

## **MAGMA FLOOD CONTROL DISTRICT**

### **MINUTES OF THE**

### **THURSDAY, MAY 4, 2023, MEETING**

The Meeting of the Magma Flood Control District was conducted using measures to protect public health, including technological means using Zoom video, as permitted under Arizona law. The Meeting was properly posted within the boundaries of the District and a phone number of 1-346-248-7799 (Meeting Identification 913 7004 0429) was provided for individuals residing within and without the District to appear telephonically at the Meeting.

The Regular Meeting was called to order by Board President Tyler LeSueur at 4:03 p.m. The Meeting was to be held at the Florence Unified School District Anthem K-8, Room B-100, 2700 N. Anthem Way, Florence, Arizona. Appearing telephonically and by Zoom video were District Board President Tyler LeSueur, Director James Kenny, and District Counsel Stephen R. Cooper. Appearing in person was General Manager Kent Pace. Assistant Board Secretary Larry Pfeiffer appeared by video at 4:18 p.m. There were no public members appearing in person or telephonically and introductions were not necessary.

General Manager Kent Pace next gave a brief update on the status of matters currently involving the District:

BrightNight Solar: BrightNight Solar requested an encroachment permit to place a 230 KV powerline which will cross over the North Training Dike of the MFRS (Dam). Negotiations have progressed for approximately two (2) years on a shared used agreement relating to easement rights which would be held by both parties over State Land. The General Manager reported that

the shared use agreement which was approved by the District Board at the March 7, 2023, Meeting had been executed by both parties and was recorded last week.

The District continues to work with the State Land Department, the Pinal County Sheriff's Department, and other stakeholders to address off road vehicle use violations on District property and surrounding areas. General Manager Pace stated the Sheriff's Office has been very helpful in this process and the State Land Department is working on closing State Land between HWY 79 and the Dam for off road use.

San Carlos Irrigation and Drainage District (SCIDD): SCIDD has requested to terminate the Northside Canal into the Lower Magma Channel. Discussions and planning efforts have occurred over the last two (2) years. SCIDD has prepared 100% design plans and is working to address the review comments MFCD has provided. SCIDD will also need approval from Bureau of Reclamation and the Bureau of Indian Affairs before a final agreement on the project can be reached. The Northside Canal is problematic because of the ongoing maintenance issues it creates between SCIDD and MFCD as well as the challenges it creates for the Lower Magma Channel to ultimately become a certified levy. SCIDD is negotiating rights for the use of a privately owned retention pond (approximately 7 acres) to store both tail and storm water and is awaiting federal agencies to determine what environmental studies will be needed to proceed with the project.

The Middle Magma Regional Flood Control Project:

General Manager Kent Pace gave an update on the project and is hopeful that the Final Plan EA will be approved and enable funding as outlined below:

*The following is based on an assumption the Final Plan EA will be approved.*

- i. NRCS will fund 100% of the costs for additional planning funds for the project.
- ii. NRCS intends to fund the remaining project design costs 100%.

- iii. NRCS intends to fund construction cost 100% (once a formal grant is approved & design is final which may be completed in 1<sup>st</sup> Qtr. of 2024).
- iv. Local Sponsors (Pinal County & MFCD in a 50/50 split) are responsible for all land rights and permitting costs (MFCD will update the IGA with Pinal County to address these topics).
- v. Pinal County land department is leading efforts to begin title work and appraisal process to clarify and secure easements within Wild Horse Estates.
- vi. Phase 1: Environmental Assessments & Planning (On going thru the end of 2023)  
The revised Plan/EA was submitted in mid-January of 2023. The District received an initial response from NRCS-NHQ on April 11, 2023. The District is awaiting a decision from NRCS to the adequacy of the comments and resolution responses from the District.
- vii. Phase 2: Work upon the 100% Final Design & Construction Plans is likely to begin in Nov. or Dec. 2023. Construction is estimated to begin in the first half of 2024.

The next item of business was consideration of the approval of the Minutes of the Regular Board Meeting Minutes of March 7, 2023, and to ratify the actions of the March 7, 2023, Meeting. A motion was made by Director James Kenny to approve the Regular Meeting Minutes and to ratify the actions taken at the Meeting. President Tyler LeSueur seconded this motion. Thereafter, the Minutes for the Regular Session were approved, and the actions taken were ratified. A motion was then made by Director James Kenny to approve the Executive Session Minutes of the March 7, 2023, Meeting. It was seconded by President Tyler LeSueur and was thereafter approved.

President Tyler LeSueur moved to go into Executive Session for the matters set forth in the Agenda for approximately 30 minutes which was seconded by Director James Kenny. The motion was approved.

The next item of business was an Executive Session which was conducted from 4:10 p.m. to 4:30 p.m. and thereafter the public meeting was reconvened at 4:30 p.m.

The next item of business was the Discussion / approval / disapproval of Resolution 2023-4.1 which formally establishes and adopts an Amended Investment Policy for the Magma Flood Control District dated May 4, 2023. The Investment Policy was originally adopted in the March

2023 District Board Meeting. The General Manager reported that a few amendments to the Investment Policy were required to comply with Fidelity Investment's policies and procedures. A motion was then made by President Tyler LeSueur to approve Resolution 2023-4.1. Director James Kenny seconded this motion. Thereafter, the motion was approved.

The next item of business was the consideration of Resolution 2023-4.2 which would have the District adopt certain resolutions required to establish, maintain and direct investment accounts with Fidelity Investments. After discussion, a motion was made by Director James Kenny to approve Resolution 2023-4.2. President Tyler LeSueur seconded this motion. Thereafter, the motion was approved.

The next item of business was consideration of authorization for approval of Resolution 2023-4.3 which was a call for election for the Magma Flood Control District elections in 2023 for the purpose of electing two (2) District Board Members and authorizing the General Manager to take all steps necessary to carry out the duties set forth in the Resolution. [Note: Previously, in March 7, 2023, Meeting, the District approved an Intergovernmental Agreement for election services by the Pinal County Recorder and Elections Department. It was also noted that two District Board members (Directors Kenny and President LeSueur) would be up for election this year.] A motion was then made by Director James Kenny authorizing the approval of Resolution 2023-4.3 and authorizing the General Manager to take all steps necessary to carry out the duties set forth in the Resolution. It was seconded by President Tyler LeSueur and was thereafter approved.

The next items of business were Board reports. There were no reports to come before the Board.

The next item of business was General Manger reports. There were no other reports.

The next item of business was other business which came before the Board. There were no items of other business.

The next item of business was adjournment of the meeting at 4:35 p.m.

**RESPECTFULLY SUBMITTED** this \_\_\_\_\_ day of May 5, 2023.

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**STEPHEN R. COOPER, Attorney for  
MAGMA FLOOD CONTROL DISTRICT**

### RESOLUTION NO. 2023-4.3

A RESOLUTION OF THE DISTRICT BOARD OF THE MAGMA FLOOD CONTROL DISTRICT, CALLING A REGULAR ELECTION FOR THE PURPOSE OF ELECTING MEMBERS TO THE BOARD OF DIRECTORS AND ESTABLISHING THE DEADLINES AND PROCEDURES TO BE FOLLOWED FOR THE CONDUCT OF SUCH ELECTION.

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 48-2681, *et seq.*, the Board of Directors (the "Board") of the Magma Flood Control District (the "District") desires to conduct an election for the purpose of electing two directors to serve on the Board; and

**WHEREAS**, the Board has determined that the aforementioned election must be conducted on October 4, 2023; and

**WHEREAS**, the Board desires to provide for publication of notice of this Resolution as required by ARIZ. REV. STAT. § 16-227, *et seq.*

**NOW THEREFORE, BE IT RESOLVED**, BY THE BOARD OF DIRECTORS OF THE MAGMA FLOOD CONTROL DISTRICT, as follows:

SECTION 1. That the foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. That October 4, 2023, is hereby set as the time for holding the Magma Flood Control District Election for the purpose of electing members to the Board, whose names shall appear on the ballot at the Election. Any candidate receiving a majority of all votes cast at the Election will be declared elected.

SECTION 3. That the last day for filing petitions for nomination for election to the Board shall be June 6, 2023, which petitions shall be filed with the Pinal County Elections Office, located at 168 S. Main Street, Coolidge, Arizona 85128, not later than 5:00 p.m. (local time, Phoenix, Arizona).

SECTION 4. That the last day to register to vote in the Board Member election is September 5, 2023. A person is not entitled to vote at this election unless the person (i) is the owner of real property located within the boundaries of the District on which taxes have been paid as shown by the most recent Pinal County tax roll immediately preceding the date of the election or (ii) is qualified pursuant to ARIZ. REV. STAT. § 48-2816(B).

SECTION 5. That, for the purposes of this election, only one polling place will be used, the address of which will be included in the notice of election mailed to all property owners.

SECTION 6. That early voting shall be permitted in connection with the Board election pursuant to ARIZ. REV. STAT. § 16-541, *et seq.* The first date to request an early ballot and for early voting to begin will be September 7, 2023. Early ballots may be requested from:

Magma Flood Control District  
221 North Florence St.  
Casa Grande, AZ 85122-4420

Requests for Magma Flood Control District to mail out early ballots must be received no later than September 22<sup>nd</sup>, 2023.

Voted early ballots may be mailed to:

Pinal County Elections Department  
P. O. Box 2209  
Coolidge, Arizona 85128

If returned by mail, early ballots should be mailed back no later than September 29<sup>th</sup>, 2023 to ensure receipt by Election Day (October 4, 2023). Ballots received by Pinal County Election Department after October 4, 2023 will not be counted.

To vote early in person or to hand deliver a voted ballot, please do so at the following address:

Pinal County Elections Department  
168 S. Main Street  
Coolidge, Arizona 85128

SECTION 7. That the General Manager or his/her authorized designee is hereby authorized to (i) have ballots printed and to deliver them to the election officials to be furnished to the qualified electors of the District, (ii) enter into contracts with the Pinal County Recorder to obtain precinct registers for the election, if necessary, and the Pinal County Assessor to obtain property ownership information for the election, (iii) enter into an agreement with the Pinal County Elections Department or other such qualified person or entity to conduct the election for the District and (iv) to enter into any other such agreements as deemed necessary and proper by the General Manager for the purposes of conducting the election.

SECTION 8. That the election may be conducted using either electromechanical or electronic vote recording and ballot counting equipment or paper ballots, as shall be determined to be in the best interests of the District by the Pinal County Election officials and the General Manager or his/her authorized designee.

SECTION 9. That the Board hereby authorizes all expenditures as may be necessary to order, notice, hold and administer the election, which expenditures shall be paid from current operating funds.

SECTION 10. That, in order to comply with the Voting Rights Act of 1965, as amended, the ballot, early voting materials and all instructions related thereto pertaining to this election will be translated into Spanish. The officers of the District and Pinal County are further authorized and directed to take all action necessary to comply with the Voting Rights Act of 1965, as amended.

SECTION 11. That the General Manager or his/her authorized designee is authorized and directed to publish notice of the election at least twice in a newspaper of general circulation in the District not less than one week apart during the six calendar weeks preceding 90 days before the election.

SECTION 12. That the General Manager or his/her authorized designee is authorized to take all necessary action to facilitate the election and to carry out the purpose and intent of this Resolution.

SECTION 13. That all actions of the members of the Board, officers, employees and agents of the District which are in conformity with the purposes and intent of this Resolution, whether heretofore or hereafter taken, shall be and are hereby ratified, confirmed, authorized and approved.

**PASSED AND ADOPTED** by the Board of Directors of the Magma Flood Control District, May 4, 2023.

FOR THE DISTRICT:

  
Tyler LeSueur, Board President

ATTESTED TO:

  
Kent Pace, Board Secretary



### **RESOLUCIÓN NÚM. 2023-4.3**

UNA RESOLUCIÓN DE LA MESA DIRECTIVA DEL DISTRITO DE CONTROL DE INUNDACIONES MAGMA FLOOD CONTROL DISTRICT, CONVOCANDO UNA ELECCIÓN REGULAR CON EL PROPÓSITO DE ELEGIR A MIEMBROS A LA MESA DIRECTIVA Y ESTABLECER LAS FECHAS LÍMITE Y LOS PROCEDIMIENTOS QUE SE DEBEN SEGUIR PARA LLEVAR A CABO DICHA ELECCIÓN.

**CONSIDERANDO QUE**, en conformidad con los ESTATUTOS DE ARIZONA MODIFICADOS § 48-2681, *y siguientes*, la Mesa Directiva (la “Mesa Directiva”) del distrito de control de inundaciones Magma Flood Control District (el “Distrito”) desea llevar a cabo una elección con el propósito de elegir a **dos** directores para que sirvan en la Mesa Directiva; y

**CONSIDERANDO QUE**, la Mesa Directiva ha determinado que la elección arriba mencionada se debe llevar a cabo el 4 de octubre de 2023; y

**CONSIDERANDO QUE**, la Mesa Directiva desea posibilitar la publicación del aviso de esta Resolución como lo requieren los ESTATUTOS DE ARIZONA MODIFICADOS § 16-227, *y siguientes*.

**AHORA, POR LO TANTO, QUE SEA RESUELTO**, POR LA MESA DIRECTIVA DEL DISTRITO MAGMA FLOOD CONTROL DISTRICT, como sigue:

**SECCIÓN 1.** Que los considerandos anteriores son incorporados como si estuviesen establecidos completamente en esto.

**SECCIÓN 2.** Que por medio de la presente se establece el 4 de octubre de 2023 como la fecha en la que se llevará a cabo la Elección del Distrito Magma Flood Control District con el propósito de elegir miembros para la Mesa Directiva, cuyos nombres deberán aparecer en la boleta electoral en la Elección. Cualquier candidato/a que reciba una mayoría de todos los votos emitidos en la Elección será declarado/a electo/a.

**SECCIÓN 3.** Que el último día para registrar peticiones de nominación para la elección a la Mesa Directiva deberá ser el 6 de junio de 2023, cuyas peticiones se deberán registrar con la Oficina de Elecciones del Condado Pinal, ubicada en 168 S. Main Street, Coolidge, Arizona 85128, no después de las 5:00 p.m. (hora local, Phoenix, Arizona).

**SECCIÓN 4.** Que el último día para registrarse para votar en la elección de Miembros de la Mesa Directiva será el 5 de septiembre de 2023. Una persona no tiene derecho a votar en esta elección a menos de que la persona (i) posea bienes raíces ubicados dentro de los linderos del Distrito en el cual se han pagado impuestos como se muestre en el registro de contribuyentes de impuestos más reciente del Condado Pinal precediendo inmediatamente a la fecha de la elección o (ii) sea cualificada en conformidad con los ESTATUTOS DE ARIZONA MODIFICADOS § 48-2816(B).

SECCIÓN 5. Que, para los propósitos de esta elección, sólo se utilizará un lugar de votación, cuyo domicilio será incluido en el aviso de la elección enviado por correo postal a todos los dueños de propiedades.

SECCIÓN 6. Que se deberá permitir la votación temprana en conexión con la elección de la Mesa Directiva en conformidad con los ESTATUTOS DE ARIZONA MODIFICADOS § 16-541, y *siguientes*. La primera fecha para solicitar una boleta electoral para la votación temprana y para que comience la votación temprana será el 7 de septiembre de 2023. Las boletas electorales para la votación temprana se pueden solicitar de:

Magma Flood Control District  
221 North Florence St.  
Casa Grande, AZ 85122-4420

Las solicitudes para que el distrito Magma Flood Control District envíe por correo postal las boletas electorales para la votación temprana se deben recibir a más tardar el 22 de septiembre de 2023.

Las boletas electorales para la votación temprana con sus votos se pueden enviar por correo postal a:

Pinal County Elections Department  
P. O. Box 2209  
Coolidge, Arizona 85128

Si se devuelven por correo postal, las boletas electorales para la votación temprana se deben enviar a más tardar el 29 de septiembre de 2023 para asegurar que se reciban antes del Día de la Elección (4 de octubre de 2023). Las boletas electorales que reciba el Departamento de Elecciones del Condado Pinal después del 4 de octubre de 2023 no serán contadas.

Para votar temprano en persona o para entregar personalmente una boleta electoral con sus votos, por favor hágalo en el siguiente domicilio:

Pinal County Elections Department  
168 S. Main Street  
Coolidge, Arizona 85128

SECCIÓN 7. Que por medio de la presente se autoriza al Gerente General o a su persona designada autorizada a (i) hacer que se impriman las boletas electorales y que se les entreguen a los funcionarios de elecciones para que se les proporcionen a los electores cualificados del Distrito, (ii) celebrar contratos con la Registradora del Condado Pinal para obtener los registros del distrito electoral para la elección, si es necesario, y con el Asesor del Condado Pinal para obtener información sobre los dueños de propiedades para la elección, (iii) celebrar un acuerdo con el Departamento de Elecciones del Condado Pinal o con cualquier otra persona o entidad cualificada para llevar a cabo la elección para el Distrito y (iv) celebrar cualesquier otro contrato como lo considere necesario y apropiado el Gerente General con el propósito de llevar a cabo la elección.

**SECCIÓN 8.** Que la elección se puede llevar a cabo usando ya sea el registro de votos electromecánico o electrónico y equipo para el conteo de boletas electorales o boletas electorales de papel, como deberá ser determinado que sea en el mejor interés del Distrito por los funcionarios de Elecciones del Condado Pinal y el Gerente General o su persona designada autorizada.

**SECCIÓN 9.** Que por medio de la presente la Mesa Directiva autoriza todos los gastos que sean necesarios para ordenar, dar aviso, llevar a cabo y administrar la elección, dichos gastos deberán ser pagados con los fondos de operación actuales.

**SECCIÓN 10.** Que, para cumplir con el Decreto de los Derechos de Votación de 1965, tal como fue enmendado, la boleta electoral, los materiales para la votación temprana y todas las instrucciones relacionadas a eso en relación con esta elección serán traducidos a español. Más aún, se autoriza y se ordena a los funcionarios del Distrito y al Condado Pinal para que tomen toda acción necesaria para cumplir con el Decreto de los Derechos de Votación de 1965, tal como fue enmendado.

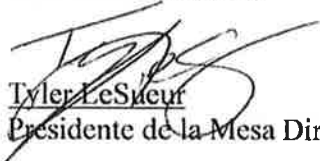
**SECCIÓN 11.** Que se autoriza y se ordena al Gerente General o a su persona designada autorizada para que publique el aviso de la elección por lo menos dos veces en un periódico de circulación general en el Distrito con no menos de una semana entre sí durante las seis semanas de calendario precediendo 90 días antes de la elección.

**SECCIÓN 12.** Que se autoriza al Gerente General o a su persona designada autorizada para que tome todas las medidas necesarias para facilitar la elección y para llevar a cabo el propósito y la intención de esta Resolución.

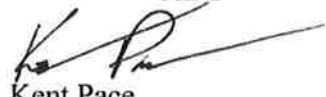
**SECCIÓN 13.** Que todas las acciones de los miembros de la Mesa Directiva, oficiales, empleados y agentes del Distrito que estén en conformidad con los propósitos y la intención de esta Resolución, ya sea que se hayan llevado a cabo hasta ahora o en lo sucesivo, deberán ser y por medio de la presente son ratificadas, confirmadas, autorizadas y aprobadas.

**APROBADA Y ADOPTADA** por la Mesa Directiva del distrito Magma Flood Control District, el 4 de mayo de 2023.

POR EL DISTRITO:

  
Tyler LeSueur  
Presidente de la Mesa Directiva

ATESTIGUADO POR:

  
Kent Pace  
Secretario de la Mesa Directiva