

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SANTA BARBARA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT,
STATE OF CALIFORNIA**

IN THE MATTER OF PROVIDING)
PERFORMANCE SECURITY FOR)
PERMITTED DEBRIS NETS PROJECT) RESOLUTION NO. 19-223

WHEREAS, the Santa Barbara County Flood Control and Water Conservation District (the “District”) was created to, among other things, protect the watercourses, watersheds, harbors, public highways, life and property in the District from flood and storm waters (Santa Barbara Flood Control and Water Conservation District Act § 4); and

WHEREAS, the District has the power to control the flood and storm waters of the District and to protect from damage from such flood and storm waters the watercourses, watersheds, harbors, public highways, life and property in the District (Santa Barbara Flood Control and Water Conservation District Act § 5.5); and

WHEREAS, the District has the power to cooperate and to act in conjunction with, among others, any public or private corporation, in the construction of any work for the controlling of flood or storm waters of the District, or for the protection of life or property therein, or for any other works, acts or purposes provided for in the Santa Barbara Flood Control and Water Conservation District Act (Santa Barbara Flood Control and Water Conservation District Act § 5.6); and

WHEREAS, the Partnership for Resilient Communities (the “Partnership”) is a private organization that has proposed a private project to install, maintain, and remove a temporary debris flow mitigation system consisting of several steel ring nets installed in canyons north of the community of Montecito (the “Debris Nets Project”); and

WHEREAS, the County of Santa Barbara (the “County”) has approved and issued an Emergency Permit (Case No. 18EMP-00000-00007) and subsequent Development Plan (Case No. 19DVP-00000-00005) authorizing the Partnership to install, maintain for one year, and remove six (6) steel ring nets; and

WHEREAS, Condition of Approval #9 of the Emergency Permit and Condition of Approval #10 of the Development Plan require the Partnership to post a performance security, the amount and form of which must be approved by the California Department of Fish and Wildlife (“CDFW”), to cover the full cost of all obligations under the Emergency Permit 18EMP-00000-00007 and any and all additional requirements imposed through any authorization, approval, or permit granted by CDFW, including a minimum of one year of maintenance (i.e., debris removal) and removal of all of the nets; and

WHEREAS, the Partnership has requested, and the District has agreed to provide, performance security to satisfy Condition of Approval #9 of the Emergency Permit and Condition of Approval #10 of the Development Plan by establishing a separate and distinct fund to segregate and restrict cash held in the County Treasury, with such segregated resources restricted for the sole and exclusive purpose of providing the performance security for the Partnership's Debris Net Project; and

WHEREAS, CDFW has agreed to accept the District's proffered performance security on the express condition that the District shall only be responsible for distributing those restricted funds to CDFW in the event of non-performance by the Partnership under the Emergency Permit and/or Development Plan, and that the District and County of Santa Barbara themselves shall not otherwise be responsible in any event for completing any of the Partnership's performance obligations under the Emergency Permit and/or Development Plan, including the maintenance and removal of the nets; and

WHEREAS, approval of the District's proffered performance security would enable the Partnership to install two additional ring nets approved by the County under the Emergency Permit (Case No. 18EMP-00000-00007) and subsequent Development Plan (Case No. 19DVP-00000-00005) by allowing the Partnership to use its current performance security, a cash deposit that is to be released by CDFW with its acceptance of the District's proffered performance security, to fund the installation of those two additional ring nets; and

WHEREAS, the District's cooperation with the Partnership to provide such performance security to facilitate the installation of the two additional ring nets serves the public purpose of promoting the protection of life and property within the District from flood and storm waters;

NOW THEREFORE, BE IT RESOLVED, the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District hereby orders and resolves as follows:

1. The District hereby establishes a separate and distinct fund to segregate and restrict cash held in the County Treasury in the amount of \$1,042,700 (the "Restricted Fund Balance"), with such segregated resources restricted for the sole and exclusive purpose of providing the performance security required by Condition of Approval #9 of Emergency Permit (Case No. 18EMP-00000-00007) and Condition of Approval #10 of Development Plan (Case No. 19DVP-00000-00005). Until such time as the performance security is either called by the California Department of Fish and Wildlife or is no longer required because the permittee has completed all project conditions, the resources will not be available for any other purpose or use.
2. The District hereby establishes the Restricted Fund Balance upon the express condition that the District's only responsibility shall be to distribute those restricted funds to the California Department of Fish and Wildlife in the event of non-performance by the permittee under Emergency Permit (Case No. 18EMP-00000-00007) and/or Development Plan (Case No. 19DVP-00000-00005), and that the District and County of

Santa Barbara themselves shall not otherwise be responsible in any event for completing any of the permittee's performance obligations under the Emergency Permit and/or Development Plan, including the maintenance and removal of the debris nets.

3. The District finds that the District's cooperation with the Partnership to provide such performance security to facilitate the installation of the two additional ring nets in canyons north of the community of Montecito serves the public purpose of promoting the protection of life and property within the District from flood and storm waters, but that the Debris Net Project remains a private project, and that the Partnership retains full and exclusive responsibility to permit, install, maintain, and remove all elements of the Debris Net Project, as conditionally approved by the County.
4. The County CEO, as Ex-Officio Clerk of the District, is hereby delegated the authority, upon advice and consent of County Counsel and the Auditor-Controller, to take all actions necessary to complete the creation of the Restricted Fund Balance, and to distribute such funds, upon the terms set forth herein.
5. This resolution shall take effect immediately upon its adoption by the Board of Directors of the District.

PASSED AND ADOPTED by the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District, State of California, this 27th day of August, 2019 by the following vote:

AYES: Supervisor Williams, Hart, Hartmann, Adam, and Lavagnino

NOES: NONE

ABSENT: NONE

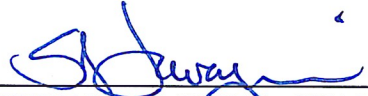
ABSTAINED: NONE

ATTEST:

MONA MIYASATO, EX-OFFICIO
CLERK OF THE BOARD OF DIRECTORS
OF THE SANTA BARBARA COUNTY
FLOOD CONTROL AND WATER
CONSERVATION DISTRICT

SANTA BARBARA COUNTY
FLOOD CONTROL AND WATER
CONSERVATION DISTRICT

By: 
Deputy


STEVE LAVAGNINO, CHAIR
BOARD OF DIRECTORS

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: 
Deputy County Counsel

By: 

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

By: 