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## TECHNICAL MEMORANDUM

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**Date:** April 12, 2023

**Project:** Local Governance Structure and Funding Strategy to support the Salt River Ecosystem Restoration Project (Salt River project)

**Prepared For:** Humboldt County Resource Conservation District

**Prepared By:** John Miller, Principal

**Reviewed By:** Colette Santsche AICP, Principal

**Attachments:**

1. An Evaluation of the Types of Organizational and Funding Models for SRWC Long Term Monitoring and Maintenance
2. Salt River Maintenance Strategy - Summary of Initial Findings
3. Additional Next Steps Detail for the Salt River Organizational and Funding Project
4. Salt River Project - Tool for Evaluating Potential Revenue (Excel file)
5. Preliminary Salt River Project Sub-Zone Boundary (shapefile)

# LOCAL GOVERNANCE STRUCTURE AND FUNDING STRATEGY

## SALT RIVER ECOSYSTEM RESTORATION PROJECT

### OVERVIEW

Humboldt County Resource Conservation District (HCRCD) asked Planwest Partners Inc. (Planwest) to prepare an outline for a local governance structure that can establish a funding source to support the Salt River Ecosystem Restoration Project (Salt River project). This effort involved an evaluation of appropriate organizational types under California law to support, or be responsible for, the maintenance of the Salt River project and which have the authority to establish an ongoing local funding source (such as a special tax, special assessment, or fees), to estimate potential revenue based on various assumptions, and to identify the procedural steps to establish the organizational structure and funding source.

### SUMMARY

The task began with a review of a table entitled *Types of Organizational and Funding Models for SRWC Long Term Monitoring and Maintenance*, prepared by the HCRCD. Planwest revised and edited this table utilizing experience with California local organization types and funding sources, with particular focus on the most likely organizational and funding options, based on knowledge of local agency authority, formation, funding, and experience. The Planwest evaluation confirmed a prior conclusion by the HCRCD; the establishment of a Sub-Zone through the Humboldt County Flood Control District (HCFCD) would likely be the most appropriate organizational structure to support the Salt River. The HCFCD is authorized to support flood control within specific Sub-Zones that are established within its boundaries and to initiate a special election for the approval of a special tax by registered voters within the Sub-Zone to support the maintenance of the Salt River project or to establish a special assessment on property subject to property owner protest proceedings. Although a final Sub-Zone boundary was not determined as part of this analysis, the U.S Environmental Protection Agency Eel River Hydrological Unit Code (HUC) 12 datasets were determined to be the most appropriate starting point for a preliminary boundary, which defines a boundary for the Salt River including all of the creeks that drain north into the Eel River bottoms.

The document entitled *Salt River Maintenance Strategy - Summary of Initial Findings* contains excerpts from, and a detailed review of, the HCFCD enabling act to ensure a Sub-Zone that crosses into two zones may be established and a special tax can be used to support the Salt River project. This document asks and answers the following questions and provides specific references to HCFCD enabling act:

- Can a Subzone cross “Zone” boundaries?
- What is the process for “instituting” a project?
- Is an election required for the project or the funding source (special tax)?
- Can the HCFCD cooperate with the HCRCD or the Salt River Watershed Council in implementing subzone projects?

## ORGANIZATIONAL TYPES CONSIDERED

Organizational types, other than the HCFC, that likely have the authority to support the Salt River project, as defined above, and that were considered and not selected include, in no particular order:

Organizational Type	Conclusion
Community Services District (CSD)	<p>A CSD has the authority and may be formed to plan, design, construct, improve, maintain, and operate flood protection facilities. CSDs are multipurpose special districts governed by an independently elected board of directors that can provide a broad range of services, including flood protection, and establish appropriate funding sources. A CSD may only provide flood protection subject to Board of Supervisors written consent, because counties can provide flood services, and the written consent of other existing districts within the proposed boundary that have the authority to provide flood services. CSD formation requires approval from the Local Agency Formation Commission (LAFCo) and approval by a majority of voters within the district boundary casting votes.</p> <p>There is already one CSD within the Salt River watershed, the Riverside CSD, which does not provide flood services. It may not be appropriate to establish overlapping CSDs. Given the preliminary boundary includes substantial areas Zoned Agricultural Exclusive (AE )and Timber Production Zone (TPZ) and a city, would overlap another CSD, and CSDs typically provide urban services, a CSD is not an appropriate organizational type.</p>
County Service Area (CSA)	<p>CSAs are dependent districts (the Board of Supervisors is the governing board) that can provide a County the authority to extend a very broad range of services, including flood control, to areas where residents are willing to pay for the extra service. CSA formation requires County support and LAFCo and voter approval.</p> <p>Forming a new CSA for this purpose seems burdensome and unnecessary, given that Humboldt County already has an established dependent district that is solely intended to provide support flood control within specific Sub-Zones that may be formed.</p>
Community Facilities District (CFD)	<p>A Mello-Roost Community Facilities District (or CFD) is formed by a county, city, special district or joint powers authority agency to finance public improvements and services, which can include flood and storm protection services, including operation and maintenance. Humboldt County is the only local agency whose boundary covers the entire preliminary boundary and would be the most appropriate sponsor of a CFD. CFDs are typically established to support infrastructure and services for new development. There are no CFDs within Humboldt County.</p> <p>CFDs are very complicated and costly to form and administer, and the benefits of using a CFD may not be commensurate with the level of effort.</p>

## ORGANIZATIONAL TYPES NOT CONSIDERED

The HCRCD was not considered to be authorized to solely support the Salt River Project, where a new funding source is established within preliminary boundary, because RCDs only have the authority to impose special taxes or special assessments district-wide and not within specific areas of benefit. Non-profit organizations were not considered to be authorized to solely support the Salt River Project because they cannot establish ongoing sources of revenue.

## FUNDING STRATEGY

Proposition 13 precludes that establishment of new ad valorem property taxes, so special taxes approved by voters or special assessments approved by property owners are the only ongoing revenue sources that could be established to support the Salt River project. Other potential funding sources are fees and grants. Impact fees are charged by local governmental agencies to an applicant in connection with approval of a development project to offset some or all the cost of public facilities related to the development project. Impact fees, and fees in general, cannot be used for maintenance, so are likely not an appropriate funding source. Grants have been the chief funding source for the Salt River project and may be an appropriate source to offset future project costs. The County, the HCFCD, and the HCRCD all appear to be eligible to apply for grant funds, depending upon the source and its requirements, in the future. Although grants may be essential to ongoing project sustainability, future grant funding is unknown, and they are not a source of base ongoing revenue for project support.

Special taxes or assessments are appropriate funding sources for flood control projects. Special taxes may be the most appropriate, given the flexibility in how and where special taxes can be applied; however special taxes require 2/3rds voter approval. Special assessments must be based on a benefit formula where each parcel in the service area is assessed according to the "special benefit", as opposed to general benefit, that it receives from the services and improvements. It would be more challenging to develop a formula to identify special benefit than to develop a special tax which is required to demonstrate a reasonable relationship between the tax and the cost of the service or improvement. While either a tax or an assessment may be feasible, this evaluation suggests that a tax may be less complicated and more effective.

Information regarding the taxable parcels within the preliminary boundary was compiled in a spreadsheet, and a simple tool was used to determine the amount of revenue that could be generated through different tax amounts. Based on this tool, it is likely not feasible to generate sufficient funding for all Salt River Adaptive Management Project needs through a special tax. The amount of funding may only be sufficient to support limited activities, and likely not the regular ongoing maintenance of the sediment basin. The *Salt River Project - Tool for Evaluating Potential Revenue* should be used to refine feasible tax formulas and estimate tax revenue for the Salt River Project.

If a special tax were to be established, its revenue may be best suited for limited ongoing planning support for the Salt River Project and to provide support services to prepare grants and coordinate with the community and partner agencies interested in the project's success. Given that a new tax would likely not be sufficient to support the project, there may be a need for planning for a special agreement or other arrangement between HCRCD and the HCFCD to address ongoing responsibilities, liabilities, obligations, and funding shortfalls for the Salt River Project.

## SUB-ZONE FORMATION

Based on the analysis described above, the establishment of a Sub-Zone through the HCFCD appears to be the most appropriate organizational structure to support the Salt River. The HCFCD exists and has the authority to establish Sub-Zones for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement of common benefit to the district.

Planwest has prepared two brief memos regarding the formation of a HCFCD Sub-Zone, *Salt River Maintenance Strategy - Summary of Initial Findings* and *Additional Next Steps Detail for the Salt River Organizational and Funding Project*. The *Additional Next Steps Detail* document summarizes the formation process and describes pre-planning that should likely occur prior to initiating the formation of a Sub-Zone. This pre-planning should likely include brainstorming or open-ended planning to broadly define the projects (if any) and functions of the potential HCFCD Sub-Zone benefiting the Salt River; the identifications of partners and cooperators that may have shared-interest in project success; whether a local advisory body should be established to make recommendations to the Board of Supervisors regarding implementation of the Salt River Sub-Zone; and possibly the development of a strategic plan as a living document to guide the Salt River project. The *Additional Next Steps Detail for the Salt River Organizational and Funding Project* should be reviewed to identify planning steps prior to initiating the formation of a Sub-Zone.

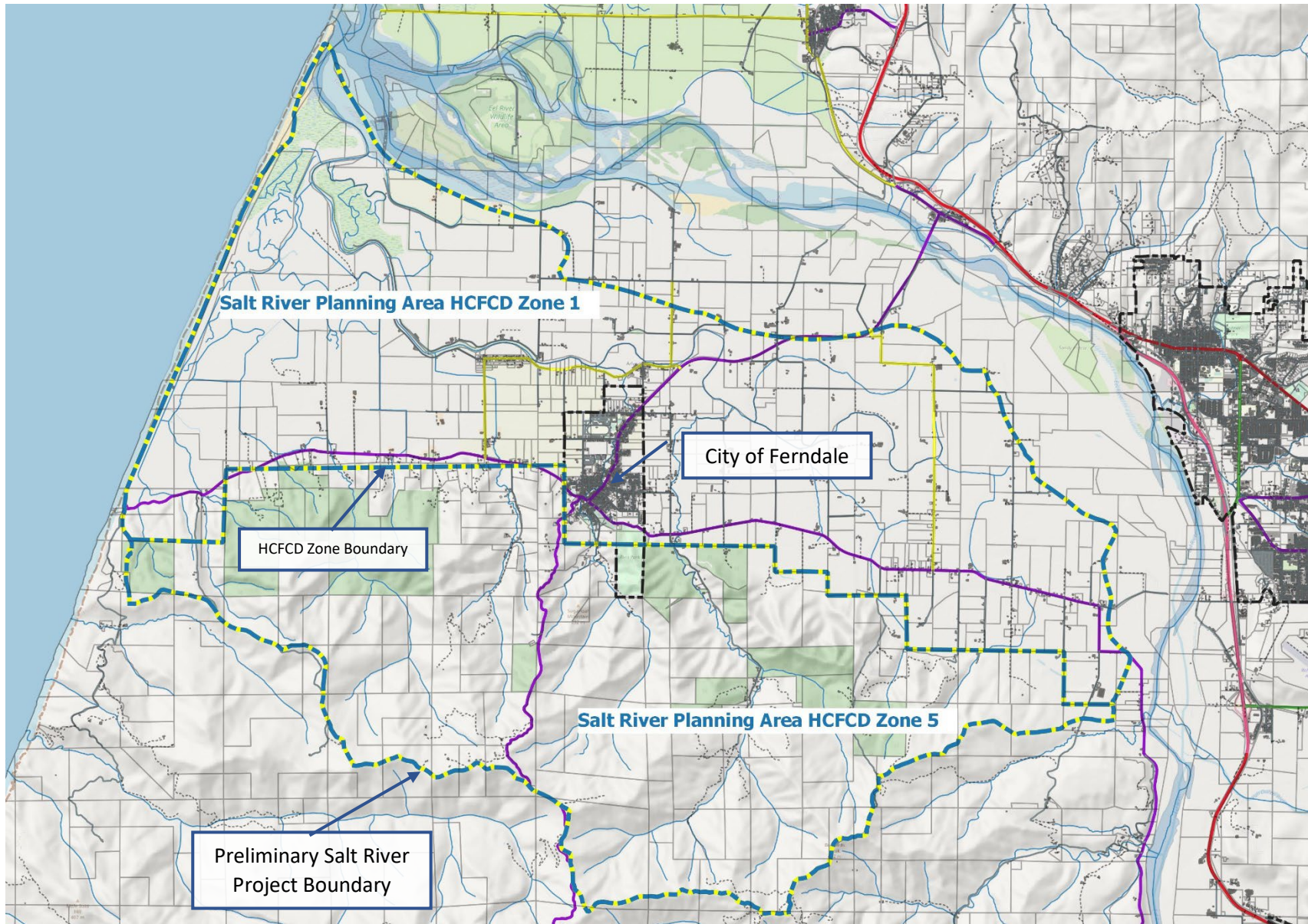
To form a Sub-Zone, after pre-planning identified in this document as well as additional planning steps identified during the planning process are complete and a request to the County is submitted, the Board of Supervisors must:

- Provide notice in a paper of general circulation at least seven days before the hearing.
- Consider all written and oral objections.
- Upon the conclusion of the hearing the board may abandon or proceed with the project, unless written protests signed by a majority of the registered voters residing within the subzone be filed with the board, in which event proceedings must be suspended for not less than six months or abandoned in the discretion of the board.
- Adopt a resolution of intent to undertake a project and to form a subzone containing a clear description by metes and bounds of the subzone, apply a specific subzone number, and approve subzone projects for the specific benefit of the subzone.
- Call an election for the approval of the subzone and special tax and prepare maps to be prepared that show the location of the project that is to be posted in a prominent place in the county courthouse for public inspection for at least thirty (30) before the election.

### Attachments:

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5. Preliminary Salt River Project Sub-Zone Boundary (shapefile)

**Figure 1: Preliminary Salt River Project Sub-Zone Boundary**





**Types of Organizational and Funding Models for SRWC Long Term Monitoring and Maintenance**

Sources: Planwest Partners and [http://www.californiataxdata.com/A\\_Free\\_Resources/fact\\_sheets.asp](http://www.californiataxdata.com/A_Free_Resources/fact_sheets.asp).

**Summary:**

- Organization:
  - The Humboldt County Flood Control District (HCFCD) may be the most appropriate existing local agency to support the Salt River Project because the Salt River and its watersheds are within the HCFCD and the agency exists to support flood control within specific subzones that are established within its boundaries
  - LAFCo approval is not required to establish an HCFCD subzone
- Funding Sources:
  - Special taxes or assessments are appropriate funding sources for flood control projects and special taxes may be the most appropriate, given the flexibility in how and where special taxes can be applied; however special taxes require 2/3<sup>rd</sup>s voter approval.
  - It may not be feasible to generate sufficient funding for all Salt River Adaptive Management Project needs through a local funding source
  - A special agreement or other arrangement may be required between HCRD and the HCFCD to address responsibilities, liabilities, obligations, and funding shortfalls

Type of District	Description	Formation	Funding	Pros/Cons of each model
Humboldt County Flood Control District	An act to create a flood control district to be called Humboldt County Flood Control District and dividing said district into zones; to provide for the control and conservation of flood and storm waters and the protection of watercourses, watersheds, public highways, life and property from or destruction from such waters; to provide for the retention and reclaiming of drainage, storm, flood and other waters and to save and conserve such waters for beneficial use in said district; to authorize the incurring of indebtedness, the issuance and sale of bonds, and the	The Humboldt County Flood Control District (HCFCD) was established in 1945. The district is divided into five zones which follow the physical boundaries established as the five districts of the County Board of Supervisors. The Board of Supervisors may establish zones to be known as sub zones within a particular zone. The supervisors can assign a specific sub zone number and institute	Although the enabling act states that the HCFCD has the power to levy ad valorem taxes, Proposition 13 and other Constitutional amendments prohibit this. Based on a review of other CFCDs, assessments approved by property owners or special taxes approved by registered voters within zones or subzones are almost always used to pay the cost and expenses of carrying out, constructing,	Pros: <ul style="list-style-type: none"> <li>• HCFCD is an already established entity</li> <li>• HCFCD can create a subzone for the Salt River (the Subzone may be a part of Zone 1 (generally Eel River bottom) and possibly Zone 2 (upper Salt River drainage area))</li> <li>• The Board of Supervisors is governing body, and a Subzone would likely be administered through</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
	levying and collection of taxes and assessments on property with said district and in the respective zones thereof; to define the powers of said district; to provide for the government, management and operation of said district and for the acquisition and construction of property and works to carry out the purposes of the district.	subzone projects for the specific benefit of that subzone. The HCFCD has established one sub-zone (Subzone 1-1) to support the maintenance of drainage facilities in and around the City of Fortuna in 1955.	maintaining, operating, extending, repairing or otherwise improving such zones.	<p>Public Works, Environmental Services staff</p> <ul style="list-style-type: none"> <li>• No LAFCO involvement required</li> <li>• A special tax mechanism could be developed that would be roughly proportionate to the services and would need to be approved by 2/3rds of voters or an assessment mechanism could be based on special benefit received by property owners and approved by a majority of property owners receiving a majority of the benefit.</li> <li>• Local control (via HCFCD Board of Directors) and through registered voters or property owners</li> <li>• Special tax or assessment would be collected as part of property tax bill</li> </ul> <p>Cons:</p> <ul style="list-style-type: none"> <li>• no existing HCFCD funding is available for Salt River activity; planning and project activity must be funded</li> </ul>



Type of District	Description	Formation	Funding	Pros/Cons of each model
				<p>through a special assessment or tax</p> <ul style="list-style-type: none"> <li>• HCFCD would likely require that the RCD assume responsibility for Salt River activities</li> <li>• HCFCD may be concerned if adequate funding is not generated through special tax or assessment</li> </ul>
Assessment District	<p>Assessments districts are used by local governments to finance various types of improvements and services to a particular community. These charges are based on the concept of assessing only those properties that receive specific benefit from the services or improvements financed. benefit.</p> <p>There are various state laws that enable the use of assessments, which are commonly paid by property owners as a part of their property tax bills. These assessments allow counties, cities and other agencies to finance the costs of needed services by assessing area property owners. There are a number of types of assessments that may be available to use for flood control, but the Benefit Assessment Act of 1982 Government Code § 54703, et seq. is the most common.</p>	<p>Prior to creating a new assessment, the special district must generate a detailed professional engineer's report outlining the proposed area, proposed project costs, annual cost to each property, and the benefit formula used to determine each property's share of the cost. Then, all owners of property within the proposed assessment district must be mailed a detailed notice of public hearing and a ballot with which to voice their approval or disapproval of the proposed district at least 45 days prior to the hearing. At the hearing, the governing body of the agency must consider all protests to formation of the</p>	<p>Benefit assessments cannot be based on property value. Instead, each assessment district includes a benefit formula and each parcel in the service area is assessed according to the special benefit it receives from the services and improvements. The charge is calculated based on this formula and placed on the county property tax bill.</p> <p>The amount of the benefit assessment cannot be "increased" without the consent of the property owners. However, an escalation clause to track inflation may be approved as part of the assessment district. Prior to increasing the annual assessment, the agency is required to</p>	<p>Pros:</p> <ul style="list-style-type: none"> <li>• RCDs are authorized to impose assessments for flood prevention improvements, including structural and land treatment measures</li> <li>• Some local control for property owners and local government agency</li> <li>• Assessments are collected as part of property tax bill</li> </ul> <p>Cons:</p> <ul style="list-style-type: none"> <li>• If RCD chooses not to impose the assessment, another agency type must be established, such as an HCFCD Subzone</li> <li>• expensive upfront costs for engineering report</li> <li>• highest assessment fees</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
		<p>district. Ballots are weighted according to the proportional financial obligation of the affected property. If the District is approved, the assessment is created and will be billed on the property tax bills each year.</p>	<p>give written notice to all affected property owners, hold a public hearing and an assessment ballot vote. A majority vote is required to approve the rate increase.</p>	<p>paid by property owners with greatest project benefit (along the Salt River)</p> <ul style="list-style-type: none"> <li>• property owners with the highest assessments have greater ability to protest assessment</li> </ul>
Special Taxes	<p>A “Special Tax” means any tax imposed for specific purposes, including a tax imposed for special purposes, which is placed into a general fund. Special Taxes must be approved by a 2/3rds majority of the qualified voters in the special tax zone casting ballots.</p>	<p>Common special taxes in Humboldt County are for:</p> <ul style="list-style-type: none"> <li>• Parks and Recreation</li> <li>• Hospital Services</li> <li>• Fire Protection Services</li> </ul> <p>Prior to placing the tax proposal on the ballot, the agency must adopt an ordinance describing the rate of taxation and the maximum Special Tax that may be levied annually. The Special Taxes must be levied on a per parcel, class of improvement or use of property basis and may be varied to each parcel, improvement or use of property based on the degree of availability of fire or police service in the affected area. The special tax may include an escalation clause to track inflation. The Special Tax does not need to be</p>	<p>A Special Tax is considered a type of tax—not a fee, charge or special assessment. Therefore, the amount of the special tax is not limited to the relative benefit it provides to property owners or taxpayers, rather the tax must have a reasonable relationship to the cost of the service or improvement. Typically, they are levied on a per parcels basis either according to the use of the parcel or on a flat charge, although the law usually provides flexibility to levy the special tax on any “reasonable basis”. However, Special Taxes cannot be imposed on an ad valorem (property value) basis.</p> <p>A special tax is subject to</p>	<p>Pros:</p> <ul style="list-style-type: none"> <li>• Does not require engineers report identifying special benefit to all property owners in subzone</li> <li>• tax burden is spread across service area (Salt River Watershed) versus landowners with greatest benefit</li> <li>• No LAFCO involvement</li> </ul> <p>Cons:</p> <ul style="list-style-type: none"> <li>• Requires local agency to impose a special tax</li> <li>• Requires 2/3 voter approval</li> <li>• RCDs are authorized to impose a special tax; however, the tax must be imposed on all lands within the District</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
		<p>imposed on the entire jurisdictional area of the local government that establishes the Special Tax.</p>	<p>reduction or repeal by popular initiative. An initiative campaign may be launched at any time after approval of the special tax. Special taxes can be used to finance various public improvements and services.</p>	
<p>Community Services District</p>	<p>In rural unincorporated areas, basic services like water, sewer, security and fire protection are typically not provided by counties. Because counties often consist of large and diverse geographical areas, providing services across all areas can be difficult. Consequently, the Community Services District Law was created to provide an alternate method of providing services in unincorporated areas.</p>	<p>A CSD is initiated by a petition of registered voters or by adoption of a resolution at the county level and considered for approval by LAFCo. A CSD cannot be formed without a majority vote of residents living within the proposed boundaries. Once approved, the CSD will assume responsibility for the authorized services. Often a ballot measure for a special tax to support services not otherwise funded through fees is included in the formation elections and a 2/3<sup>rd</sup> majority vote is required for special tax approval. Provision of any new services requires a majority vote of the registered voters in the CSD.</p>	<p>When a CSD is formed that includes a new special tax, the property owner will pay taxes that relate the services provided. If property tax is exchanged with the transfer of service responsibility from the county, property taxes are calculated upon assessed value of the land and improvements and placed on the property tax bill.</p>	<p>Pros:</p> <ul style="list-style-type: none"> <li>• Local governance and funding control</li> <li>• Riverside Community Services District exists within the Salt River drainage</li> </ul> <p>Cons:</p> <ul style="list-style-type: none"> <li>• LAFCo approval is required to form a CSD; however, LAFCo would likely not approve overlapping CSDs</li> <li>• If RCSD is to assume responsibility for flood control – RCSD must seek LAFCo approval and also must also annex areas benefiting from Salt River Restoration efforts</li> <li>• RCSD may not be willing to support annexation/flood control authorization without assurance that adequate</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
				funding will be generated to support all services.
County Service Area	In unincorporated areas, services such as water, sewer, police and fire protection may be provided by the county. Because counties often consist of large and diverse geographical areas, providing a consistent and adequate service level across all areas can be difficult. Residents of urban communities may want more services than those residing in rural areas. The County Service Area Law was created in the 1950's to provide a means of extending services to areas where residents are willing to pay for the extra service. CSAs may provide flood control services.	A CSA is initiated by a petition of registered voters or by adoption of a resolution by the county and considered for approval by LAFCo. Once approved by LAFCo, formation of the CSA will be subject approval by more than 50 to voter approval at a special election. Once approved, the CSA is normally granted the powers approve by LAFCo and the county board of supervisors act as the CSA board.	When a CSA exists, the property owner will pay taxes that were approved as part of the formation and fees imposed by the the CSA which are typically collected by the county as part of property tax bill. The taxes may take a variety of forms: <ul style="list-style-type: none"> <li>• Special taxes may be levied for specific purposes. These taxes must be approved by a 2/3rds vote of CSA residents.</li> <li>• Benefit assessments may be levied for specific purposes and are based on the direct benefit each parcel receives from the improvements or services financed. These charges are subject to annual approval at a public hearing.</li> </ul>	Pros: <ul style="list-style-type: none"> <li>• Boards of Supervisors may establish an advisory committee to provide recommendations regarding CSA administration</li> </ul> Cons: <ul style="list-style-type: none"> <li>• CSA provides broad authority</li> <li>• County may not be willing to support CSA without assurance that adequate funding will be generated to support all services.</li> </ul>
Community Facilities District	The Act allows any county, city, special district, school district or joint powers authority to establish a Mello-Roos Community Facilities District (a "CFD") which allows for financing of public improvements and services. The services and improvements that Mello-Roos CFDs can finance flood	A CFD is created by a sponsoring local government agency. The proposed district will include all properties that will benefit from the improvements to be constructed or the services	Special Taxes are based on mathematical formulas that take into account property characteristics such as use of the property, square footage of the structure and lot size. The formula is defined at	Pros: <ul style="list-style-type: none"> <li>• CFD law is very flexible and the County or an RCD could likely establish one</li> </ul> Cons:

Type of District	Description	Formation	Funding	Pros/Cons of each model
	<p>and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for flood and storm protection services, including, but not limited to, storm drainage and treatment systems and sandstorm protection systems. By law, the CFD is also entitled to recover expenses needed to form the CFD and administer the annual special taxes and bonded debt.</p>	<p>to be provided. A CFD cannot be formed without a two-thirds majority vote of residents living within the proposed boundaries. Or, if there are fewer than 12 residents, the vote is instead conducted of current landowners. In many cases, that may be a single owner or developer. Once approved, a Special Tax Lien is placed against each property in the CFD. Property owners then pay a Special Tax each year. If the project cost is high, municipal bonds will be sold by the CFD to provide the large amount of money initially needed to build the improvements or fund the services.</p>	<p>the time of formation, and will include a maximum special tax amount and a percentage maximum annual increase.</p>	<ul style="list-style-type: none"> <li>CFDs are very complex and costly to form and administer and the benefits of using a CFD may not be commensurate with the complexity</li> </ul>
<p>Resource Conservation District</p>	<p>Resource Conservation Districts (RCDs) are special districts of the state of California, set up under California law to be locally governed agencies with their own locally appointed or elected, independent boards of directors. California RCDs implement projects on public and private lands and educate landowners and the public about resource conservation.</p>	<p>The Humboldt County Resource Conservation District (HCRCD) was formed in 1987 as a special district of the County of Humboldt. The district's function is to assist private landowners in voluntary planning, design, and installation of soil and water conservation practices in Humboldt County. The district is governed by a Board of</p>	<p>The work of the HCRCD is funded through public grants and contracts.</p>	<p>Pros:</p> <ul style="list-style-type: none"> <li>HCRCD is the lead agency on the SRERP. The agency is very familiar with the project.</li> <li>HCRCD has experience in writing grants and obtaining necessary funding.</li> <li>HCRCD familiar with community</li> <li>RCDs have authority to impose special taxes and benefit assessments</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
		<p>Directors made up of volunteer community leaders appointed by the Humboldt County Board of Supervisors. The district's primary technical services are provided through a cooperative partnership with the United States Department of Agriculture's Natural Resource Conservation Service (NRCS), as well as technical staff specifically hired by the district through grant funds.</p>		<p>Cons:</p> <ul style="list-style-type: none"> <li>• HCRCD may not want to take over the monitoring and maintenance responsibility long term</li> <li>• RCDs have only limited authority to impose special taxes</li> </ul>
<p><b>Mattole Restoration Council (MRC) model</b></p>	<p>The Mattole Restoration Council's primary mission is to understand, restore and conserve the ecosystems of the Mattole River watershed, with attention to threatened coho and Chinook salmon and steelhead. The Council works to further the objectives and purpose of the Mattole Restoration Council, "the restoration of natural systems in the Mattole River watershed and their maintenance at sustainable levels of health and productivity".</p>	<p>In the late 1970s, residents of the Mattole Valley noticed a large decline in the numbers of returning salmon. Investigation led to the discovery that the salmon spawning habitat was being impacted by sediment. In 1978, residents within the Mattole River basin began proactive restoration efforts aimed at increasing salmon numbers.</p> <p>This led to the formation of the Mattole Watershed Salmon Support Group (MWSSG) in 1980, as well as groups focused on smaller parts of the</p>	<p>The MRC is a non-profit, 501c3 that works with hundreds of private landowners, resource management agencies, and other local conservation and education organizations. The MRC is funded through public grants, memberships and community donations.</p>	<p>Pros:</p> <ul style="list-style-type: none"> <li>• No authority to establish ongoing revenue sources such as special taxes or assessment district</li> </ul> <p>Cons:</p> <ul style="list-style-type: none"> <li>• difficult to obtain on-going grants for monitoring and maintenance</li> <li>• memberships and donations do not provide a constant source or adequate amount of revenue</li> <li>• hire personnel to write grants</li> </ul>

Type of District	Description	Formation	Funding	Pros/Cons of each model
		<p>watershed. In 1983, the Mattole Restoration Council was founded by more than 30 Mattolians. Its original intention was to provide support for the restoration of the Mattole River watershed and bring together the various groups working on this effort under one community-based umbrella.</p>		



## Salt River Maintenance Strategy

### Summary of Initial Findings

#### Summary of Initial Findings:

- Organization:
  - The Humboldt County Flood Control District (HCFCF) may be the most appropriate existing local agency to support the Salt River Project because the Salt River and its watersheds are within the HCFCF and the agency exists to support flood control within specific subzones that are established within its boundaries
  - LAFCo approval is not required to establish an HCFCF subzone
- Funding Sources:
  - Special taxes or assessments are appropriate funding sources for flood control projects and special taxes may be the most appropriate, given the flexibility in how and where special taxes can be applied; however special taxes require 2/3<sup>rd</sup>s voter approval.
  - It may not be feasible to generate sufficient funding for all Salt River Adaptive Management Project needs through a local funding source
  - A special agreement or other arrangement may be required between HCRCF and the HCFCF to address responsibilities, liabilities, obligations, and funding shortfalls

#### Potential Next Steps

- Consider using the local plan of flood protection strategy as a guiding tool ([https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=WAT&division=5.&title=&part=1.&chapter=4.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WAT&division=5.&title=&part=1.&chapter=4.&article=))
- The HCFCF is a good candidate for establishing an organizational structure and funding source for Salt River Adaptive Management
- Consider broadly defining the projects/functions of the potential HCFCF subzone
- Evaluate the expectations/obligations/responsibilities/risks of a subzone and the cooperators (HCFCF, HCRCF, Salt River Watershed Council, City of Ferndale, Humboldt County, CDFW, State Coastal Conservancy, NRCS, Army Corps, and other state or federal agencies)
- Evaluate Potential Revenue options (**see excel workbook**)

#### HC Flood Control District Questions and Notes

- Can a Subzone cross "Zone" boundaries? Yes Section 4 allows the creation of subzones "without reference to the boundaries of the zones" and the subzone can be created simultaneously with the proceedings for the projects benefiting the subzone. The Salt River drainage is within Zone 1 (Eel River Valley) and Zone 5 (Remainder of County, including the upper Salt River watershed).

#### § 4. Number and description of zones; Subzones.

The board of supervisors of the district created by this act, by resolutions thereof adopted from time to time, may establish zones to be known as subzones within said district without reference to the boundaries of the zones described herein setting forth

in said resolution a clear description thereof by metes and bounds, and entitling said subzone by specific subzone number, and institute subzone projects for the specific benefit of such subzones.

Proceedings for the establishment of such subzones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to such subzones, which proceedings shall be instituted in the manner prescribed in Section 13 of this act.

- What is the process for “instituting” a project? In order to approve a subzone and a project, the Board of Supervisors must:
  1. provide notice in a paper of general circulation at least seven days before the hearing;
  2. consider all written and oral objections;
  3. upon the conclusion of the hearing the board may abandon or proceed with the project, unless written protests signed by a majority of the registered voters residing within the subzone be filed with the board, in which event proceedings must be suspended for not less than six months or abandoned in the discretion of the board;
  4. adopt a resolution of intent to undertake a project and to form a subzone containing a clear description by metes and bounds of the subzone, apply a specific subzone number, and approve subzone projects for the specific benefit of the subzone; and,
  5. call an election for the approval of the subzone and special tax and prepare maps to be prepared that show the location of the project that is to be posted in a prominent place in the county courthouse for public inspection for at least thirty (30) before the election.

**§ 13. Institutions of products; Resolution; Adoption; Contents; Publication or posting of notice; Consideration of objections; Action of board; Protests; Filing with board; Number required for suspension or abandonment of projects**

The board may institute district projects or projects for single zones and joint projects for two or more zones, and projects for subzones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to the district or to such zone, subzone, or participating zones. As used in this section, "project" includes a contract with the United States for a water supply.

For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the district as a whole or by the particular zones, subzones, or participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project. Notice of such hearing shall be given by publication pursuant to Section 6066 of the Government Code, the last publication of which notice must be at least seven (7) days before said hearing, in a newspaper of general circulation designated by the board, circulated in the district or in such zone, subzone, or each of said participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to

said hearing in five public places. designated by the board, in the district or in such zone, subzone, or in each of said participating zones. Said notice must designate a public place in the district or in, such zone subzone, or in each of said participating zones where a copy or copies of the map or maps of said project may be seen by any interested person; said map must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the Proposed project. Upon the conclusion of the hearing the board may abandon the Proposed project or proceed with the same, unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters residing within the district or such zone, subzone, participating zones be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board.

- *Is an election required for the project or the funding source (special tax)?* Section 4 and Section 13.1 requires a majority vote in favor at special election for projects not involving bonded indebtedness (the likely scenario). A measure relating to the funding source, if it is a special tax, would be required to be on the ballot at the election as well and would require a 2/3rds majority vote in favor. It would be prudent to condition the formation of the subzone on the approval of the special tax, if they are not in the same measure.

The tax and assessment provision of this *special act* district are archaic and not consistent with Prop 13 and post Prop 13 constitutional amendments and laws. Special districts operate either under a principal act, a generic statute found in the California Code that applies to all special districts of that type, or a law that is specific to one district. The generic authority for flood control in counties and for County Flood Control Districts is found in Chapter 2, of Part 1, of Division 5 of the Water Code. The Humboldt County Flood Control District was formed pursuant to Chapter 939 of the Statutes of 1945, a special act.

Due to the archaic provisions of the special act creating the HCFCD, Section 14.1, which provides authorization for ad-valorem taxes, is likely invalid. Section 14.2, which references assessments, can likely only be implemented with a special tax because it describes taxing or assessing for what are likely general benefits accruing to a subzone. Section 14.3 specifies procedures relating to “the special benefits derived ... by the specific properties therein to pay the cost ... (relating to) special benefit to such ... subzones” which only applies to assessments.

Based on the above, it appears that the HCFCD can impose special taxes on all property in a subzone, if approved by a 2/3rds majority of registered voters voting on the measure and the HCFCD can impose special assessments, unless a majority of property owners who would receive a majority of the benefit protest.

### **§ 13.1. Special election on project not involving bonded indebtedness ·**

If, after the hearing provided for in section 13 of this act, the board determines to proceed with any project not involving the incurring of a bonded indebtedness board may call a special election and submit to the qualified voters of such zone subzone, or participating zones the question whether or not the board should proceed with the project.

Such special election shall be called and held in the same manner as a board election under Section 15.

If such question is submitted by the board to the voters of a zone, subzone or participating zones, the district may not proceed with the project unless a majority of the votes cast are in favor thereof.

### **§ 14. Taxes**

The board shall have power, in any year:

*1. To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district, and [this section is likely no longer valid due to the passage of Proposition 13]*

2. To levy taxes or assessments upon all property in each or any of said zones, subzones, and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of said respective zones or subzones, according to the benefits derived or to be derived by said respective zones or subzones.

3. To levy taxes or assessments upon all property in each or any of said zones or subzones, according to the special benefits derived or to be derived by the specific properties therein to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to such zones or subzones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established or to be established within or on behalf of said respective zones or subzones.

In the event of project cooperation with any of the governmental bodies as authorized in Subdivision 7 of Section 6 of this act, and the making of a contract with any such governmental body for the purposes set forth in said Subdivision 7, by the terms of which work is agreed to be performed by any such governmental body in any specified zones, subzones, or participating zones, for the particular benefit thereof, and by said contract it is agreed that the district is to pay to such governmental body, a sum of money in consideration or subvention for the performance of said work by such governmental body, the board may levy and collect a special tax or assessment upon the property in such zone, subzone, or participating zones, whereby to raise funds to enable

the district to make such payment, in addition to other taxes or assessments herein otherwise provided for.

Said taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from said district taxes or assessments shall be paid into the county treasury to the credit of said district, or the respective zones or subzones thereof, and the board shall have the power to control and order the expenditure thereof for said purposes; provided, however, that no revenues, or portions thereof, derived in any of the several zones or subzones from the taxes or assessments levied under the provisions of Subdivision 2 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, or outside of such subzone, except in the case of joint projects, or for projects authorized or established outside such subzones, zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, for which purpose a subzone may be construed to be a zone, such zones will become, and shall be referred to as, participating zones.

4. Notwithstanding any other provisions of this act, to levy taxes or assessments upon all real property and the improvements thereon on a district-wide basis to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing or otherwise improving or constructing any or all works or improvements established to supply or distribute water.

Notwithstanding any other provision of this act, all assessments or taxes shall be levied on all real property and the improvements thereon only and any bonds issued under this act shall constitute a lien on real property and the improvements thereon only.

- Can the HCFCD cooperate with the Humboldt RCD or the Salt River Watershed Council in implementing subzone projects? The HCFCD can cooperate with state and federal departments and any public or private corporation. The terms city or special district are not used, nor is public corporation defined. Given that the HCFCD cooperates with the City of Fortuna, it would appear that the HCFCD and the Salt River Watershed Council, if it is a private corporation, can cooperate and act in conjunction with the HCFCD.

#### **§ 6. District as body corporate and politic; Powers**

7. To cooperate and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Humboldt, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt, and carry out any definite plan or system of work for any such purpose.

## Additional Next Steps Detail for the Salt River Organizational and Funding Project

### 1. Organizational Structure

- Humboldt County Flood Control District Sub-Zone. The establishment of a Sub-Zone through the Humboldt County Flood Control District (HCFCD) appears to be the most appropriate organizational structure to support the Salt River.
  - The HCFCD exists and has the authority to establish Sub-Zones for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to the district.
  - No other effective organizational structures have been identified.
  - To form a Sub-Zone, after pre-planning identified in this document as well as additional planning steps identified during the planning process are complete and a request to the County is submitted, the Board of Supervisors must:
    - provide notice in a paper of general circulation at least seven days before the hearing.
    - consider all written and oral objections.
    - upon the conclusion of the hearing the board may abandon or proceed with the project, unless written protests signed by a majority of the registered voters residing within the subzone be filed with the board, in which event proceedings must be suspended for not less than six months or abandoned in the discretion of the board.
    - adopt a resolution of intent to undertake a project and to form a subzone containing a clear description by metes and bounds of the subzone, apply a specific subzone number, and approve subzone projects for the specific benefit of the subzone.
    - call an election for the approval of the subzone and special tax and prepare maps to be prepared that show the location of the project that is to be posted in a prominent place in the county courthouse for public inspection for at least thirty (30) before the election.

### 2. Planning to Implement the Sub-Zone

- Planning for Sub-Zone. Prior to the initiation of Sub-Zone formation, the following should likely occur
  - Conduct brainstorming or open-ended planning to broadly define the projects (if any) and functions of the potential HCFCD subzone benefiting the Salt River
    - This could include:
      - Describing the existing Salt River restoration project, sediment basin and the yet to be implemented plans for the Salt River and other tributaries.
      - Mapping areas within the project where flooding has a relationship to the Salt River and highlighting private property, roads (in particular collectors or higher function roads or potential evacuation routes, utility systems), and areas where flooding has a significant economic impact.
      - Mapping known and likely sediment sources.

- Identifying the interrelationship between Salt River flooding and other hazards, such as tsunami and sea level rise
  - Provide a narrative description of the function of the Salt River and the creeks that flow into it and how flooding can be exacerbated by a poorly functioning Salt River.
  - Provide a narrative describing the current Adaptive Management Plan (AMP) developed for the Salt River Project and use of existing permits for future maintenance activities.
- Identify partners and cooperators (such as HCFCD, HCRCD, Salt River Watershed Council, City of Ferndale, Humboldt County, Riverside Community Services District, Del Oro Water Company, CDFW, State Coastal Conservancy, NRCS, Army Corps, and other state or federal agencies) and use the above to connect the partners/cooperators to the Salt River Sub-Zone by identifying how each may benefit from the success of the Salt River project.
- Identify what aspects of the Sub-Zone partners/cooperators would benefit from, can bring to, or contribute towards, the success of the Salt River project including, and in addition to, funding (in kind contributions such as staff support, engineering or environmental expertise, mapping, etc.)
- Identify and evaluate the expectations/obligations/responsibilities/risks of a subzone.
- Seek commitments (such as resolutions or letters of support) from partners and cooperators.
- As necessary, prepare a memorandum of agreement or similar document, with partners and cooperators to commemorate understandings and agreements for the Salt River Sub-Zone of the Humboldt County Flood Control District.
- A special agreement or other arrangement may be required between HCRCD and the HCFCD, or whoever is the operator of the Sub-Zone, to address responsibilities, liabilities, obligations, and funding shortfalls.
- Advisory Body. Consider requesting that the Board of Supervisors establish an appointed advisory body for the Salt River Sub-Zone. Evaluate the need for, roles, responsibilities, and composition of, a local advisory body appointed by the Board of Supervisors to serve as a public conduit for information and comment and to make recommendations to the Board of Supervisors regarding implementation of the Salt River Sub-Zone.
- Potential Revenue Options
  - Special Tax. A special tax, as opposed to a special assessment which is required to only fund special benefit (and not general benefit to property) is likely the most appropriate funding source for a HCFCD Salt River Sub-Zone.
    - A special tax offers flexibility in how (the tax must meet a reasonable cost of service standard) and where special taxes can be applied (unlike a special assessment a tax is not limited to only those properties receiving “special benefit” from the Sub-Zone)
    - The methods available to allocate the tax to property are diverse:



- Uniform Tax Rate. Flat tax, commonly referred to as a parcel tax, is a uniform tax amount applied to all taxable parcels.
- Variable Tax Rate. A variable tax rate based on factors, such as reduced risk of damage to property from flooding; increased safety of drinking water supply or wastewater systems; protection of public services, public resources, jobs, economic base and transportation systems; and the degree to which property contributes drainage flows to the watershed that may contribute to flooding or sedimentation. Variable taxes can add complexity (and may also create some vulnerability to challenge) to the development of the tax and can add administrative costs but can also be useful in garnering support.
  - NOTE - special taxes require 2/3rds voter approval.
  - NOTE - It does not appear that a special tax can feasibly generate sufficient funding for all Salt River project needs. Planning for the Sub-Zone will need to highlight this condition and include a multi-year funding strategy to identify the sources and uses of all potential funding sources including the special tax.
- Grant Funds. Successfully securing future state and federal grants will likely be central to the success of the Salt River project or Sub-Zone. The most appropriate grant programs should be identified and the eligibility for which should be identified that can serve as a “to do list”.
- Contributions from Cooperators/Partners. Where possible, list the potential monetary or in-kind contributions that have been identified by cooperators/partners.
- Strategic Plan
  - It may be beneficial to summarize documents such as the Salt River Ecosystem Restoration Project Adaptive Management Plan and other supporting or complementary plans as part of the development of a brief strategic-like plan, and that summarizes the planning to implement the Sub-Zone and sets forth the broad objectives of the Salt River HCFC Sub-Zone.
  - The strategic plan should also identify the approach for the special tax and summarize other potential funding sources, such as the appropriate grants and eligibility to do list defined above and contain a table that projects the sources and uses of funds for the next five or so years.
    - The strategic plan or subsequent operations plan should identify administration, budgeting, reporting, or auditing requirements of the Sub-Zone including the responsibilities and process for annually submitting the special tax roll to the Humboldt County Auditor-Controller.
  - The completing the grant eligibility to do list should be one of a number of actions identified in the strategic plan.

- The strategic plan could be a living document that guides the operation of the Sub-Zone, brings together or binds the partners and cooperators, and is a living document that is updated as necessary or on a general time line.
- The strategic plan could identify the most appropriate appointed advisory body to the Humboldt County Flood Control District and how it should be composed.

**3. Form Salt River Sub-Zone of the Humboldt County Flood Control District**

- Submit a request to form the Salt River Sub-Zone of the Humboldt County Flood Control District that includes the strategic plan, agreements, or commitments with cooperators/partners, and with Follow the steps for formation in #1.
- Upon approval of the Sub-Zone and special tax by the voters, initiative the formation of the Salt River Sub-Zone advisory committee.