

CITY OF YUBA CITY
STAFF REPORT

Date: May 17, 2022
To: Honorable Mayor & Members of the City Council
From: Administration Department
Presentation By: Diana Langley, City Manager

Summary

Subject: Feather River West Levee Financing Authority Proposition 218 Property Owner Protest Ballots for City-Owned Property

Recommendation: Adopt a Resolution authorizing the City Manager to vote "yes" on the Proposition 218 Property Owner Protest Ballots for the Feather River West Levee Financing Authority's (FRWLFA) Operations and Maintenance Assessment for City-owned property

Fiscal Impact: Proposed annual assessment on City-owned property is \$16,894.57.

Purpose:

To vote in favor of forming a Benefit Assessment District to fund the operations and maintenance, repair, replacement, and rehabilitation of the west Feather River levees.

Council's Strategic Goal:

This supports all of Council's goals: Public Safety, Infrastructure, Fiscal Responsibility, and Business Friendly as it is necessary to maintain the levees in good condition for the ongoing preservation of the City.

Background:

The Feather River West Levee Financing Authority (FRWLFA) was established in May 2020 by and between Levee District 1 (LD1), Levee District 9 (LD9), and Sutter County for the purpose of financing the Operations and Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) of the west Feather River levees, related facilities, and administration expenses within the jurisdictions of LD1, LD9 and State Maintenance Area 3 (MA3) in Sutter County. The FRWLFA Levees consist of twenty-seven (27) miles of the west Feather River levee improvements from Paseo Road in Live Oak south to the confluence of the Sutter Bypass, and protect properties throughout the Yuba City Basin.

With all of the work that the Sutter Butte Flood Control Agency has completed to improve the west Feather River levees, it is necessary to maintain the levees to meet strict state and federal requirements. In order to meet these rigorous requirements for maintenance, an estimated \$2.14 million in annual funding is necessary. Currently, there is approximately a \$1.3 million shortfall between

existing revenues and needed revenues. Therefore, FRWLFA proposes to form a Benefit Assessment District (District) to fund OMRR&R of the FRWLFA Levees under the provisions of the Benefits Assessment Act of 1982 (Govt. Code section 54703 et seq.)(1982 Act).

In accordance with the 1982 Act and substantive and procedural requirements of the California State Constitution Article XIID (California Constitution) the formation of the District requires the preparation of an Engineer's Report that describes the parcels that will receive special benefit from the OMRR&R to be funded and details the basis of the proposed proportional special benefit assessments to be levied and collected annually on the County tax rolls.

On April 20, 2022 the FRWLFA Board approved the formation process including initiating proceedings (directing preparation and filing of an Engineer's Report); declaring the FRWLFA Board's intention to form a District and to levy and collect assessments; preliminarily approving the Engineer's Report and Assessment Diagram which are to remain open for public inspection; setting the time and place for the public hearing and conducting a property owner protest ballot proceeding.

FRWLFA will mail a notice of the public hearing and ballot to the property owners of record within the District at least 45-days prior to the public hearing; conduct a public hearing providing for public testimony and written protests; upon closing of the public hearing returned ballots will be tabulated. Upon completion of the ballot tabulation, the Board will declare the results of the balloting, and, if no majority protest exists, the Board may approve the final Engineer's Report, adopt a resolution to form the District, and authorize the levy and collection of assessments.

The adopted Resolution of Intention calls for a public hearing at a special FRWLFA Board Meeting on Wednesday, June 22, 2022, starting at 2:00 P.M. The hearing will be held in the Yuba City Council Chambers, 1201 Civic Center Boulevard, Yuba City, California. At the hearing, property owners in the proposed District will have an opportunity to present oral or written comments on the proposed District and assessments and to submit new or changed assessment ballots. The close of Public Hearing represents the conclusion of the acceptance of property owner protest ballots. After the close of the public hearing, the FRWLFA Board will direct the tabulation of the assessment ballots and at a FRWLFA Board meeting on June 29, 2022, the results of the assessment ballot proceeding will be announced, and, if there is no majority protest within the ballots received, the FRWLFA Board may consider final action regarding the formation of the District and levying of the special benefit assessment.

Analysis:

The City of Yuba City owns 131 properties within the proposed District. The total annual assessment for the properties is estimated to be \$16,894.57 based on several factors including location, land use, acreage, structure size, structure contents, and the flood depth zone. Staff is requesting authorization for the City Manager to vote in favor of the Assessment by voting "yes" on the City's ballots.

Fiscal Impact:

The City's estimated annual cost for FY 22/23 is \$16,894.57, broken down \$758.17 Water Fund, \$164.71 Wastewater Fund, and \$15,971.69 General Fund. If approved, the Assessment will be adjusted annually each year, up to a maximum of 4%.

Alternatives:

Direct the City Manager to vote "no" on the City's ballots. If a majority protest is received, and LD1 and LD9 are no longer able to maintain the levees to meet the strict state and federal requirements, then the maintenance of the levees could transfer to the State. Costs, which will be passed on to property owners without a vote, may fluctuate unpredictably and be higher in the long term. The community will not have local levee districts to prioritize emergency response and flood fighting during high water

events.

Recommendation:

Adopt a Resolution authorizing the City Manager to vote "yes" on the Proposition 218 Property Owner Protest Ballots for the Feather River West Levee Financing Authority's Operations and Maintenance Assessment for City-owned property.

Attachments:

1. Attachment 1 - FRWLFA Reso
2. Attachment 2 - FAQ's
3. Attachment 3 - Sample Ballot

Prepared By:
Diana Langley
City Manager

Submitted By:
Diana Langley
City Manager

ATTACHMENT 1

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AUTHORIZING THE CITY MANAGER TO VOTE “YES” ON THE PROPOSITION 218
PROPERTY OWNER PROTEST BALLOTS FOR THE FEATHER RIVER WEST LEVEE
FINANCING AUTHORITY’S OPERATIONS AND MAINTENANCE ASSESSMENT FOR CITY-
OWNED PROPERTY**

WHEREAS, the Feather River West Levee Financing Authority (FRWLFA) was established in May 2020 by and between Levee District 1 (LD1), Levee District 9 (LD9), and Sutter County for the purpose of financing the Operations and Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) of the west Feather River levees, related facilities, and administration expenses within the jurisdictions of LD1, LD9, and State Maintenance Area 3 (MA3) in Sutter County; and,

WHEREAS, with the recent levee improvements completed by Sutter Butte Flood Control Agency, it is necessary to maintain the levees to meet strict state and federal requirements in order to retain 200-year level of flood protection; and

WHEREAS, in order to meet the rigorous maintenance requirements, an estimated \$2.14 million in annual funding is necessary and there is currently an approximate \$1.3 million shortfall between existing revenues and needed revenues; and

WHEREAS, FRWLFA proposes to form a Benefit Assessment District (District) to fund OMRR&R of the FRWLFA Levees under the provisions of the Benefits Assessment Act of 1982; and

WHEREAS, on April 20, 2022, the FRWLFA Board approved the formation process for the District including initiating proceedings; declaring the FRWLFA Board’s intention to form a District and to levy and collect assessments; preliminarily approving the Engineer’s Report and Assessment Diagram, and setting the time and place for the public hearing and conducting a property owner protest ballot proceeding; and

WHEREAS, the City of Yuba City owns 131 properties within the proposed District; and

WHEREAS, the City of Yuba City needs to submit a ballot for each of the City-owned properties; and

WHEREAS, a “yes” vote insures that the levees will continue to be maintained by LD1, LD9 and MA3, which provides for more local control of the maintenance activities; and

WHEREAS, maintenance of the levees supports the City Council’s goals related to Public Safety, Infrastructure, Fiscal Responsibility, and Business Friendly.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Yuba City does hereby authorize the City Manager to vote “yes” on the Proposition 218 Property Owner Protest Ballots for the Feather River West Levee Financing Authority’s Operations and Maintenance Assessment for City-owned property.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 17th day of May, 2022.

AYES:
NOES:
ABSENT:

Dave Shaw, Mayor

ATTEST:

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

Shannon L. Chaffin, City Attorney
Aleshire & Wynder, LLP

ATTACHMENT 2

Frequently Asked Questions

BACKGROUND

What's the issue?

Recently repaired levees must be maintained to strict state and federal requirements. Currently, there is a \$1.3 million shortfall between existing and needed revenues to adequately fund levee maintenance. These levees protect approximately 25,000 properties and 75,000 residents in Live Oak, Yuba City, and unincorporated Sutter County, so they must be properly operated and maintained to reduce the potential for flooding.

What's the solution?

A proposed Operations and Maintenance (O&M) Assessment on properties that benefit from the levees to help pay for ongoing O&M costs. The proposed Assessment must be approved by a majority vote of property owners through the California Proposition 218 process.

Who is proposing the Assessment?

The Feather River West Levee Financing Authority (FRWLFA), is a joint powers agency formed in 2020 by Levee District 1 (LD 1), Levee District 9 (LD 9) and Sutter County with the agreement to work together on long-term funding for levee O&M.

How are these levees managed?

The Levees are operated and maintained by LD 1, LD 9, and State Maintenance Area 3 (MA 3).

Is this the same assessment voted on in 2010?

No. That was an assessment needed to pay for much needed levee repairs. The repaired levees, completed in 2020, must now be properly operated and maintained to keep our properties and community protected and to comply with strict state and federal regulations.

How is the \$1.3 million funding gap calculated?

Total Required Funding: \$1.9 Million

Existing Funding: \$621,000

Funding Gap: \$1.3 Million

ASSESSMENT

What's an Assessment?

An annual cost paid on each parcel of land that receives a special benefit from a service. In this case, the special benefit is the reduction in flood damages that results from properly maintained levees. Assessments are calculated for each individual parcel using a variety of factors, like land use type, parcel size, structure type and size, and flood depths.

What does a proposed O&M Assessment mean for you?

In May 2022, approximately 25,000 property owners will receive ballots by mail and be asked to vote on the proposed O&M Assessment. If approved by property owners, the Assessment will be collected annually on property tax bills and used to pay for levee O&M. Assessment revenues can't be used for any other purpose.

What does a YES vote mean?

If property owners approve the Assessment, local agencies will maintain control of our levee maintenance and costs. Costs will be consistent, predictable, and lower in the long term.

What does a NO vote mean?

If the Assessment is not approved by property owners, levee districts will run out of money to operate and maintain levees as required.

Once that occurs, the only option will be to turn over levee operations and maintenance to the State. Costs, which will be passed on to property owners without a vote, will fluctuate unpredictably and be higher in the long term. The community will not have local levee districts to prioritize emergency response and flood fighting during high water events.

How was the Assessment amount for each property calculated?

Assessments for each individual property are based on factors that include location, land use, acreage, structure size, structure contents, and the flood depth zone.

Use the Assessment Calculator on frwlfa.org to calculate your proposed Assessment.

If the proposed O&M Assessment passes, how long will the cost apply?

Levee O&M is an ongoing responsibility, so the proposed Assessment will continue as long as the service is provided.

How will the Assessment keep up with inflation?

The Assessment will be adjusted with the CPI, but never exceed 4% a year.

What happens to existing assessments/funding if the proposed O&M Assessment passes?

District/Maintenance Area	Current Funding	If O&M Assessment passes
LD 1	Two existing O&M Assessments	Replace existing with single new Assessment
LD 9	A fraction of the 1% general property tax collected by Sutter County	New Assessment plus fraction of 1% property tax
MA 3	An Assessment imposed by the State of CA	O&M would be transferred* to LD 1 and new Assessment would replace existing Assessment

*Transfer occurs through a legal process that will be concluded if the proposed Assessment passes

LEVEE DISTRICTS

What are levee districts, and what do they do?

These are agencies that provide a public safety service by operating and maintaining levees and associated facilities. Their budget is designed to cover costs of services, provide a modest reserve for planned and unplanned capital costs, staffing (3 people for 27 miles of levee), fixed costs, and comply with a long list of state and federal O&M requirements. See a comprehensive list of O&M requirements at www.frwlfa.org.

What's being done on the Sutter Bypass?

The Sutter Butte Flood Control Agency and the State are coordinating on improvements to the Sutter Bypass and other flood control facilities over time. Effective long-term O&M remains a priority to protect the \$380M investment in the recently rehabilitated Feather River west levee, which provides flood protection to properties in the south Yuba City Basin.

CA PROPOSITION 218

What's the Proposition 218 process?

Owners of properties within the proposed Assessment district will receive a mail-in ballot at the end of April. Votes are weighted by the dollar amount of the proposed Assessment (e.g., \$1 = 1 vote). The ballots must be returned by June 22. If the proposed Assessment is approved by property owners, it may then be adopted by the FRWLFA Board. The benefits and associated Assessment amounts are determined through an Engineer's Report.

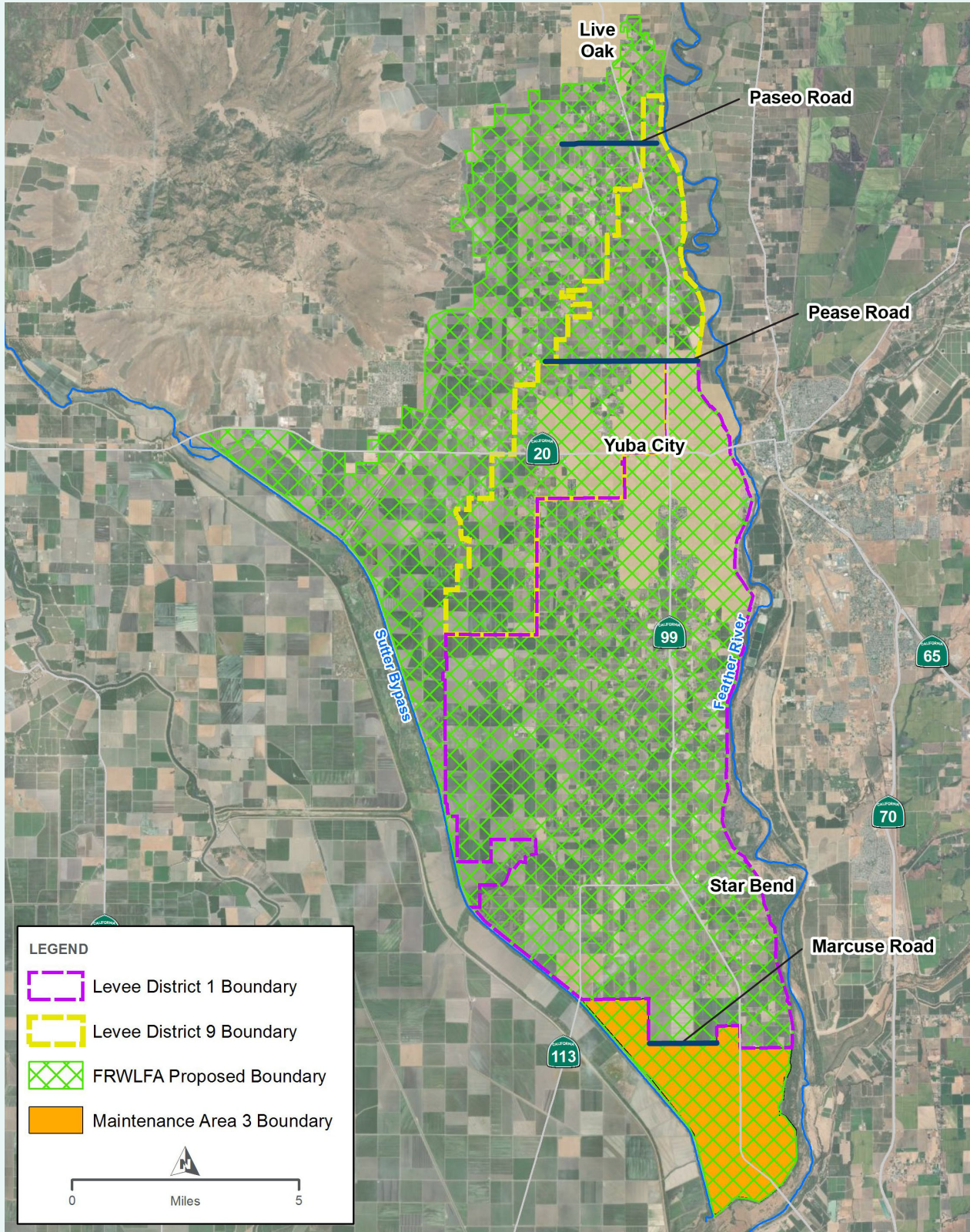
What's an Engineer's Report?

An Engineer's Report, as mandated by California law, provides the technical analysis to support a proposed Assessment district. The Engineer's Report quantifies the proportionate "special benefit" that each parcel in the proposed Assessment district will receive from the service provided – in this case, the O & M of improved levees and flood control facilities associated with the Feather River West Levee system.

The Engineer's Report is available on www.frwlfa.org



What are the boundaries of the proposed Assessment District?



FEATHER RIVER WEST LEVEE
FINANCING AUTHORITY



FRWLFA PROPOSED ASSESSMENT DISTRICT



800.401.8302



info@frwlfa.org



frwlfa.org

ATTACHMENT 3

OFFICIAL ASSESSMENT BALLOT



Feather River West Levee Financing Authority ("FRWLFA") FRWLFA Operations and Maintenance Assessment District

This Ballot is for the property designated as Assessor's Parcel Numbers: **20-030-012**

This is your official property owner assessment ballot for the proposed levy of new assessments for the FRWLFA Operations and Maintenance Assessment District ("District") to fund the ongoing special benefit expenses associated with the Operation, Maintenance, Repair, Rehabilitation, and Replacement ("OMRR&R") program associated with the west Feather River levees as described in the accompanying Notice and described more fully in the Engineer's Report, which is on file with the FRWLFA Board Clerk. This balloting process was initiated on April 20, 2022 and approved by the Board of Directors.

CITY OF YUBA CITY
1201 CIVIC CENTER BLVD
YUBA CITY, CA, 95993

To complete your ballot, mark an (X) in the voting square next to the word "YES" or next to the word "NO" below, sign and date the ballot, and return the entire ballot to the FRWLFA Board Clerk. If you wrongly mark, tear, or deface this ballot, return it to the FRWLFA Board Clerk with a request for a replacement ballot. All completed ballots must be received by the FRWLFA Board Clerk no later than the close of testimony at the public hearing scheduled for June 22, 2022.

Assessor's Parcel Number: 20-030-012
Proposed Balloted Maximum Assessment Rate: \$0.00050445 per FDRB
Your Parcels Balloted Maximum Assessment Amount: \$ 1,213.49

This is an annual assessment that is collected as part of your County property tax bill. The amount assessed each fiscal year shall be based on the net expenses to be assessed, but the assessments may not exceed the Proposed New Maximum Assessment Rate shown above plus the annual inflation adjustment without the approval of the property owners.

BALLOT

YES — IN FAVOR OF THE ASSESSMENT proposed for the District and the new assessment for my property shown above including the annual inflation adjustment equal to the lesser of 4% or the annual percentage increase of the Local Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-Hayward, California area.



NO — OPPOSED TO THE ASSESSMENT proposed for the District and the new assessment for my property shown above including the annual inflation adjustment equal to the lesser of 4% or the annual percentage increase of the Local Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-Hayward, California area.



I hereby declare, under penalty of perjury, that I am the record owner of the property (Assessor's Parcel Number) identified on this ballot or I am the authorized representative of that record owner.

Signed _____ Date _____

Please see the back of this sheet for information about your assessment ballot and instructions for completion and delivery of the assessment ballot.

**INFORMATION ABOUT YOUR ASSESSMENT BALLOT AND
INSTRUCTIONS FOR COMPLETION AND DELIVERY OF ASSESSMENT BALLOT**

**Feather River West Levee Financing Authority
("FRWLFA")
FRWLFA Operations and Maintenance Assessment District**

To Cast Your Ballot: Prior to the public hearing, completed ballots may be mailed to the FRWLFA Board Clerk at the address indicated below or personally delivered to the Levee District 1 Office located at 243 Second Street, Yuba City California, Monday through Friday between 8 AM and 5 PM. A return envelope has been provided for your convenience that is addressed to the FRWLFA Board Clerk. You may also personally present completed ballots to the FRWLFA Board Clerk at the public hearing on June 22, 2022, at the Yuba City Council Chambers at 1201 Civic Center Boulevard, Yuba City, California. If you return your ballot by mail, please be sure to allow time for mail delivery. The FRWLFA Board Clerk must receive all ballots no later than the end of the public testimony portion of the public hearing on June 22, 2022. If you damage or misplace your ballot, a replacement ballot can be obtained by calling the FRWLFA Hotline at (800) 401-8302 or emailing info@frwlfa.org.

All submitted ballots must be clearly marked to indicate either "Yes — In Favor of assessment" or "No — Opposed to the assessment" and signed; otherwise, the ballot will be rejected and not counted. To ensure the privacy of your ballot prior to the ballot tabulation, please return your ballot in the envelope provided, or in a sealed envelope that indicates that a ballot is enclosed by noting on the front of the envelope "Assessment Ballot, Do Not Open".

A ballot previously submitted may be withdrawn at any time prior to the close of the public hearing by request to the FRWLFA Board Clerk by the person(s) that signed the submitted ballot. An assessment ballot may be changed at any time prior to the end of the public hearing by requesting a withdrawal of the previous ballot and requesting a replacement ballot. Only the person(s) signing the ballot may make such a request. The replacement ballot must be received by the FRWLFA Board Clerk prior to the deadline set forth herein.

If you have questions: Should you have any questions prior to the public hearing, please leave a message on the FRWLFA Hotline at (800) 401-8302 or email info@frwlfa.org, and FRWLFA staff will respond promptly.

Feather River West Levee Financing Authority
Attn: FRWLFA Board Clerk
P.O. Box M
Yuba City, CA 95991

*Completed ballots MUST be received by the FRWLFA Board Clerk no later than the close of the public testimony portion of the public hearing, which is scheduled to begin on **Wednesday, June 22nd at 2:00 p.m.**, in the Yuba City Council Chambers, located at 1201 Civic Center Boulevard, Yuba City, California*

How to cast your ballot:

1. **Check Yes or No**
2. **Sign and date it**
3. **Return to the FRWLFA Board Clerk on or before the Public Hearing on, June 22, 2022, in accordance with the deadlines referenced above**