacting the SBF Program Specialist at (530) 538-2518. There was not a broadcast remotely via audio and/or video conference to Cota Cole, LLP, 3401 Centrelake Dr. Suite 670, Ontario, CA 91761 (916) 780-9009.

The agenda for the July 25, 2018, Regular Meeting of the Supplemental Benefits Fund Steering Committee was posted at the front of City Hall and electronically on the City of Oroville website, [www.cityoforoville.org](http://www.cityoforoville.org) on Thursday, July 19, 2018 at 3:55 P.M.

The July 25, 2018, Supplemental Benefits Fund Steering Committee Regular Meeting was called to order by Vice Chairperson Victoria Smith at 5:32 P.M.

#### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Vice Chairperson Victoria Smith.

#### **ROLL CALL**

**Present: Voting Committee Members:** Committee Members, Gary Emberland, FRRPD; Linda Dahlmeier, City of Oroville; Linda Draper, City of Oroville; Vice Chairperson, Victoria Smith, FRRPD

**Absent Voting Committee Members:** SBF Chairperson Scott Thomson, City of Oroville

**Advisory Committee Members (non-voting):** DWR, Eric See; Oroville Area Chamber of Commerce Wilma Compton (alternate)

**Absent Advisory Committee Members (non-voting):** Steve Rotherth, American Rivers; Tim Haines, State Water Contractors; Michael Melanson (alternate), State Water Contractors; Kevin Zeitler, Oroville Area Chamber of Commerce; Dave Steindorf (alternate) American Rivers

**Others Present:**

Bill LaGrone, Assistant SBF Fund Administrator  
Jackie Glover, SBF Recording Clerk  
Bob Marciniak, Marciniak Consulting Services  
Liz Ehrenstrom, HR City of Oroville

**CONSENT CALENDAR**

1. **APPROVAL OF THE MINUTES OF THE APRIL 25, 2018, REGULAR MEETING** – minutes attached
2. **APPROVAL OF THE MINUTES OF THE JUNE 27, 2018, SPECIAL MEETING** – minutes attached
3. **REIMBURSEMENT FROM THE SUPPLEMENTAL BENEFITS FUND TO THE CITY OF OROVILLE FOR ADMINSTRATIVE EXPENSES** – staff report

The Committee may consider a request for reimbursement to the City of Oroville, in the amount of \$13,919.29 covering March 16, 2018 through June 30, 2018 for SBF Administrative expenses. Staff Report (Bob Marciniak, MCS<sup>1</sup>)

Committee Action Requested: **AUTHORIZE THE SBF FUND ADMINISTRATOR TO SIGN INVOICE TRANSMITTAL NO. AE2018-3 FOR SBF REIMBURSEMENT IN THE AMOUNT OF \$13,919.29 RELATING TO SBF ADMINISTRATIVE EXPENSES.**

There was no discussion of the Consent Calendar. A motion to approve the Consent Calendar was made by Committee Member Dahlmeier and seconded by Committee Member Emberland. The motion passed by the following vote:

Ayes:	Committee Members Dahlmeier, Draper, Emberland, and Vice Chairperson Smith.
Noes:	None
Abstain:	None
Absent:	Chairperson Thomson

**UPDATES**

4. **Feather River Conceptual Plan “A Vision for the Future of the Low Flow Channel”** (Bob Marciniak, MCS)

ESA provided electronic PDF versions of the FRCP which previously was known as The Feather River Consolidated Master Plan to allow the SBF Program Specialist to enter

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<sup>1</sup> MCS is Marciniak Consulting Services which is under a contract with the SBF expiring January 11, 2019 to provide technical and training assistance to the SBF Program Specialist and SBF Fund Administrator.



revisions and clarifications to the FRCP. An updated version of adobe/pdf was acquired by the City of Oroville to facilitate this process. Progress on the revisions was not made since the last SBF Steering Committee Meeting. MCS will begin the process soon and have the revised copy published when completed. It is anticipated this should occur by the end of August 2018.

**5. Oroville Area Chamber of Commerce**

The SBF Steering Committee on January 17, 2018 approved a request from the Oroville Area Chamber of Commerce for funding in the amount of \$50,000 to assist in marketing for the Oroville Region for a 12-month period. A copy of the April 1, 2018 through June 30, 2018 quarterly report was presented to the SBF Steering Committee.

**REGULAR BUSINESS**

**6. The committee will receive the close out of the July 1, 2017 – June 30, 2018 SBF Administrative Budget. Staff report. (Bob Marciniak, MCS)**

Committee Action Requested: **RECEIVE INFORMATION, NO ACTION REQUIRED.**

**7. The committee will receive information about the vacant SBF Program Specialist position. Staff report (Bob Marciniak, MCS)**

Committee Action Requested: **RECEIVE INFORMATION AND PROVIDE DIRECTION IF APPROPRIATE.**

After discussion, staff was directed to begin the recruitment process for a SBF Program Specialist. Staff was also directed to bring back information regarding a potential use of a consultant for some matters related to the SBF.

**8. The committee may consider a contract modification with Marciniak Consulting Services, increasing funding by \$6,000 to cover the gap caused by the resignation of the SBF Program Specialist. Staff report (Bill LaGrone, Assistant SBF Fund Administrator)**

Committee Action Requested: **(1) APPROVE THE CONTRACT MODIFICATION; (OR) PROVIDE DIRECTION**

After discussion, a motion to approve the Contract Modification was made by Committee Member Dahlmeier and seconded by Committee Member Draper.

The motion passed by the following vote:

Ayes: Committee Members Dahlmeier, Draper, Emberland, and Vice Chairperson Smith.  
Noes: None  
Abstain: None  
Absent: Chairperson Thomson



9. **The committee may consider approving a new two-year contract with Upstate Community Enhancement Foundation – staff report (Bob Marciniak, MCS)**

Committee Action Requested: **(1) APPROVE THE \$51,500 REQUEST OR, (2) PROVIDE DIRECTION**

After discussion, a motion to approve the two-year contract in the amount of \$51,500 was made by Committee Member Draper and seconded by Committee Member Emberland. The motion passed by the following vote:

Ayes: Committee Members Dahlmeier, Draper, Emberland, and Vice Chairperson Smith.  
Noes: None  
Abstain: None  
Absent: Chairperson Thomson

10. **The committee may consider a request from the Oroville Downtown Business Association (ODBA) for funding in the amount of \$75,000 for marketing and a beautification project in the Historic Downtown District- staff report (Bob Marciniak, MCS)**

Committee Action Requested: **RECEIVE THE INFORMATION AND (1) APPROVE FUNDING OF \$75,000 OR A LESSOR AMOUNT FROM THE MARKETING/COMMUNITY BENEFIT FUND; OR, (2) PROVIDE DIRECTION.**

After discussion staff was directed to set up a meeting with representatives of the ODBA and the City of Oroville to discuss items that are the responsibility of the City of Oroville and to then provide guidance to the ODBA to refine the request and submit it when the NOFA regarding the Marketing/Community Benefit Fund is released.

11. **The committee may consider issuing a Notice of Funds Available (NOFA) for projects -- staff report (Bob Marciniak, MCS)**

Committee Action Requested: **RECEIVE THE INFORMATION AND (1) ALLOCATE FUNDS TO A NOFA OR NOFAS; OR, (2) PROVIDE DIRECTION.**

After discussion, a motion was made by Committee Member Dahlmeier and seconded by Committee Member Draper for staff to prepare a NOFA, for review and approval of the SBF Steering Committee who also will establish the release date once approved, in the amount(s) of:

**\$230,000.00 (Marketing/Community Benefit Fund)** limited to project(s) requested within the Greater Oroville Area, SBF Project Consideration Priority Map (approved 07/07/2016) with a \$25,000 minimum request and 25% matching funds requirement (cash or in-kind services) and,

**\$2,300,000.00 (Combined Project Fund and Revolving Loan Fund)** for projects within Reach 1 through Reach 6 as detailed in the Feather River Conceptual Plan, "A Vision for the Low Flow Channel of the Feather River", (approved 11/30/2017) with a minimum request of

\$25,000 and a 50% matching funds requirement (cash and/or in-kind services). The 50% requirement may be adjusted by the SBF Steering Committee if compelling information is presented.

The motion passed by the following vote:

Ayes: Committee Members Dahlmeier, Draper, Emberland, and Vice Chairperson Smith.  
Noes: None  
Abstain: None  
Absent: Chairperson Thomson

### **STEERING COMMITTEE ADVISORY MEMBERS AND STAFF COMMENTS**

12. **DEPARTMENT OF WATER RESOURCES ADVISOR REPORT** (Eric See)  
Verbal report. Mr. See introduced Liza Whitemore who is the new Public Information Officer assigned to the Oroville Region for DWR. Mr. See provided a handout (attached) detailing the various projects that DWR currently has completed and have underway. Mr. See also announced that the portion of Oroville Dam Blvd. that has been closed since the Spillway Incident will be re-opened to the public by July 31, 2018. Due to continued construction activities the speed limit from Canyon Road to Glenn Drive will be set and posted at 25mph.
13. **STATE WATER CONTRACTORS ADVISOR REPORT** (Michael Melanson, alternate)  
Verbal report
14. **SUPPLEMENTAL BENEFITS FUND PROGRAM SPECIALIST REPORT** (Bob Marciniak, MCS) Written report, Mr. Marciniak also provided an updated spreadsheet detailing SBF funds and expenditures from 2006 to date.

### **RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON NON-AGENDA ITEMS**

#### **CORRESPONDENCE**

- None

#### **HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS**

None

#### **SBF CHAIRPERSON CALL FOR AGENDA ITEMS**

The SBF Chairperson will request agenda items from the Steering Committee, SBF Advisors, and SBF staff for the October 24, 2018, Regular Quarterly Meeting of the SBF.

1. Staff to set date for Special Meeting of the SBF Steering Committee to review and approve NOFA format

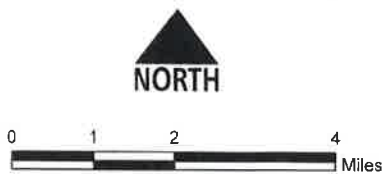
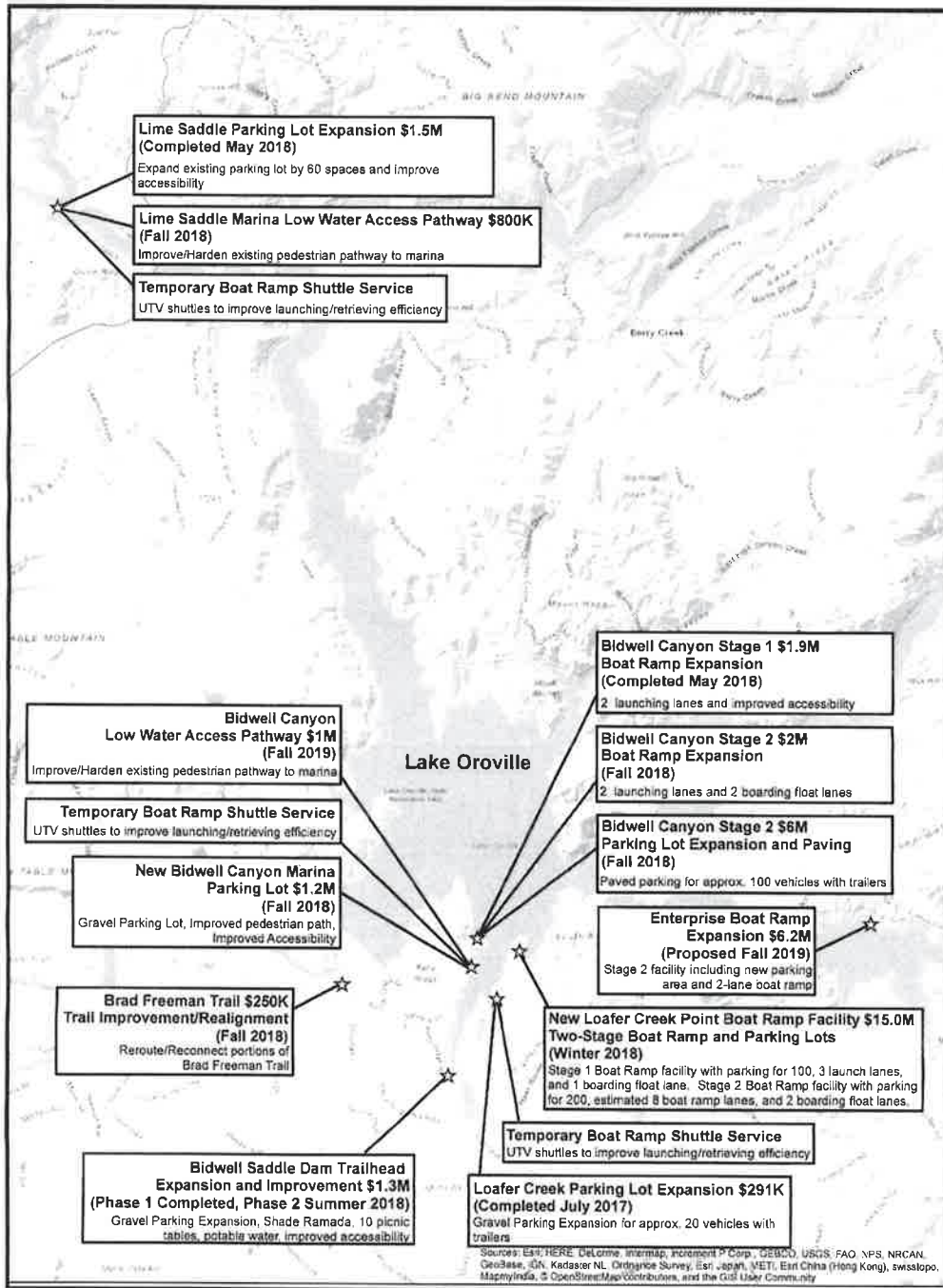
### **ADJOURNMENT**

The meeting was adjourned at 8:25 P.M.

The next regular Quarterly Meeting of the Supplemental Benefits Fund Steering Committee will be held on Wednesday, October 24, 2018 starting at 5:30 P.M. in the Council Chambers of the City of Oroville.

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Victoria Smith, SBF Vice Chairperson



STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

**CURRENT RECREATION IMPROVEMENTS**

1-7

# SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE



## AUGUST 27, 2018 – SPECIAL MEETING

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**Note:** the following minutes provide a succinct recap of actions taken at the meeting. A complete recorded transcript is available by contacting the SBF Program Specialist at (530) 538-2518. There was not a broadcast remotely via audio and/or video conference to Cota Cole, LLP, 2261 Lava Ridge Ct, Roseville, CA 95661 (916) 780-9009

The agenda for the August 27, 2018, Special Meeting of the Supplemental Benefits Fund Steering Committee was posted at the front of City Hall and electronically on the City of Oroville website, [www.cityoforoville.org](http://www.cityoforoville.org) on Tuesday, August 21, 2018 at 12:17 P.M.

The August 27, 2018, Supplemental Benefits Fund Steering Committee Regular Meeting was called to order by Chairperson Scott Thomson at 1:02 P.M.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chairperson Scott Thomson.

### ROLL CALL

Present: Voting Committee Members: Committee Members, Gary Emberland, FRRPD; Linda Dahlmeier, City of Oroville; Linda Draper, City of Oroville; Vice Chairperson, Victoria Smith, FRRPD, Chairperson, Scott Thomson, City of Oroville

Absent Voting Committee Members: None

Advisory Committee Members (non-voting): DWR, Eric See; Oroville Area Chamber of Commerce Kevin Zeitler; American Rivers, (alternate) Dave Steindorf; and State Water Contractors, Tim Haines

Absent Advisory Committee Members (non-voting): Steve Rothert, American Rivers

### **Others Present:**

Tom Lando, Acting SBF Fund Administrator  
Jackie Glover, SBF Recording Clerk  
Bob Marciniak, Marciniak Consulting Services

2-1

## REGULAR BUSINESS

6. The committee will receive information related to the offering of a NOFA (Notice of Funds Available) with allocations of \$230,000.00 (Marketing/Community Benefit Fund) and \$2,300,000.00 (Combined Project Fund and Revolving Loan Fund) Staff report. (Bob Marciniak, MCS)

Committee Action Requested: **RECEIVE INFORMATION, (1) APPROVE THE NOFA AS PRESENTED; EDIT THE NOVA; (OR) PROVIDE DIRECTION**

After discussion, a motion to approve the release of the NOFA, as presented, was made by Vice Chairperson Smith and seconded by Committee Member Draper.

The motion passed by the following vote:

Ayes: Committee Members Draper, Emberland, Vice Chairperson Smith and Chairperson Thomson  
Noes: None  
Abstain: Committee Member Dahlmeier  
Absent: None

## COMMENTS FROM THE SBF CHAIRPERSON

Chairperson Thomson asked Eric See (DWR) when the billboards on Hwy 99 would be re-done. They are in a state of disrepair and are not the image Oroville wants. Mr. See responded that he had been working with the Oroville Area Chamber of Commerce on a new design. He did not have a completion date but was hopeful it would be resolved prior to the next SBF meeting.

## RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON NON-AGENDA ITEMS

- Tasha Levinson: Asked the SBF Steering Committee to keep in mind the SBF Vision Statement & Mission when considering new projects and to make sure that any project approved has a sustainability aspect.

## CORRESPONDENCE

- None

## SBF CHAIRPERSON CALL FOR AGENDA ITEMS

The SBF Chairperson will request agenda items from the Steering Committee, SBF Advisors, and SBF staff for the October 24, 2018, Regular Quarterly Meeting of the SBF.

1. Update on NOFA applications
2. Update on interviewing process for the vacant SBF Program Specialist

**ADJOURNMENT**

The meeting was adjourned at 1:21 P.M.

The next regular Quarterly Meeting of the Supplemental Benefits Fund Steering Committee will be held on Wednesday, October 24, 2018 starting at 5:30 P.M. in the Council Chambers of the City of Oroville.

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Scott Thomson, Chairperson

DWR Handout:

**SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE  
STAFF REPORT**

**TO: SBF CHAIRPERSON AND COMMITTEE MEMBERS**

**FROM: JORDAN DALEY, SBF PROGRAM SPECIALIST  
BILL LAGRONE, ASSISTANT SBF FUND ADMINISTRATOR**

**RE: AUTHORIZATION TO REQUEST REIMBURSEMENT TO THE  
CITY OF OROVILLE FOR SBF ADMINISTRATIVE EXPENSES**

**DATE: OCTOBER 24, 2018**

**SUMMARY**

The City of Oroville, as SBF Fund Administrator, processed SBF administration expenses in the amount of \$14,033.77 for July, August and September 2018. These expenses are within the approved SBF 2018-2019 budget.

**DISCUSSION**

The expenses are within the guidelines of Contract # 460007302, Exhibit A, Attachment 1, Page 10 "...administrative duties include, but are not limited to, activities associated with management of the Fund." The amount of \$14,033.77 represents actual expenses verified against City of Oroville Sungard electronic financial system charges from July, August and September 2018.

**FISCAL IMPACT SBF 9920**

Reduces previously approved 2018-2019 Administrative Budget of \$110,000 by \$14,033.77.

**RECOMMENDATION**

This report is informational only.

**ATTACHMENTS**

Budget Reconciliation  
Performa Budget/Actual Expenses



**Analysis of SBF Administrative Expenses to be submitted for reimbursement**

<u>Category</u>	<u>Jul-18</u>	<u>Aug-18</u>	<u>Sep-18</u>
Program Specialist Salary	5,262.09 *	99.54	1,385.26
Meeting Clerk	0.00	0.00	0.00
Overtime	0.00	0.00	0.00
Other Earnings/Educational Stipend	156.25	0.00	0.00
Medicare	78.58	1.44	18.30
Pers	183.80	0.00	101.99
Pers Bond	340.77	340.77	0.00
PersUnfunded Liability	553.10	553.10	0.00
Health Insurance	709.22	544.46	897.76
Group Insurance	0.00	0.00	0.00
Pers Survivor Benefit	0.00	0.00	0.00
Workmans Comp	13.04	0.57	11.91
Unemployment Ins	16.57	0.74	9.28
Postage Due/FedEX	0.00	0.00	0.00
Office Supplies	0.00	0.00	1,999.10 **
Postage/Xerox	96.34	76.83	41.64
Meeting Expenses	0.00	0.00	0.00
Transcription Services	0.00	0.00	0.00
Travel	0.00	0.00	0.00
Printing	0.00	0.00	0.00
Legal	103.80	0.00	155.70
Medical/Physical	0.00	0.00	0.00
Advertising/Legal Notices	0.00	0.00	227.00
Training Expense	0.00	0.00	0.00
Use of City vehicle	0.00	0.00	0.00
Telecommunication expense	0.00	54.82	0.00
Credit: Fees collected for records search	0.00	0.00	0.00
<b><u>Total</u></b>	<b>\$7,513.56</b>	<b>\$1,672.27</b>	<b>\$4,847.94</b>
<b><u>Total/GL</u></b>	<b>\$7,513.56</b>	<b>\$1,672.27</b>	<b>\$4,847.94</b>
<b><u>Difference</u></b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

*\*This reflects close out of Dawn Nevers Salary*

*\*\*SBF computer upgrade*

*EG*

*3-2*

**Supplemental Benefits Fund (SBF)**

**Performa Budget/Actual Expenses/Variance**

**Administrative Expenses\* 1 Year Budget: \$110,000.00**

**Fiscal Year: 07/01/2018 to 06/30/2019**

<u>Month</u>	<u>Year</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget Variance</u>	<u>DWR Billed</u>
July	2018	\$9,166.66	(\$7,513.56)	\$1,653.10	no*
August	2018	\$9,166.66	(\$1,672.27)	\$7,494.39	no*
September	2018	\$9,166.66	(\$4,847.94)	\$4,318.72	no*
October	2018	\$9,166.66			no*
November	2018	\$9,166.66			no*
December	2018	\$9,166.66			no*
January	2019	\$9,166.66			no*
February	2019	\$9,166.66			no*
March	2019	\$9,166.66			no*
April	2019	\$9,166.66			no*
May	2019	\$9,166.66			no*
June	2019	\$9,166.74			no*
<b><u>Totals:</u></b>		<b><u>\$110,000.00</u></b>	<b><u>(\$14,033.77)</u></b>	<b><u>\$13,466.21</u></b>	

\*funds are on deposit with City of Oroville

**\* Administrative Expenses include the following:**

SBF Prog Specialist/ Salary & Benefits	100%
01/2018 to end of year SBF Prg/Sp actual time	
Office expenses related to SBF	100%
Legal Expenses related to SBF	100%
Miscellaneous expenses related to SBF	100%

Actual details of line expenses are provided on the analysis of SBF Administrative expenses submitted with the City of Oroville reimbursement request.  
(SBF Program Specialist works 36hrs per week)

# Regular Business

**SBF Steering Committee Meeting**

**October 24, 2018**



**SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE  
STAFF REPORT**

**TO: SBF CHAIRPERSON AND COMMITTEE MEMBERS**

**FROM: JORDAN DALEY, SBF PROGRAM SPECIALIST  
BILL LAGRONE, ASSISTANT SBF FUND ADMINISTRATOR**

**RE: PURCHASE OF TEN (10) MOTOROLA T465 TWO WAY RADIOS**

**DATE: OCTOBER 24, 2018**

**SUMMARY**

The Committee may consider the purchase of ten (10) Motorola T465 Two Way Radios in the amount of \$470.00 plus tax and shipping for the use of events partially funded by the SBF and managed by the SBF funded Event Coordinator.

**DISCUSSION**

During a meeting with representatives of the ODBA, SBF Event Coordinator, Oroville Dam Cruisers and city staff on 10/17/2018, It was discussed that community events would greatly benefit from the purchase of Two Way Radios. This will allow better communication between the coordinator and volunteers while directing road closers, vendors, security, etc. The Two Way Radios will be kept at City Hall. The process of checking out the Two Way Radios will be the responsibility of the SBF Program Specialist and will only be checked out by authorized individuals.

**FISCAL IMPACT SBF 9920**

Reduces SBF unallocated funds by approximately \$470.00. The unallocated fund balance currently is \$399,959.52.

**RECOMMENDATION**

(1) Approve request as submitted, or (2) provide direction to staff.

**ATTACHMENTS**

Quote from Factory Outlet Store

8-1

**PAY OVER TIME WITH:**  
**Factory Financing**  
 CLICK HERE



Click to View Larger

### Motorola T400 (10 Pack)

**Two Way Radio**  
 Brand New Includes One Year Replacement  
 Warranty  
**DISCONTINUED!!**  
 Replaced by T402

Returnable: 30 Day Guarantee

**GREAT DEAL**

- Talkabout FRS/GMRS Two Way Radio
- **Up To 35 Mile Range**
- iVOX Hands-Free Communication Without the Need of an Audio Accessory
- Built-in LED Flashlight
- 2 NIMH Rechargeable Battery Packs
- 22 Channels
- Weatherproof (IP-54 Rated)

[Read More](#)

[What's Included?](#)

[More Details](#)

**Click for INSTANT QUOTE**

Availability: ✓ In Stock

**BRAND NEW**

~~\$414.99~~

**\$360.00**

[Add to Cart](#)

Pay Over Time:  
 as low as \$16.62 / month

WE'RE HERE TO HELP



Click to View Larger

### Motorola T402

**Two Way Radio**  
 Brand New Includes One Year Replacement  
 Warranty

Returnable: 30 Day Guarantee

**GREAT DEAL**

- Talkabout FRS/GMRS Two Way Radio
- **Up To 35 Mile Range**
- iVOX Hands-Free Communication Without the Need of an Audio Accessory
- Built-in LED Flashlight
- 2 NIMH Rechargeable Battery Packs
- 22 Channels
- Each with 121 Privacy Codes
- Weatherproof (IP-54 Rated)
- 2 Belt Clips

[Read More](#)

[What's Included?](#)

[More Details](#)

[View Accessories](#)

Availability: ✓ In Stock

**BRAND NEW**

~~\$414.99~~

**\$360.00**

[Add to Cart](#)

Pay Over Time:  
 as low as \$16.62 / month \*



Click to View Larger

### Motorola T465 (10 Pack)

**Two Way Radio**  
 Brand New Includes One Year Replacement  
 Warranty

Returnable: 30 Day Guarantee

- Talkabout FRS/GMRS Two Way Radio
- **Up To 35 Mile Range**
- iVOX Hands-Free Communication Without the Need of an Audio Accessory
- Built-in LED Flashlight
- **11 Weather Channels 7 NOAA w/ Alert Stations**
- 2 NIMH Rechargeable Battery Packs
- 22 Channels
- Weatherproof (IP-54 Rated)

[Read More](#)

[What's Included?](#)

[More Details](#)

[View Accessories](#)

Availability: ✓ In Stock

**BRAND NEW**

~~\$540.99~~

**\$470.00**

[Add to Cart](#)

Pay Over Time:  
 as low as \$21.69 / month \*

*8-2*

**Motorola T460 (10 Pack)** [More Details](#)

**Two Way Radio** [Click for INSTANT QUOTE](#)

Brand New Includes One Year Replacement Warranty

Availability: ✓ In Stock

Returnable: 30 Day Guarantee ⓘ

- Talkabout FRS/GMRS Two Way Radio
- iVOX Hands-Free Communication Without the Need of an Audio Accessory
- Built-in LED Flashlight
- **11 Weather Channels 7 NOAA w/ Alert Stations**
- 2 NiMH Rechargeable Battery Packs
- 22 Channels
- Weatherproof (IP-54 Rated)

[Read More](#)






[What's Included?](#)

**BRAND NEW**  
\$454.99  
**\$395.00**

[Add to Cart](#)

Pay Over Time:  
as low as \$18.23 / month

WE'RE HERE TO HELP

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1 - 5 of 5 Total

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**SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE  
STAFF REPORT**

**TO: SBF CHAIRPERSON AND COMMITTEE MEMBERS**

**FROM: BILL LAGRONE, ASSISTANT SBF FUND ADMINISTRATOR**

**RE: MODIFICATION TO AGREEMENT WITH MARCINIAK  
CONSULTING SERVICES**

**DATE: OCTOBER 24, 2018**

**SUMMARY**

The Committee will consider modifying agreement NO 3242 with Marciniak Consulting Services (MCS) for services provided to the SBF.

**DISCUSSION**

On January 17, 2018 the SBF Steering Committee approved an agreement with MCS to provide various services as detailed in the attached Exhibit A of the agreement. Compensation for the services was not to exceed \$12,000.00 during the term of the agreement.

MCS provided training and technical services to the new SBF Program Specialist from January 17, 2018 to June 30, 2018 billing for a total of 47 hours for \$2,832.50.

MCS agreed to provide on-site services to cover the vacancy created by the resignation of the SBF Program Specialist. It was anticipated that on-site coverage will be required for sixty days (15 or more hours per week) pending recruitment of an SBF Program Specialist.

MCS has provided services to fill the vacancy from July 10, 2018 until September 10, 2018 when Jordan Daley transferred from the City of Oroville Finance Department to fill the vacant SBF Program Specialist position. A schedule has been developed to

We are recommending a modification of to extend the existing contract to December 31, 2019 providing an additional \$12,000.00 in potential funding. It is anticipated that approximately \$6,000.00 will be needed to complete the training cycle of the new SBF Program Specialist, the balance of funds would only be used, on an as needed basis as requested from the Fund Administrator, during calendar year 2019. All conditions of the current agreement will remain the same.

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**FISCAL IMPACT SBF 9920**

Decreases previously unallocated funds from \$399,959.52 to \$387,959.52

**RECOMMENDATION**

1. Approve the modification; (or) 2. Provide direction.

**ATTACHMENTS**

New SBF Program Specialist Training Schedule  
Summary of MCS billings to date  
Agreement No. 3242



**SBF Program Specialist**

**Programs Used: Word, Excel, PowerPoint, Publisher, Adobe, Adobe-InDesign  
RF-Flow, Paint, Large File Transfer**

**Training Schedule/Jordan Daley**

**SBF electronic files are in the "M" drive under Supplemental Benefits Fund  
SBF information on the City Website is at [www.cityoforoville.org/govt/sbf](http://www.cityoforoville.org/govt/sbf)**

**Note: Introductions to key individuals, agencies, etc. will occur on a regular, as needed basis  
Attendance at appropriate agency off-site meetings as needed  
Attendance at the Oroville Tourism Committee (monthly)  
Interface with Chamber of Commerce, ODBA, RFD, etc.**

**Training process: on the days that MCS is in the office we will work together on specific items...other days Jordan will have assignments and pending work.**

<u>Date</u>	<u>Research/Independent Study</u>	<u>Direct Training/MCS</u> (Marciniak Consulting Service) 9am to 2pm
6-Sep Thursday	12pm to 2pm (NOFA release)	NOFA release & distribution
10-Sep Monday	Set up mail, phone, start move to new office	Address book & mail set-up
11-Sep Tuesday	Complete move to new office	Navigating SBF & other resources
12-Sep Wednesday	Mavens Notebook/what to do with it	SBF files & folders
13-Sep Thursday	Read Project 2100 S/A	<b>MCS not in the office</b>
17-Sep Monday	Read Project 2100 S/A	<b>MCS not in the office</b>
18-Sep Tuesday	DWR & Project 2100	Regional Fund Strategic Plan
19-Sep Wednesday	Understanding DWR	Feather River Conceptual Plan
20-Sep Thursday	Understanding DWR	FRRPD/City of Oroville General Plans/PLEI Plan
24-Sep Monday	Understanding DWR	<b>MCS not in the office</b>
25-Sep Tuesday	Work on PP for NOFA Workshop	Work on PP for NOFA Workshop
26-Sep Wednesday	Understanding SWC	Understanding the State Water Project
27-Sep Thursday	Understanding FERC	FERC

1-Oct Monday	Understanding the Brown Act	<b>MCS not in the office</b>
2-Oct Tuesday	Understanding the State Water Project	Purge old paper files in the closet
3-Oct Wednesday	NOFA Workshop Final Touches	Draft 10/24 SBF Q Public Meeting
4-Oct Thursday	NOFA Workshop Presentation	NOFA Workshop Presentation
8-Oct Monday	DWR Final Environmental Report	<b>MCS not in the office</b>
9-Oct Tuesday	ORAC & other SA signers	ORAC and RAC
10-Oct Wednesday	Updating SBF on the City website	Updating SBF on the City website
11-Oct Thursday	Understanding RAC	Understanding RAC
15-Oct Monday	Understanding FERC	<b>MCS not in the office</b>
16-Oct Tuesday	DWR deliverables after FERC approval	DWR deliverables after FERC approval
17-Oct Wednesday	Agenda/Staff Reports 10/24 meeting	Understanding other agencies
18-Oct Thursday	Publish/Distribute SBF Q Meeting	Publish/Distribute SBF Q Meeting
22-Oct Monday	Understand the million dollar commitment	<b>MCS not in the office</b>
23-Oct Tuesday	Understanding the DELTA project	Understanding the DELTA project
24-Oct Wednesday	SBF Quarterly Meeting (Public)	SBF Quarterly Meeting (Public)
25-Oct Thursday	NOFA applications are due by 4PM	NOFA applications are due by 4PM
29-Oct Monday	<b>Jordan off this day working 11/02 instead (ORAC)</b>	<b>MCS not in the office</b>
30-Oct Tuesday	Draft Minutes from 10/24 SBF Q meeting	NOFA application vetting
31-Oct Wednesday	NOFA application vetting	NOFA application vetting
1-Nov Thursday	NOFA application vetting	NOFA application vetting
5-Nov Monday	Understanding Fish & Wildlife	<b>MCS not in the office</b>
6-Nov Tuesday	NOFA rejection letters/appeal process	NOFA rejection letters/appeal process
7-Nov Wednesday	NOFA executive summary/rating matrix	NOFA executive summary/rating matrix
8-Nov Thursday	Work on SBF Special Meeting NOFA related	Work on SBF Special Meeting NOFA related
12-Nov Monday	<b>Holiday</b>	<b>Holiday</b>

13-Nov Tuesday	How to update the City Council re SBF	How to update the City Council re SBF
14-Nov Wednesday	Processing SBF Contracts	Processing SBF Contracts
15-Nov Thursday	Processing SBF AP	Processing SBF AP
19-Nov Monday	Agenda & Staff Reports for 11/28 (tentative)	MCS not in the office
20-Nov Tuesday	Publish 11/28 Meeting Packet	Publish 11/28 Meeting Packet
21-Nov Wednesday	<b>Jordan off this day</b>	<b>Jordan off this day</b>
22-Nov Thursday	<b>Holiday</b>	<b>Holiday</b>
26-Nov Monday	Continue to create/update flow-charts	<b>MCS not in the office</b>
27-Nov Tuesday	SBF Budget process	SBF Budget process
28-Nov Wednesday	SBF Special Meeting/NOFA Presentations (tentative)	SBF Special Meeting/NOFA Presentations
29-Nov Thursday	Jordan off this day	MCS not in the office
3-Dec Monday	Draft Minutes 11/28 meeting	<b>MCS not in the office</b>
4-Dec Tuesday	Publish draft/notification letters	Publish draft/notification letters
5-Dec Wednesday	Contracts/Agreements for approved NOFA's	Contracts/Agreements for approved NOFA's
6-Dec Thursday	Contracts/Agreements for approved NOFA's	Contracts/Agreements for approved NOFA's
10-Dec Monday	Purge all old SBF printed files	<b>MCS not in the office</b>
11-Dec Tuesday	Purge all old SBF printed files	Purge all old SBF printed files
12-Dec Wednesday	Purge all old SBF printed files	Purge all old SBF printed files
13-Dec Thursday		
17-Dec Monday	Continue to create/update flow-charts	<b>MCS not in the office</b>
18-Dec Tuesday	Prep for January SBF Q Meeting	Prep for January SBF Q Meeting
19-Dec Wednesday	Recap all of prior training	Recap all of prior training
20-Dec Thursday	Recap all of prior training	Recap all of prior training
24-Dec Monday	<b>Holiday</b>	<b>Holiday</b>
25-Dec Tuesday	<b>Holiday</b>	<b>Holiday</b>
26-Dec Wednesday	<b>Jordan off this day</b>	<b>Jordan off this day</b>
27-Dec Thursday	<b>Jordan off this day</b>	<b>Jordan off this day</b>

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**Marciniak Consulting Services (MCS)**

**Robert T. Marciniak**

**242 Cottage Creek Drive**

**Oroville, CA 95966**

**Business License # 10002446**

**Agreement #3242 Approved: January 17, 2018**  
**Expires: 17-Jan-19**

<b>Date</b>	<b>Amount</b>	<b>Comments</b>
1/17/2018	12,000.00	<b>Beginning balance</b>
1/31/2018	-480.00	Monthly Statement
2/28/2018	-412.50	Monthly Statement
3/31/2018	-840.00	Monthly Statement
4/30/2018	-620.00	Monthly Statement
5/30/2018	-150.00	Monthly Statement
7/1/2018	-330.00	Monthly Statement
7/25/2018	6,000.00	<b>Contract modification by SBF Steering Committee/to cover vacancy of SBF PS</b>
7/30/2018	-2,820.00	Monthly Statement
8/27/2018	-4,620.00	Monthly Statement
9/25/2018	-3,960.00	Monthly Statement
10/31/2018	-3,500.00	Monthly Statement (Projection)
<b><u>Balance:</u></b>	<b><u>267.50</u></b>	

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## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of January 17, 2018, by and between the **City of Oroville** a municipal corporation ("City") as the **Fund Administrator of the Supplemental Benefits Fund (SBF)**, and **Marciniak Consulting Services, Contract Planner/Consultant** ("Consultant").

### RECITALS

- A. The Consultant is specially trained, licensed, experienced and competent to provide professional planning and technical assistance to the Supplemental Benefits Fund Steering Committee, the SBF Program Specialist, and the City of Oroville as required by this Agreement.
- B. The Consultant possesses the skill, experience, ability, background, license, certification, and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- C. The Supplemental Benefits Fund Steering Committee and the City desires to retain the Consultant to render the professional services as set forth in this Agreement.

### AGREEMENT

1. Scope of Services. The Consultant shall furnish the following services in a professional manner. Consultant shall perform the scope of services described in Exhibit "A", which is attached hereto and incorporated herein by reference.
2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until January 11, 2019.
3. Compensation. Compensation to be paid to Consultant shall not exceed \$12,000.00 per year and shall be in accordance with the Consultant's Standard Rate Schedule dated December 29, 2017 which is included in Exhibit A and

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incorporated herein by reference. **The Consultant's compensation will be funded as an administrative expense of the Supplemental Benefits Fund.**

Payment by City under this Agreement shall not be deemed a waiver of defects in Consultant's services, even if such defects were known to the City at the time of payment.

4. Method of Payment. Consultant shall submit monthly billing to City describing the work performed during the preceding month. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. City shall pay Consultant no later than 15 days after approval of the monthly invoice by City staff.
5. Extra Work. At any time during the term of this Agreement, the Supplemental Benefits Fund Steering Committee or the City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by the Supplemental Benefits Fund Steering Committee City to be necessary for the proper completion of Consultant's services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without prior written authorization from the Supplemental Benefits Fund Steering Committee or the City.
6. Termination. This Agreement may be terminated by the SBF or the City immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services properly performed up to the effective date of termination.

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7. Ownership of Documents. All plans, studies, documents, and other writings prepared by and for Consultant, its officers, employees, and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the SBF and the City upon payment to Consultant for such work, and the SBF and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents, and other writings to the SBF or the City within three (3) days after written request.
8. Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for the SBF or the City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in documents or works of authorship fixed in any tangible medium of expression including, but not limited to, data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents and Data"). Consultant shall require all subcontractors to agree in writing, attached as Exhibit D, that the SBF or the City is granted a nonexclusive and perpetual license for any Documents and Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents and Data. Consultant makes no such representation and warranty in regard to Documents and Data which may be provided to Consultant by the SBF or the City. SBF or the City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.
9. Consultant's Books and Records

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- a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, expenditures, and disbursements charged to the SBF or the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.
- b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of termination or completion of the Agreement.
- c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Supplemental Benefits Fund Steering Committee, City Administrator, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the SBF or the City for inspection at 1735 Montgomery Street, Oroville, California when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that documents be maintained by City Hall.

AGREEMENT NO. 3242



11. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the Supplemental Benefits Fund or the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.
12. Interest of Consultant. Consultant (including principals, associates, and professional employees) covenants and represents that it does not now have any investment or interest in real property, and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:
  - a. will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the City or any City official, other than normal agreement monitoring; and
  - b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation, or counsel. (FPPC Reg. 18700(a)(2).)
13. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements

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AGREEMENT NO. 3242

and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

14. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.
15. Licenses. Consultant represents and warrants to the SBF and the City that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to the SBF and the City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance, and approvals which are required by the City for its business.
16. Indemnity. Consultant agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therein), arising from its performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement.
17. Insurance Requirements. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the Agreement, the insurance coverage and policies as set forth in Exhibit "B" attached hereto.
18. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.



AGREEMENT NO. 3242

If to City: **Acting SBF Fund Administrator  
City of Oroville  
1735 Montgomery Street  
Oroville, CA 95965**

If to Consultant: **Marciniak Consulting Services  
242 Cottage Creek Drive  
Oroville, CA 95966**

19. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.
20. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.
21. Assignments and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of Consultant. Assignments of any or all rights, duties, or obligations of the Consultant under this Agreement will be permitted only with the express prior written consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law.

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AGREEMENT NO. 3242

22. Waiver. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
23. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
24. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Butte, or in the United States District Court, Eastern District of California.
25. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other part arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
26. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
27. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority, to make this Agreement and to bind each respective party.



AGREEMENT NO. 3242

28. Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
29. Equal Opportunity Employment. Consultant represents that is and equal opportunity employer and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.


**CITY OF OROVILLE**

**MARCINIAK CONSULTING SERVICES**

By:   
Linda L. Dahlmeier, Mayor


By:   
Title: Owner

**APPROVED AS TO FORM:**

By:   
Scott E. Huber, City Attorney

Business License #: 10003446  
Tax ID No.: 558-54-0411

**ATTEST:**

By:   
Donald Rust, Acting City Clerk

**ATTACHMENTS**

- Exhibit A Scope of Service, Standard Rate Schedule and Other Provisions
- Exhibit B Insurance Requirements

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**Exhibit A: Scope of Services, Standard Rate Schedule and Other Provisions  
Effective, December 29, 2017**

**SCOPE OF SERVICES**

Marciniak Consulting Services will provide:

- ✓ Training expertise and training to the new SBF Program Specialist
- ✓ Technical assistance regarding all aspects of the Supplemental Benefits Fund
- ✓ Meeting preparation, as requested (Agendas, Staff Reports, Minutes)
- ✓ Assistance in completion of the five-year update of the Regional Fund Strategic Plan
- ✓ Assistance in editing & finalization of the Feather River Conceptual Plan (A Vision for the Future of the Low Flow Channel)
- ✓ Research as required/requested
- ✓ Consultation to the SBF Steering Committee Members and/or the Acting SBF Fund Administrator
- ✓ Other services as determined by the SBF Steering Committee and/or the Acting SBF Fund Administrator

**STANDARD RATE SCHEDULE**

- ✓ On-site Hourly Rate: \$60.00 per hour, billed in 15 minute increments
- ✓ Telephone/Skype/email/conference calls, or other electronic communication: \$50.00 per hour, billed in 15 minute increments
- ✓ Not to exceed \$12,000.00 per year.

**OTHER PROVISIONS**

- ✓ City (SBF) to provide:
  - Desk/office space
  - Telephone access
  - Computer access
  - Email access
  - Access to all existing/future SBF records and files

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**AMENDMENT TO AGREEMENT NO. 3242 BETWEEN THE CITY OF OROVILLE AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFITS FUND (SBF), AND MARCINIAK CONSULTING SERVICES, CONTRACT PLANNER/CONSULTANT FOR CONSULTING SERVICES TO THE SBF.**

This First Amendment dated July 25, 2018 is to Agreement No. 3242 between the City of Oroville ("City") and **MARCINIAK CONSULTING SERVICES (MCS)** ("Grantee").

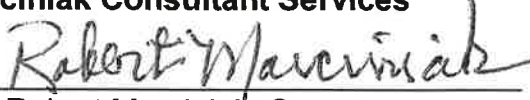
In consideration of the terms and conditions herein, the City and MCS agree that Agreement No. 3242 shall be amended as follows:

1. Section 3 of the Agreement (Compensation) shall be amended to read: Compensation to be paid to Consultant shall not exceed \$18,000.00 per year and shall be in accordance with the Consultant's Standard Rate Schedule dated December 29, 2017 which is included in Exhibit A and incorporated herein by reference. Additional compensation may be amended only in writing by City and Grantee with the approval of the Supplemental Benefits Fund Steering Committee.
2. Conflicts between the Agreement, and this First Amendment shall be controlled by this First Amendment. All other provisions within Agreement No. 3242 shall remain in full force and effect.


**CITY OF OROVILLE**

By:   
Linda L. Dahlmeier, Mayor


**Marciniak Consultant Services**

By:   
Robert Marciniak, Owner

**APPROVED AS TO FORM:**

By:   
Scott E. Huber, City Attorney

**ATTEST:**

By:   
Tom Lando, Acting City Clerk



**CITY OF OROVILLE  
RESOLUTION NO. 8683**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OROVILLE, AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFITS FUND, AND MARCINIAK CONSULTING SERVICES, CONTRACT PLANNER/CONSULTANT, IN AN AMOUNT NOT TO EXCEED \$12,000 IN A TWELVE-MONTH PERIOD.**

**(Agreement No. 3242)**

**NOW THEREFORE**, be it hereby resolved by the Oroville City Council as follows:

1. The Mayor is hereby authorized and directed to execute an agreement with Marciniak Consulting Services, Contract Planner/Consultant, in an amount not to exceed \$12,000 in a twelve-month period, expiring on January 11, 2019.
2. The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by Supplemental Benefits Fund Steering Committee on January 17, 2018, with City of Oroville Resolution No. 8481 authorizing execution of the agreement by the Mayor for the Oroville City Council as the Fund Administrator, by the following vote:

**AYES:** Council Members Berry, Del Rosario, Draper, Hatley, Thomson, Vice Mayor Goodson, Mayor Dahlmeier


**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

  
Linda L. Dahlmeier, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Scott E. Huber, City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Donald L. Rust, Acting City Clerk

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**BUSINESS LICENSE**  
**CITY OF OROVILLE, CALIFORNIA**

**BUSINESS LICENSE NUMBER: 10002446**

**EFFECTIVE DATE:**

01/01/2018

**EXPIRATION DATE:**

12/31/2018

**MARCINIAK CONSULTING SERVICES**

242 COTTAGE CREEK DRIVE

OROVILLE, CA 95966

**BUSINESS LOCATION:**

242 COTTAGE CREEK DRIVE

OROVILLE, CA 95966

**NAME OF BUSINESS:**

MARCINIAK CONSULTING SERVICES

**BUSINESS TYPE:**

MOBILE SERVICES

**OWNER:**

BOB MARCINIAK

**OWNERSHIP TYPE:**

SOLE PROPRIETOR

**RESALE ID**

**SPECIAL CONDITIONS:**

**NOT TRANSFERABLE**  
**THIS LICENSE EXPIRES AS SPECIFIED ABOVE**

**LICENSED BUSINESS TO BE CONDUCTED IN CONFORMITY WITH AND  
SUBJECT TO THE PROVISIONS OF THE ORDINANCES OF THE CITY OF  
OROVILLE AND THE LAWS OF THE STATE OF CALIFORNIA.**

**THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE**

**AMENDMENT TO AGREEMENT NO. 3242 BETWEEN THE CITY OF OROVILLE AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFITS FUND (SBF), AND MARCINIAK CONSULTING SERVICES, CONTRACT PLANNER/CONSULTANT FOR CONSULTING SERVICES TO THE SBF.**

This Second Amendment dated October 24, 2018 is to Agreement No. 3242 between the City of Oroville ("City") and **MARCINIAK CONSULTING SERVICES (MCS)** ("Grantee").

In consideration of the terms and conditions herein, the City and MCS agree that Agreement No. 3242 shall be amended as follows:

1. Section 3 of the Agreement (Compensation) shall be amended to read: Compensation to be paid to Consultant shall not exceed an additional \$12,000.00 and shall be in accordance with the Consultant's Standard Rate Schedule dated December 29, 2017 which is included in Exhibit A and incorporated herein by reference. Additional compensation may be amended only in writing by City and Grantee with the approval of the Supplemental Benefits Fund Steering Committee.
2. Conflicts between the Agreement, and this Second Amendment shall be controlled by this Second Amendment. All other provisions within Agreement No. 3242 shall remain in full force and effect.

**CITY OF OROVILLE**

**Marciniak Consultant Services**

By: \_\_\_\_\_  
Linda L. Dahlmeier, Mayor

By: \_\_\_\_\_  
Robert Marciniak, Owner

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
Scott E. Huber, City Attorney

By: \_\_\_\_\_  
Tom Lando, Acting City Clerk

# Steering Committee Advisory & Staff Comments

**SBF Steering Committee Meeting**

**October 24, 2018**



**SUPPLEMENTAL BENEFITS FUND STEERING COMMITTEE  
STAFF REPORT**

**TO: SBF CHAIRPERSON & COMMITTEE MEMBERS**

**FROM: JORDAN DALEY, SBF PROGRAM SPECIALIST**

**RE: SBF UPDATE (JULY, AUGUST, SEPTEMBER 2018)**

**DATE: OCTOBER 24, 2018**

**1. SBF FINANCIAL SUMMARY**

The SBF currently has \$3,111,760.49 on deposit with the City of Oroville and \$280,782.96 with DWR. Commitments of \$195,834.74 and has released the 2018 NOFA of \$2,530,000.00 leaving \$385,925.75 as a reserve. A spreadsheet detailing NOFA's, Administrative Grants, Matching Funds, and Administrative Expenses is attached.

**2. SBF PROGRAM SPECIALIST SUMMARY OF ACTIVITIES:**

- **July 2018:** Marciniak Consulting Services provided part time interim coverage for the SBF Program Specialist vacancy. Editing to the Feather River Conceptual Plan and preparation for and upcoming NOFA was done.
- **August 2018:** Marciniak Consulting Services provided part time interim coverage for the SBF Program Specialist vacancy. Steering Committee Meeting preparation; legal research; attending meetings; process of payment reimbursements; filing; correspondence & email. Update of SBF page on the City of Oroville website.
- **September 2018:** Marciniak Consulting Services provided part time interim coverage for the SBF Program Specialist vacancy. The 2018 NOFA was released on September 6, 2018 and a workshop was held on October 11, 2018. On September 10, 2018 the SBF Program Specialist vacancy was filled by Jordan Daley. A training schedule was developed providing which includes all functional aspects of the SBF, FERC Project 2100, and all related information developed in the past ten years. Training is planned to continue until late December 2018.

10-1

### 3. AD HOC COMMITTEE UPDATES:

- **Update:** ad Hoc Feather River Conceptual Plan: No recent committee meeting.
- **Update:** ad Hoc Aquatic Committee: No recent committee meeting.
- **Update:** ad Hoc Safety Patrol Committee: No recent committee meeting.

A handwritten signature in black ink, appearing to be "10-2" or similar, located in the bottom right corner of the page.

**SBF Fund Reconciliation**

**DWR Released**

2002	Direct to FRRPD for Riverbend Park	\$3,000,000.00	9/26/2002
2006	Direct to FRRPD for Riverbend Park	\$2,200,000.00	3/9/2006
2006	Contract Amount	\$1,935,000.00	7/21/2006
2011	2011 DWR Release	\$100,000.00	(December)
2012	2012 DWR Release	\$100,000.00	(January)
2013	2013 DWR Release	\$100,000.00	(January)
2014	2014 DWR Release	\$100,000.00	(January)
2015	2015 DWR Release	\$100,000.00	(January)
2016	2016 DWR Release	\$100,000.00	(January)
2017	2017 DWR Release	\$100,000.00	(January)
2017	2017 DWR Special Advance Release	\$3,000,000.00	(06/15/2017)
2017	2017 Interest earned as of 10/31/2017	\$8,629.62	(10/31/2017)
2018	2018 DWR Release	\$100,000.00	(03/06/2018)
2018	Interest from 11/01/2017 to 06/30/2018	\$31,553.65	(06/30/2018)
	<b>Total Contract &amp; Interest to date:</b>	<b>\$10,975,183.27</b>	



**Fund Commitments**

	Cash Flow	Funded	Status	Committed	Not Committed	Total
2002Phase Funding FRRPD Riverbend Park	\$3,000,000.00	-3,000,000.00	Closed			
2006Phase Funding FRRPD Riverbend Park	\$2,200,000.00	-2,200,000.00	Closed			
2006 Initial Fund Availability	1,935,000.00					1,935,000.00
2008 NOFA/FRRPD Soccer/All Purpose Fields		-1,012,221.74	Closed	0.00		-1,012,221.74
2008 NOFA/Table Mountain Golf Course		-30,000.00	Closed	0.00		-30,000.00
2011 NOFA/City of Oroville: Police GEM electrical vehicles		-35,098.49	Closed	0.00		-35,098.49
2012 NOFA/Forebay Aquatic Center		-\$46,000.00	Closed	0.00		-46,000.00
2012 NOFA/FRRPD 4th Soccer/All Purpose Field		\$0.00	Closed	167,818.37		-167,818.37
2012 NOFA/FRRPD 4th Soccer/All Purpose Field Rescinded		\$0.00	Closed	-167,818.37		167,818.37
2008 NOFA/ Small Projects		-33,471.68	Closed	0.00		-33,471.68
2012 NOFA/FRRPD/Disc Golf		-\$1,000.00	Closed	0.00		-1,000.00
2012 NOFA/FRRPD/Marketing Gymnastics		-\$4,170.00	Closed	0.00		-4,170.00
2012 NOFA/FRRPD/Website Development		-\$6,500.00	Closed	0.00		-6,500.00
2012 NOFA/Rotary Club of Oroville		-\$3,624.00	Closed	0.00		-3,624.00
2009/2010 Economic Development/Chamber		-76,427.85	Closed	0.00		-76,427.85
2011 NOFA/ Oroville Area Chamber of Commerce		-35,000.00	Closed	0.00		-35,000.00
2011 NOFA/Economic Development/Chamber		-58,868.85	Closed	0.00		-58,868.85
2012 NOFA/Chamber/UCEF Event Coordinator		-\$28,500.00	Closed	0.00		-28,500.00
2007 Administrative Expenses (charged in 2008)		0.00	Closed	0.00		0.00
2008 Administrative Expenses		-22,009.95	Closed	0.00		-22,009.95
2009 Administrative Expenses		-44,079.66	Closed	0.00		-44,079.66
2009/2010 Admin/Regional Fund Strategic Plan		-173,050.00	Closed	0.00		-173,050.00
2010 Administrative Expenses		-52,927.87	Closed	0.00		-52,927.87
2011/2012 DWR Advance Allocation	200,000.00					200,000.00
2011 Administrative allocation for future consultants		-1,500.00	Closed	0.00		-1,500.00
2011 Administrative Expenses		-21,765.20	Closed	0.00		-21,765.20
2012 Administrative Expenses allocation		-30,851.87	Closed	0.00		-30,851.87
2012 Consultant Expense/City of Oroville WW/ES		-\$74,551.20	Closed	0.00		-74,551.20
2013 DWR Advance Allocation	100,000.00					100,000.00

10-3

2013 Administrative Allocation 07/01/2013-06/30/2014	-30,188.42	Closed	0.00	-30,188.42
2013 Administrative Expenses (01/01 to 06/30/2013)	-22,191.67	Closed	0.00	-22,191.67
2014 DWR Allocation	100,000.00			100,000.00
2014 Administrative Expenses/ Riverfront Consultant(ESA)	-68,950.00	Closed	0.00	-68,950.00
2014 Event Coordinator	-30,000.00	Closed	0.00	-30,000.00

<b>Fund Commitments</b>	<b>Cash Flow</b>	<b>Funded</b>	<b>Status</b>	<b>Committed</b>	
2014 Consultant/Design Oroville Aquatic Center		-18,611.25	Closed	0.00	-20,000.00
2014 Consultant/Design/Environmental Brad Freeman Trail		-18,647.55	Closed	0.00	-20,000.00
2014 WW Consultant Expense City of Oroville		-19,145.89	Closed	141,800.00	-122,654.11
2014 WW Consultant Expense City of Oroville Rescinded		0.00	Closed	-122,654.11	122,654.11
2014 FRRPD Irrigation Enhancements at Nelson Complex 2016		-24,000.00	Closed	0.00	-24,000.00
2015 Event Coordinator		-30,000.00	Closed	0.00	-30,000.00
2014-2016 Administrative Budget (12,055.87 over)		-102,295.87	Closed	0.00	-102,295.87
2014 Reserve Police Officer Funding for Parks/Trails		-48,403.20	Closed	0.00	-48,403.20
2014 Administrative Expense/Workshop Facilitator		-5,130.00	Closed	0.00	-5,130.00
2015 DWR Allocation	100,000.00				100,000.00
2015 Forebay Aquatic Center		-53,474.47	Closed	0.00	-53,474.47
2015 FRRPD Brad Freeman Trail/Environmental		-18,647.55	Open	-1,352.45	-20,000.00
2015 Funding of Lake Oroville Maps and Museum Brochures		-9,969.23	Closed	0.00	-9,969.23
2015 Funding of Lake Oroville Maps and Museum Brochures (not used)		0.00	Closed	0.00	0.00
2015 FRRPD Childrens' Playground at Riverbend North		-50,000.00	Closed	0.00	-50,000.00
2015 Oroville Veterans Memorial Park/Capital Improvements		-112,000.00	Closed	0.00	-112,000.00
2016 Event Coordinator (USCEF)		-30,000.00	Closed	0.00	-30,000.00
2016 DWR Allocation Received 05/15/2016)	100,000.00				100,000.00
2016 SBF Administrative Budget (07.01.2016 to 06.30.2017)		-50,851.11	Closed	0.00	-50,851.11
2017 Event Coordinator (USCEF)		-30,000.00	Closed	0.00	-30,000.00
2018 Event Coordinator (USCEF)		-14,350.00	Open	-14,150.00	-28,500.00
2017 DWR Allocation due 01/10/2017	100,000.00				100,000.00
2017 DWR Special Advance Allocation (06/15/2017	3,000,000.00				3,000,000.00
2017 SBF Administrative Budget (07/01/2017 to 06/30/2018)		-65,222.68	Closed	0.00	-65,222.68
2007-2016 Interest earned previous accounting system					0.00
2017 Quarterly interest earned	8,629.62		Closed	0.00	8,629.62
2017-2018 Unfunded PERS retired SBF Program Specialist		0.00		0.00	0.00
2018-2019 Unfunded PERS retired SBF Program Specialist		-6,637.14	Closed	0.00	-6,637.14
2018 DWR Allocation received 03/06/2018	100,000.00				100,000.00
2018 Administrative allocation to Marciniak Consulting Services		-10,272.50	Open	-7,727.50	-18,000.00
2018 CBF Allocation to the Oroville Area Chamber of Commerce		-19,749.32	Open	-30,250.68	-50,000.00
2018 SBF Administrative Budget (07/01/2018 to 06/30/2019)		0.00	Open	-110,000.00	-110,000.00
2018 Interest from 11/01/2017 to 06/30/2018	31,553.65		Closed	0.00	31,553.65
2019 Event Coordinator (USCEF)(2019-2020)		0.00	Open	-51,500.00	-51,500.00
2018 Adjustment to balance to City of Oroville Finance Dept.*	16,933.43		0.00	0.00	16,933.43

<b><u>Sub totals/excluding Riverbend Park:</u></b>	<b><u>\$5,792,116.70</u></b>	<b><u>-2,680,356.21</u></b>	<b><u>(Funded)</u></b>	<b><u>-195,834.74</u></b>	<b><u>(Committed)</u></b>	<b><u>(Not Committed)</u></b>	<b><u>2,915,925.75</u></b>	<b><u>2,913,184.55</u></b>
							<b><u>-2,530,000.00</u></b>	<b><u>2018 NOFA</u></b>
							<b><u>385,925.75</u></b>	<b><u>Reserve</u></b>

10-4



**RECAP:**

Funded **-\$2,680,356.21**  
Committed **-\$195,834.74**  
**Reserve (established 07/25/2018)** **-\$385,925.75**  
Not Committed/Available **-\$2,530,000.00**

**Total/Contract/to date:**

**-\$5,792,116.70** **Total Funds at City:**

**FUNDS ON DEPOSIT:**

At DWR **280,782.96**  
At City **3,111,760.49**

**Committed:** **-195,834.74**  
**2018 NOFA:** **-2,530,000.00**  
**Reserve:** **-385,925.75**  
**Total Funds at City:** **-3,111,760.49**

*\* Note: an adjustment of +16,933.43 was made to balance this reconciliation to the City of Oroville Finance Department ledger. The Finance Department has had several managers and two different electronic accounting systems over the past ten years. The difference may be due to the switch of the SBF budgeting and accounting from calendar year to fiscal year. The adjustment favors the SBF and places SBF recordkeeping in balance with the City of Oroville Finance Department.*

10-5

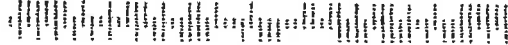
# Correspondence

**SBF Steering Committee Meeting**

**October 24, 2018**



FEDERAL E  
REGULATO  
888 First St.  
Washington, DC 20426



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10/10/2018  
US POSTAGE \$001.21



ZIP 20428  
041M12252370

Docket No.: P-2100

Sharon Atteberry  
City Administrator  
OROVILLE, CITY OF  
1735 Montgomery St  
Oroville, CA 95965-4820



RECEIVED

10/15/18

C-1

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C-2

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

California Department of Water Resources

Project No. 2100-187

ORDER DENYING TEMPORARY AMENDMENT TO RECREATION PLAN

(Issued October 10, 2018)

1. On July 10, 2018<sup>1</sup>, the California Department of Water Resources (licensee or DWR) filed a request to temporarily amend the approved Recreation Plan<sup>2</sup> for the Feather River Hydroelectric Project No. 2100. The licensee requests to temporarily redesignate portions of some limited-use recreational trails to multi-use (i.e., hike, bike, equestrian)<sup>3</sup> to address the negative impacts from the temporary closure of certain trails since the spillway emergency in February 2017.<sup>4</sup> The project is located on the Feather River in Butte County, California, and occupies federal lands managed by the U.S. Bureau of Land Management and the U.S. Forest Service.
2. As discussed below, Commission staff conclude that available information does not justify the burden to temporarily change designated trail uses. This order denies DWR's request.

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<sup>1</sup> The California Department of Water Resources originally filed its request on July 5, 2018, but refiled the application on July 10, 2018, and the original filing was subsequently designated "Privileged". This proceeding and order considers the public July 10, 2018 filing.

<sup>2</sup> The Commission approved the Recreation Plan in 1994 and has subsequently approved four amendments: *Cal. Dep't of Water Res.*, 68 FERC ¶ 61,358 (1994); 124 FERC ¶ 62,182 (2008); 160 FERC ¶ 62,021 (2017); 160 FERC ¶ 62,226 (2017); 162 FERC ¶ 62,077 (2018).

<sup>3</sup> Multi-use is also referred to as multiple use or shared use.

<sup>4</sup> In February 2017, high flows in the Feather River basin caused extensive erosion and damage to the main spillway and emergency spillway area at Oroville Dam. Since that time, DWR has implemented numerous emergency actions and has initiated reconstruction of the main spillway and fortification of the emergency spillway.

C-3

## I. Background

3. The Federal Energy Regulatory Commission (Commission or FERC) issued a license for the 762-megawatt (MW) Feather River Project to the DWR on February 11, 1957.<sup>5</sup> The project is located in the foothills of the Sierra Nevada, approximately five miles east of the city of Oroville and about 130 miles northeast of San Francisco.

4. The licensee's Recreation Plan approved on September 22, 1994, included provisions for improving and maintaining an existing 17.5-mile-long equestrian/hiking-only trail and for developing a 35-mile-long loop mountain bicycle trail. The approved plan also included a provision for establishing the Oroville Recreation Advisory Committee (ORAC) to review recreational facilities in the project area and determine the need for any additions or improvements.<sup>6</sup> While DWR is the licensee and ultimately responsible for implementing the license, the California Department of Parks and Recreation (California Parks) manages the public recreational facilities within the FERC boundary for the Feather River Project, including the trails in the Lake Oroville State Recreation Area. An equestrian/hiking-only trail was substantially modified by California Parks in 2001 to meet standards described in that agency's 1993 Trail Handbook. There are approximately 25 miles of trails at the project designated for exclusive use by equestrians and hikers. The 35-mile-long loop mountain bicycle trail was originally completed in June 1996, with an additional six miles added later.

### *Background of Trail Use Designations*

5. In the past DWR has unsuccessfully proposed to change trail use designations to multi-use. On February 26, 2002, DWR notified the Commission that California Parks intended to convert most of the trails within its management area to multi-use. When California Parks implemented the changes in trail use, the Commission received numerous letters from recreational trail users at the Feather River Project.<sup>7</sup> Some opposed and others supported the trail use modifications. On November 26, 2002,

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<sup>5</sup> *Dep't of Water Res. of the State of Cal.*, 17 FPC 262 (1957).

<sup>6</sup> ORAC consists of representatives from the following entities: California Department of Fish and Wildlife, California Parks, the City of Oroville, Butte County, the Oroville Chamber of Commerce, the California Sportfishing Protection Alliance, Butte County Citizens for Fair Government, Citizens for Fair and Equitable Recreation Use of Lake Oroville, the Butte Sailing Club, Lake Oroville Fish Enhancement Committee, the State Water Contractors, and the licensee.

<sup>7</sup> DWR did not request Commission approval for the change prior to its implementation.

C-4

Commission staff sent a letter to DWR reminding it of the currently approved Recreation Plan and informing it that a request to amend the approved Recreation Plan was necessary to effectuate a change in trail use.

6. At the direction of Commission staff, DWR held a public meeting and received letters of opposition and of support for the proposed changes to the trail designations in the project area. After the meeting, DWR prepared and filed an application on April 4, 2003, to amend the approved Recreation Plan to redesignate certain recreational trails within the project boundary to multi-use trails.<sup>8</sup> Commission staff denied the application on August 17, 2004 (2004 Order).<sup>9</sup> That order included the following discussion:

The approved recreation plan for the Feather River Project includes a variety of trails that are designated for various types of uses. These trails offer recreational opportunities for equestrians, hikers, and mountain bicyclists, and the user-specific nature of the trail designations helps minimize safety concerns and user conflicts between competing trail users. The 25 or so miles of equestrian and hiker-only trails and the more than 47 miles of mountain bicycle trails in and adjacent to the project area offer a balance of recreational opportunities for the trail users. In addition, there are hundreds of miles of mountain bicycle trails available in the region surrounding the Feather River Project.

...[C]onverting the trails to multiple use (with bicycles sharing the trail) would adversely change the recreational experience for equestrian users primarily because it may increase the potential for user conflicts and necessitate more trail maintenance and modifications to accommodate the multiple uses. Through research of the trails and trail uses in the region of the project, we identified many trails available to mountain bikers. The approved recreation plan designated special use trails for equestrians to provide a unique recreational experience.

This proposed amendment comes at a time when the project is undergoing the process of relicensing and considerations are being made by existing work groups such as the [ORAC] and the Recreation and Socioeconomics Work Group. The relicensing process will address the balance of recreational uses at the project in a comprehensive manner. Making changes such [as]

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<sup>8</sup> Specifically, in addition to other changes, DWR proposed full-time multi-use on the Brad Freeman Trail, the Bidwell Canyon Trail, and the Dan Beebe Trail.

<sup>9</sup> *Cal. Dep't of Water Res.*, 108 FERC ¶ 62,164 (2004).

the proposed trail use conversion is premature and untimely.”<sup>10</sup>

7. The 2004 Order concluded “based [on] the analysis presented in the attached [Final Environmental Assessment] and supported by the Commission record, that the subject trails should remain as originally designated in the approved recreation plan for the remainder of the license term.”<sup>11</sup>

*Environmental Analysis for Relicensing*

8. In the relicensing proceeding for the Feather River Project, DWR filed a comprehensive Offer of Settlement (Settlement Agreement) on March 24, 2006,<sup>12</sup> and later filed a Settlement Agreement-Recreation Management Plan (SA-RMP) on March 28, 2006.<sup>13</sup> The SA-RMP included a proposal to change existing trail designations, including changing the Dan Beebe and Loafer Creek trails from equestrian and hiking only to multiple use.

9. The Final Environmental Impact Statement (FEIS) for the relicensing included an analysis of the potential effects of the licensee’s proposal in the SA-RMP to change the existing trail use designations, including changing the Dan Beebe and Loafer Creek trails from equestrian and hiking only to multiple use.<sup>14</sup> DWR proposed to do additional trail planning and design assessment to address resource protection and public safety *before* implementing changes to the trail use designations.<sup>15</sup> Equestrians opposed the proposal in the SA-RMP to change trail use designations, citing concerns regarding safety, resource damage, and user conflicts.<sup>16</sup>

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<sup>10</sup> *Id.* at PP 17-20.

<sup>11</sup> *Id.* at P 22.

<sup>12</sup> DWR, Settlement Agreement and Explanatory Statement, Docket No. P 2100-052 (filed March 24, 2006).

<sup>13</sup> DWR, Settlement Agreement Recreation Management Plan, Docket No. P 2100-052 (filed March 28, 2006).

<sup>14</sup> Commission staff, Final Environmental Impact Statement for the Oroville Facilities Project (FEIS), Docket No. P 2100-052, at 201-280 (issued May 18, 2007) (Section 3.3.6 Recreational Resources).

<sup>15</sup> FEIS at 255-269 (in Section 3.3.6.2 Recreational Resources).

<sup>16</sup> FEIS at 10-11.



10. In the FEIS, Commission staff found that the existing trail designations provide a unique recreational experience for equestrians and that converting them to multi-use would adversely affect the equestrian experience because it could result in an increase in user conflicts and because it would result in the need for more trail modifications and maintenance. Staff also noted in the FEIS that some of DWR's recreational data that was used to justify the proposed trail use redesignation were inaccurate or incomplete. Therefore, Commission staff recommended revisions to the terms of the SA-RMP and DWR's proposal, including adding provisions to conduct a trail condition inventory *prior to* recommending changes, if necessary, to any trail use designation, collect trail use data, conduct visitor surveys (including methodology to focus on multiple use and user conflicts), and complete trail feasibility investigations.<sup>17</sup>

#### *Licensee's Proposal*

11. Due to the closure of certain recreational trails following the spillway emergency in February 2017, all recreational users have reduced access to trail mileage until DWR completes all reconstruction activities in 2019. The licensee requests Commission approval to temporarily redesignate portions of the Brad Freeman, Bidwell Canyon, Dan Beebe, and Loafer Loop recreational trails from equestrian/hiking-only or bicycle/hiker-only to multi-use until the reopening of the spillway recreation facilities. The proposed redesignation would allow equestrian use on portions of specific trails currently designated for bicycle/hiker use only and would allow bicyclist use of portions of specific trails currently designated for equestrian/hiker use only. DWR states that the trail designations would revert back to their original designations under the Recreation Plan when the recreation facilities reopen in 2019.

12. DWR indicates that if the redesignations are approved, California Parks would assess the trail segments to determine whether they meet that agency's multi-use design criteria for visibility, width, and slope, or whether improvements could include widening some trail sections, selective vegetation removal, or trail realignment. DWR states that changing the trail designations may require vegetation removal and ground disturbance because some trail segments do not currently conform to California Parks' multi-use standards. Ground disturbance has the potential to cause erosion and sedimentation, to affect cultural resources, and to increase the proliferation of invasive species. The proposal would also have temporary impacts on recreation due to restricted trail access during these ground-disturbing activities. DWR states that it would fully evaluate the environmental effects of any needed trail improvements and that California Parks would modify trail signage to reflect the temporary modified use designation

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<sup>17</sup> FEIS at 263, 359, 362, and 381 (Section 5.0 Staff's Conclusions).

13. According to DWR, the proposal to re-designate certain trails to multi-use was discussed at a special single-topic meeting with ORAC on June 1, 2018, at which representatives from bicycle and equestrian groups presented their respective positions to the committee. There was no consensus among user groups, but ORAC produced a recommendation for DWR to pursue the approval of the temporary trail redesignation. Ten committee members voted on this proposal, with six voting in favor, one voting no, and three abstaining.<sup>18</sup>

14. Finally, the DWR states that this proposal to change trail designations is consistent with the Settlement Agreement and is being proposed in order to comply with California Governor Edmund G. Brown, Jr.'s Executive Order B-39-17 signed on April 6, 2017, which directed the DWR to "develop plans for additional access points to Lake Oroville for recreational use."<sup>19</sup>

#### IV. Public Notice

15. On July, 10, 2018, the Commission issued a notice of DWR's application and solicited comments, motions to intervene, and protests.<sup>20</sup> The deadline for filing responses to the notice was August 10, 2018.<sup>21</sup> On August 3, 2018, the California State Water Contractors filed a motion to intervene and comments in support of DWR's request. On August 10, 2018, a combination of 12 equestrian organizations and 14 individuals (equestrian coalition) filed a motion to intervene, comments, and protest.<sup>22</sup>

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<sup>18</sup> The ORAC vote on this proposal was as follows. Voting yes: Oroville Chamber of Commerce, Butte County, Butte County Citizens for Fair Government, Citizens for Fair and Equitable Recreation Use of Lake Oroville, Lake Oroville Fish Enhancement Committee, DWR. Voting no: Butte Sailing Club. Abstaining: California Department of Fish and Wildlife, California DPR, State Water Contractors. The City of Oroville and the California Sportfishing Protection Alliance were not present.

<sup>19</sup> See <https://www.gov.ca.gov/news.php?id=19744>.

<sup>20</sup> See *Notice of Application Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests*, 83 Fed. Reg. 32, 849 (July 16, 2018).

<sup>21</sup> On July 12, 2018, the Commission issued a notice extending the deadline from August 3 to August 10, 2018, to give interested parties sufficient opportunity to comment.

<sup>22</sup> The equestrian coalition is composed of: Action Coalition for Equestrians, Oroville Pageant Riders, Golden Feather Riders, Desperate Horse Wives Group, Loafer Loop Riders Group, Back Country Horsemen (Sutter/Buttes unit), Safe Trails Alliance, Audubon Society, Emigrant Trail Conservancy, Back Country Horsemen (Mother Lode unit), Gold Country Trail Council, Paradise Horsemen assn., Janine Cody, Mike Cody,

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The general reason for the protest involves safety and user conflicts. Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure.<sup>23</sup> The Commission also received comments from approximately 136 individuals and organizations. Approximately 34 of those individuals or organizations support the trail use redesignation, and approximately 102 oppose the trail use redesignation.

16. The State Water Contractors assert that the proposal to designate various trails as multi-use is consistent with the Recreation Plan, which was approved by a variety of interests as part of the Settlement Agreement. The State Water Contractors contend that Commission staff considered the proposed change in the 2007 FEIS and recognized that increased demand may require some limited use trails to become multi-use trails. They also request that the Commission adopt the proposed request without material modification.

17. The equestrian coalition reiterates the opposition to changing the designation of certain trails from equestrian/hiker-only to multi-use that was stated in response to the Settlement Agreement proposal to do the same. The equestrian coalition refers to Commission staff's recommendations from the FEIS that are also discussed above (i.e., to conduct a trail condition inventory *prior to* recommending changes to any trail use designation, collect trail use data, conduct visitor surveys, and complete trail feasibility investigations). They oppose the current proposal in order to protect the unique, safe, quiet trail experience, and they believe that DWR's request misrepresents the FEIS analysis as well as the Governor's Executive Order B-39-17.

## V. Discussion

18. DWR's present application is similar to past proposals for trail use redesignations, and we deny it for similar reasons. Regardless of the new context of the spillway reconstruction, there remains considerable disagreement among user groups and insufficient information to justify a temporary change in trail use designations, especially given the studies and potential trail construction that would be necessary for this relatively short time period.

19. We are not able to quantify the current loss of trail availability for bicyclists within the Feather River Project boundary.<sup>24</sup> According to DWR's January 26, 2018 filing, bike

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<sup>23</sup> 18 C.F.R. § 385.214(c) (2018).

<sup>24</sup> There are varying trail mileages and distances in documents filed with the

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users had access to approximately 37.3 miles of trails within the Lake Oroville State Recreation Area prior to the spillway incident, but they only have access to approximately 5.5 miles of trails following closures of the recreation area and trails. In an August 1, 2018 filing, DWR indicated that the Brad Freeman and Dan Beebe trails reopened from Lakeland trailhead to Glen Pond on April 18, 2018, the Dan Beebe trail opened from Glen Pond to Canyon Drive on June 29, 2018, and a connector trail was constructed from the existing Dan Beebe trail near the Palermo Canal so the trail can remain open during certain construction activities.<sup>25</sup> DWR did not provide mileages or distances for these trails or trail segments in either the July 10, 2018 or the August 1, 2018 filings. The licensee has been aware since the 2007 issuance of the FEIS that more data is needed regarding trail usage, condition, and maintenance, but DWR did not provide this type of information or data in its current request.

20. There are opportunities for mountain biking, including miles of single track dirt trails, logging roads, and four-wheel drive tracks, on public land within the Lassen and Plumas National Forests, and other areas, outside of the project boundary. However, we recognize that the trail closures and existing conditions resulting from the spillway emergency incident, the reconstruction, and associated activities have negatively impacted, and continue to negatively impact, recreation in the project area, possibly with a disproportionate impact to bicyclists. We also recognize that existing trails at the project that exclude bicyclists may ultimately prove to be suitable for multi-use in the future. However, the findings in the 2004 Order and in the 2007 FEIS remain true at this time that the existing trail designations provide a unique recreational experience for equestrians and that converting these trails to multi-use would adversely affect equestrians due to the potential increase in user conflicts and the need for more trail modifications and maintenance. Staff also noted in the FEIS that "DWR's recreational data were, in some cases, inaccurate or incomplete (e.g., counters moved or malfunctioned during data collection period) and the data were collected in 2002-2003, at a time when the trails were managed for multiple use instead of their approved designation."<sup>26</sup> DWR did not provide any current recreational use data for the project in its application to justify its proposal to open the existing equestrian/hiking-only trails to

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Commission. A complete, up-to-date trail inventory, as recommended in the FEIS, would assist in accurately comparing and analyzing trail usage at the project.

<sup>25</sup> The Thermalito Diversion Pool and trails along its northern shore were opened from August 28 through September 4, 2018. See the map of Oroville Recreation Closures at [https://water.ca.gov/-/media/DWR-Website/Web-Pages/What-We-Do/Recreation/Lakes-And-Reservoirs/Files/Oroville-Closure-Area\\_Labor-Day\\_2018.pdf?la=en&hash=DA78C02D5B7E4FCD1C9878925CB51BD8B8F7F608](https://water.ca.gov/-/media/DWR-Website/Web-Pages/What-We-Do/Recreation/Lakes-And-Reservoirs/Files/Oroville-Closure-Area_Labor-Day_2018.pdf?la=en&hash=DA78C02D5B7E4FCD1C9878925CB51BD8B8F7F608).

<sup>26</sup> FEIS at 263.

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bicyclists and thus eliminate the existing unique recreational experience for equestrians at the Oroville facilities.

21. We expect that DWR will continue to open trails or portions of trails as conditions allow throughout the remainder of the spillway reconstruction period, so the negative impacts for bicyclists will decrease over the next several months and cease as all trails re-open when construction is completed in 2019. Additionally, DWR filed its request on July 10, 2018, with the acknowledgement that additional studies and trail construction would be required, so the proposed change would not practically add trail access for bicyclists within the near-term.

22. The trail use designations and related trail maintenance have been controversial subjects at Oroville for many years, and continue to be, as demonstrated by the large number of comments received in response to the public notice issued for this current proposal. The State Water Contractors' comment that the proposal to designate various trails as multi-use was approved by a variety of interests as part of the Settlement Agreement is misleading. As discussed above in the section titled *Environmental Analysis for Relicensing*, several equestrian groups specifically opposed the portion of the Settlement Agreement that proposed changing the equestrian/hiking-only trails to multi-use. While it is true that in the FEIS, Commission staff considered and analyzed a change in trail use designations and recognized that there may be a future increased demand for bicycle access to more trails, staff recommended a requirement to study the issue *prior to* proposing and implementing any changes to the existing trail use designations. We note that although many members of ORAC voted to send a redesignation proposal to the Commission for approval, the State Water Contractors abstained.

23. DWR cites Governor Edmund G. Brown, Jr.'s Executive Order B-39-17 as highlighting the importance of pursuing this proposal expeditiously. The executive order specifically directs DWR to develop plans for additional access points to Lake Oroville, but it is not clear that the Executive Order was meant to apply to all other recreational resources at the project. Also, we note that California Parks did not vote in favor of the ORAC motion, which recommended that "DWR undertake the process to direct [California Parks] to immediately make the Dan Beebe trail and Bidwell Canyon trail both become multi-use ...." DWR also states that this proposal is consistent with the licensing Settlement Agreement. However, equestrian groups filed in opposition to the settlement, stating that they did not agree with changing the equestrian-only trails to multi-use (i.e., to allow for bicycles) and citing concerns about safety, resources damage, and user conflicts. They also note that DWR proposed the changes without knowledge of the trail conditions since a trail condition inventory had not been completed.<sup>27</sup> Equestrian

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<sup>27</sup> FEIS at 10-11.

groups also oppose this current proposal, as discussed above. The concerns they raise remain relevant, and DWR did not provide any new information on which to re-evaluate or ameliorate these issues.

24. Commission staff's analysis of the current proposal to change certain trail use designations finds that authorizing the change in trail designation temporarily would necessitate lengthy and costly studies and would have some negative environmental impacts due to required trail construction. It would permanently alter the tread width of the trails, which is undesirable for equestrians. Such physical alteration of the trails, realistically, may pre-judge a decision whether to permanently change the current trail designations to multi-use. As indicated in the licensee's application, trail assessments are required to determine whether trail widening, realignment, or vegetation removal would be necessary to meet multi-use design criteria. This could then require ground disturbance, which could adversely impact vegetation and cultural resources and cause erosion and the proliferation of invasive species. Therefore, we conclude that it is unwarranted to approve a temporary, controversial change in trail use designation that lacks consensus or sufficient information and was previously denied.

25. Based on our review of the application, we conclude that the proposed temporary amendment to the project's Recreation Plan should be denied. Denial of this request to change the trail designations does not in any way prejudice or pre-determine any decision or requirement that may become part of a new license.<sup>28</sup>

The Director orders:

(A) The application for a temporary amendment to the Recreation Plan for the Feather River Hydroelectric Project (FERC No. 2100), filed on July 10, 2018, by the California Department of Water Resources, is denied.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2018). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this

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<sup>28</sup> The relicensing of the Feather River Project is pending before the Commission.

order. The licensee's failure to file a request for rehearing will constitute acceptance of this order.

CarLisa Linton  
Acting Director  
Division of Hydropower Administration  
and Compliance

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