

**RECLAMATION DISTRICT NO. 828  
AGENDA FOR  
BOARD OF TRUSTEES  
3:00 P.M. OCTOBER 23, 2019  
3121 WEST MARCH LANE, SUITE 100  
STOCKTON, CALIFORNIA**

**AGENDA**

1. Call to Order/Roll Call.
2. Public comment: Under Government Code section 54954.3, members of the public may address the Board concerning any item that has been described in this notice for the October 23, 2019, Reclamation District No. 828 meeting. The public may comment on each item on the agenda as it arises.
3. Consider for approval meeting minutes
  - (a) July 25, 2019 meeting
  - (b) September 11, 2019 meeting
  - (c) September 25, 2019 meeting
4. Financial Report.
5. Engineers' Report; request for direction.
6. Approve Resolution 2019-08 Approving and Authorizing Execution of Delta Levee Maintenance Subventions Program Work Agreement Fiscal Year 2019-2020
7. General Election. Discussion and Possible Action to Make Recommendation to San Joaquin Board of Supervisors to Appoint Trustee Due to Lack of Sufficient Qualified Nomination Petitions Received for Election.
8. Correspondence and meeting attendance reports.
9. District Calendar
10. Approval of bills to be paid.
11. Adjournment.

*This agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code §54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact John W. Stovall at 209/948-8200 during regular business hours, at least twenty-four hours prior to the time of the meeting.*

*Materials related to an item on this Agenda submitted to the Trustees after distribution of the agenda packet are available for public inspection in the office of the District Secretary at Neumiller & Beardslee, 509 W. Weber Avenue, 5th Floor, Stockton, California during normal business hours.*

**AGENDA PACKET  
RECLAMATION DISTRICT 828  
October 23, 2019**

<b><u>ITEM</u></b>	<b><u>COMMENTARY</u></b>
1.	Self-explanatory.
2.	Self-explanatory.
3.a.	Please see attached.
3.b.	Please see attached.
3.c.	Please see attached.
4.	Self-explanatory.
5.	Self-explanatory.
6	Please see attached.
7.	Self-explanatory.
8.	Self-explanatory.
9.	Please see attached.
10.	Self-explanatory.
11.	Self-explanatory.

# ITEM 3.a.

**Minutes of Meeting of  
Reclamation District 828  
Held on July 25, 2019**

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The meeting of the Board of Trustees of Reclamation District 828 was held at 1:00 p.m. on July 25, 2019 at 3121 W. March Lane, Suite 100, Stockton, California 95219.

**Item No. 1:** Call to Order. The meeting was called to order at 1:03 p.m. Present were President Bill Mendelson, Trustee Deby Provost. Trustee Paul Marsh arrived at 1:09. Also present was Daniel J. Schroeder, District Secretary and Counsel, Andy Pinasco, and Chris Neudeck, District Engineer.

**Item No. 2:** Public Comment. Chris Elias provided an update on SJAFCA's Board authorization to issuance of bonds to fund the construction of the Smith Canal Closure Structure Project, the timing of the requesting construction bids, and the Corps of Engineers initial design location they are considering for the Lower San Joaquin River Feasibility Project. Dominic Gulli handed out a Conditional Letter of Map Revisions for Smith Canal Project and commented on the Smith Canal Gate and the Lower San Joaquin River Feasibility Project.

**Item No. 3:** Approval of Minutes. Mr. Schroeder reviewed the regular meetings of April 18, 2019, with the Trustees. The minutes of the April 18, 2019, regular meeting were approved unanimously by the Trustees present on a motion by President Mendelson, seconded by Trustee Provost.

**Item No. 4:** Financial Report. Mr. Schroeder reviewed the written financial report provided to the Trustees at the meeting. The financial report was accepted unanimously by the Trustees present on a motion by Trustee Provost, seconded by President Mendelson.

a. Approve Audit Contract with. Mr. Schroeder reviewed the proposed contract with the Trustees. The Audit Contract for the 2018-2019 fiscal year with Schwartz, Giannini, Lantsberger & Adamson was approved unanimously by the Trustees present on a motion by President Mendelson, seconded by Trustee Provost.

b. Adopt Resolution 2019-03 Certifying Assessments to be Collected and Establishing a Procedure for Collection. Mr. Schroeder reviewed the purpose of the resolution with the Trustees. Resolution 2019-03 was adopted unanimously by the Trustees present on a motion by President Mendelson, seconded by Trustee Marsh.

**Item No. 5:** Engineers' Report; request for direction. Mr. Neudeck provided a written and oral report to the Trustees. Mr. Neudeck reported on the subventions program and the issue of mitigation regarding overspray that occurred last year. He reported that he anticipates that no mitigation will be required since the plants have grown back. He also reported on the installation of 6 of the 12 no trespassing signs along Shimizu Dr. Trustee Provost reported that the signs have helped with the problem of trespassers in the area. He also reported on legislation that has been introduced in Sacramento that

reinforces trespassing on a levee as a misdemeanor. He also reported on the progress of the negotiations with Caltrans on the funding for the area under the highway 5 overpass project to be constructed by the RD1614 in partnership with the District as well as the problems with some of the terms requested by Caltrans. He then directed the Trustees to the Smith Canal Closure Structure report provided by SJAFCA.

a. Adopt Resolution 2019-04 Re-Approving Reclamation District 828 Weber Tract Emergency Operations Plan Mr. Neudeck reviewed the purpose of the re-approving of the plan every three years and that it was time to do so again. Resolution 2019-04 was adopted unanimously by the Trustees present on a motion by Trustee Provost, seconded by Trustee Marsh.

b. Approve position opposing AB273 and provide direction to staff. Mr. Neudeck reported on the status of the bill. No action taken.

**Item No. 6:** Lower San Joaquin River California Flood Risk Project. Discussion and possible action to Endorse design concept. Mr. Schroeder reviewed the history to date of the project and the purpose of the letter to support the concept of participating. The President was authorized to send a letter of support for the concept unanimously by the Trustees present on a motion by President Mendelson, seconded by Trustee Marsh.

**Item No. 7:** CEQA Exemption. Adopt Resolution 2019-05 Authorizing and Directing Filing of Notice of Exemption for Routine Maintenance for Fiscal Year 2019-2020. Mr. Schroeder reported on the purpose of the resolution and the exemption. Resolution 2019-04 was adopted unanimously by the Trustees present on a motion by Trustee Provost, seconded by Trustee Marsh.

**Item No. 8:** Trustee Report on Property Ownership Details for Parcels Abutting Levee. Trustee Provost reported on her personal efforts to look into the title issues allow Smith Canal within the District's boundaries.

**Item No. 9:** Correspondence. a. Trustee Provost reported on her attending the 5/30/2019 Board of Supervisors Joint Meeting with Stockton City Council regarding continuum of care for homelessness.

**Item No. 10:** Calendar. Mr. Schroeder reviewed the upcoming calendar events with the Trustees.

**Item No. 11:** Approval of Bills. Mr. Schroeder reported on the outstanding bills that had been received and the status of the District's accounts. The Trustees unanimously approved payment of the attached bills on a motion by Trustee Marsh, seconded by President Mendelson.

**Item No. 12:** Adjournment. The meeting was unanimously adjourned at 2:25 p.m.

Respectfully submitted,

Daniel J. Schroeder, District Secretary

**RECLAMATION DISTRICT 828  
BILLS TO BE PAID  
July 25, 2019**

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	ARRANT #
SIGNCO	7/3/2019	38208	\$2,585.00			
				\$2,585.00		1333
Kjeldsen, Sinnock, & Neudeck, Inc.	5/14/2019	25173	\$1,640.00			
	5/14/2019	25174	\$418.75			
	5/14/2019	25175	\$220.00			
	5/14/2019	25176	\$756.50			
	6/11/2019	25392	\$385.00			
	6/11/2019	25393	\$138.75			
	6/11/2019	25394	\$245.00			
	6/11/2019	25395	\$220.00			
	6/11/2019	25396	\$418.05			
				\$4,442.05		1334
Kjeldsen, Sinnock & Neudeck, Inc.	7/18/2019	25618	\$457.50			
	7/18/2019	25619	\$183.75			
	7/18/2019	25620	\$168.75			
	7/18/2019	25621	\$625.30			
				\$1,435.30		1339
Neumiller & Beardslee	5/8/2019	299358	\$3,311.00			
	6/14/2019	300020	\$1,794.00			
				\$5,105.00		1335
Neumiller & Beardslee	7/23/2019	300642	\$644.00			
				\$644.00		1340
Trustee Stipend - 7/25/2019 Board Meeting	Deby Provost		\$50.00	\$50.00		1336
Trustee Stipend - 7/25/2019 Board Meeting	Bill Mendelson		\$50.00	\$50.00		1337
Trustee Stipend - 7/25/2019 Board Meeting	Paul Marsh		\$50.00	\$50.00		1338

TOTAL: \$14,361.35

**NOTES:**

Fund Balance as of 06/30/2019	\$556,592.18
Less Submitted Bills for Payment:	\$14,361.35
<b>Total:</b>	<b>\$542,230.83</b>

**RECLAMATION DISTRICT 828  
BILLS TO BE PAID  
April 18, 2019**

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	ARRANT #
Cal Mutuals	1/25/2019	793	\$100.00			
				\$100.00		1324
Dohrmann insurance Agency	2/27/2019	34613	\$550.00			
	2/27/2019	36414	\$3,559.00			
				\$4,109.00		1325
Kjeldsen, Sinnock, & Neudeck, Inc.	2/19/2019	24602	\$1,003.75			
	2/19/2019	24603	\$776.25			
	2/19/2019	24604	\$436.25			
	2/19/2019	24605	\$232.50			
	3/6/2019	24728	\$42.50			
	3/6/2019	24729	\$456.25			
	3/6/2019	24730	\$114.86			
	4/5/2019	24937	\$713.75			
	4/5/2019	24938	\$122.50			
	4/5/2019	24939	\$330.00			
				\$4,228.61		1326
RD 1608 (Storage Share)	2/13/2019	8990	\$119.50			
				\$119.50		1331
Neumiller & Beardslee	1/18/2019	296997	\$391.00			
	2/20/2019	297559	\$4,142.19			
	3/11/2019	298121	\$1,158.38			
	4/16/2019	298687	\$621.00			
				\$6,312.57		1327
Trustee Stipend - 4/18/2019 Board Meeting	Deby Provost		\$50.00	\$50.00		1328
Trustee Stipend - 4/18/2019 Board Meeting	Bill Mendelson		\$50.00	\$50.00		1329
Trustee Stipend - 3/6/2019 SJAFCA Meeting	Bill Mendelson		\$50.00	\$50.00		1332

TOTAL: \$15,019.68

**NOTES:**

Fund Balance as of 3/31/2019	\$485,968.11
Less Submitted Bills for Payment:	\$15,019.68
<b>Total:</b>	<b>\$470,948.43</b>

**ITEM 3.b.**



**Minutes of Meeting of  
Reclamation District 828  
Held on September 11, 2019**

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The meeting of the Board of Trustees of Reclamation District 828 was held at 10:00 a.m. on September 11, 2019 at 3121 W. March Lane, Suite 100, Stockton, California 95219.

**Call to Order.** The meeting was called to order at 10:02 a.m. Present were President Bill Mendelson, Trustee Deby Provost, and Trustee Paul Marsh. Also present was Daniel J. Schroeder, District Secretary and Counsel, and Andy Pinasco.

**Item No. 1:** Public Comment. Dominic Gulli commented regarding the conditions under the Highway 5 overpass. Chris Elias commented on the upcoming procurement for the Smith Canal Closure Structure.

**Item No. 2:** Temporary Entry Permit. Mr. Schroeder reviewed the request from San Joaquin County for a temporary encroachment permit on a portion of the District's levee for removal of debris and abandoned vehicles and boats in an area of Smith Canal. Staff was authorized to issue a temporary encroachment permit for the removal of debris and abandoned items from Smith Canal by unanimous vote of the Trustees on a motion by Trustee Marsh, seconded by Trustee Provost.

**Item No. 3:** Resolution 2019-06. Mr. Schroeder explained the purpose of the resolution was to delegate authority to the President, or a Trustee in the absence of the President, to approve requests for temporary encroachment permits recommended for approval by staff. Resolution 2019-06 was adopted unanimously by the Trustees present on a motion by Trustee Marsh, seconded by President Mendelson.

**Item No. 4:** Approval of Bills. Mr. Schroeder reported on the outstanding bills that had been received and the status of the District's accounts. The Trustees unanimously approved payment of the attached bills on a motion by President Mendelson, seconded by Trustee Marsh.

**Item No. 5:** Adjournment. The meeting was unanimously adjourned at 10:15 p.m.

Respectfully submitted,



Daniel J. Schroeder, District Secretary

**RECLAMATION DISTRICT 828  
BILLS TO BE PAID  
September 11, 2019**

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	TARRANT #
The Record	8/31/2019	152425	\$123.69			
				<b>\$123.69</b>		<b>1341</b>
Reclamation District 1608	8/29/2019	186-190/20	\$220.00			
(1/4th rental share for records storage at B&R Self Storage)				<b>\$220.00</b>		<b>1342</b>
Kjedlsen, Sinnock & Neudeck, Inc.	1/10/2019	24358	\$473.75			
(January Invoices were accidentally left out.)	1/10/2019	24359	\$558.50			
	1/10/2019	24360	\$220.00			
	1/10/2019	24361	\$387.50			
	9/9/2019	26041	\$968.45			
	9/9/2019	26042	\$394.63			
	9/9/2019	26043	\$776.25			
	9/9/2019	26044	\$671.25			
				<b>\$4,450.33</b>		<b>1343</b>
Neumiller & Beardslee	8/29/2019	301308	\$4,060.25			
				<b>\$4,060.25</b>		<b>1344</b>
Trustee Stipend - 9/11/2019 Board Meeting	Deby Provost		\$50.00	<b>\$50.00</b>		<b>1345</b>
Trustee Stipend - 9/11/2019 Board Meeting	Bill Mendelson		\$50.00	<b>\$50.00</b>		<b>1346</b>
Trustee Stipend - 9/11/2019 Board Meeting	Paul Marsh		\$50.00	<b>\$50.00</b>		<b>1347</b>

TOTAL: **\$9,004.27**

**NOTES:**

Fund Balance as of 08/31/2019	\$507,501.83
Less Submitted Bills for Payment:	<u>\$9,004.27</u>
Total:	\$498,497.56

**RECLAMATION DISTRICT 828**

**BILLS TO BE PAID**

**July 25, 2019**

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	WARRANT #
SIGNCO	7/3/2019	38208	\$2,585.00			
				<b>\$2,585.00</b>		<b>1333</b>
Kjeldsen, Sinnock, & Neudeck, Inc.	5/14/2019	25173	\$1,640.00			
	5/14/2019	25174	\$418.75			
	5/14/2019	25175	\$220.00			
	5/14/2019	25176	\$756.50			
	6/11/2019	25392	\$385.00			
	6/11/2019	25393	\$138.75			
	6/11/2019	25394	\$245.00			
	6/11/2019	25395	\$220.00			
	6/11/2019	25396	\$418.05			
				<b>\$4,442.05</b>		<b>1334</b>
Kjeldsen, Sinnock & Neudeck, Inc.	7/18/2019	25618	\$457.50			
	7/18/2019	25619	\$183.75			
	7/18/2019	25620	\$168.75			
	7/18/2019	25621	\$625.30			
				<b>\$1,435.30</b>		<b>1339</b>
Neumiller & Beardslee	5/8/2019	299358	\$3,311.00			
	6/14/2019	300020	\$1,794.00			
				<b>\$5,105.00</b>		<b>1335</b>
Neumiller & Beardslee	7/23/2019	300642	\$644.00			
				<b>\$644.00</b>		<b>1340</b>
Trustee Stipend - 7/25/2019 Board Meeting	Deby Provost		\$50.00	<b>\$50.00</b>		<b>1336</b>
Trustee Stipend - 7/25/2019 Board Meeting	Bill Mendelson		\$50.00	<b>\$50.00</b>		<b>1337</b>
Trustee Stipend - 7/25/2019 Board Meeting	Paul Marsh		\$50.00	<b>\$50.00</b>		<b>1338</b>

**TOTAL: \$14,361.35**

**NOTES:**

Fund Balance as of 06/30/2019	\$556,592.18
Less Submitted Bills for Payment:	<u>\$14,361.35</u>
<b>Total:</b>	<b>\$542,230.83</b>

**ITEM 3.c.**

**Minutes of Meeting of  
Reclamation District 828  
Held on September 25, 2019**

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The meeting of the Board of Trustees of Reclamation District 828 was held at 1:00 p.m. on September 25, 2019 at 3121 W. March Lane, Suite 100, Stockton, California 95219.

**Call to Order.** The meeting was called to order at 1:05 p.m. Present were President Bill Mendelson, Trustee Deby Provost, and Trustee Paul Marsh. Also present was Assistant Counsel, Andy Pinasco.

**Item No. 1:** Public Comment. There was no public comment.

**Item No. 2:** Trustee Election. Mr. Pinasco reviewed the procedures and requirements for a reclamation district election.

**Item No. 2.a:** Resolution 2019-07. Mr. Pinasco explained the purpose of the resolution was to memorialize the Board's decision that a District election would be conducted by all mailed ballot, appoint an elections board, and authorize staff to prepare all necessary notices and documents related to the District election. Resolution 2019-07 was adopted unanimously by the Trustees present on a motion by Trustee Marsh, seconded by Trustee Provost.

**Item No. 2.b:** Candidate Statements. Mr. Pinasco explained the District's presented information regarding allowing candidates to provide statements explaining their education and qualifications for the office of Trustee. Mr. Pinasco further explained that the Elections Code allows the District to determine whether the District would pay for printing costs for providing candidate statements in the voter information guide for the District's election. The Trustees unanimously decided that the District would cover the printing costs for candidate statements to be distributed in a voter information guide on a motion by Trustee Marsh, seconded by President Mendelson.

**Item No. 3:** Approval of Bills. Mr. Pinasco reported on the outstanding bills that had been received and the status of the District's accounts. The Trustees unanimously approved payment of the attached bills on a motion by Trustee Provost, seconded by Trustee Marsh.

**Item No. 4:** Mr. Pinasco indicated that the agenda for the September 25, 2019, special meeting was posted in accordance with California law. No further reports were provided.

**Item No. 5:** Adjournment. The meeting was unanimously adjourned at 1:45 p.m.

Respectfully submitted,

Daniel J. Schroeder, District Secretary

**BILLS TO BE PAID**  
September 25, 2019

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	ARRANT #
Custom Spraying, Inc.	8/29/2019	26238	\$1,800.00			
				\$1,800.00		1348
Kjedlsen, Sinnock & Neudeck, Inc.	8/8/2019	25815	\$962.71			
	8/8/2019	25816	\$1,796.25			
	8/8/2019	25817	\$505.00			
	8/8/2019	25818	\$255.00			
	8/8/2019	25819	\$1,417.50			
	8/8/2019	25820	\$294.75			
				\$5,231.21		1349
Neumiller & Beardslee	8/24/2019	301914	\$360.84			
				\$360.84		1350
Trustee Stipend - 9/25/2019 Special Board Meeting	Deby Provost		\$50.00	\$50.00		1351
Trustee Stipend - 9/25/2019 Special Board Meeting	Bill Mendelson		\$50.00	\$50.00		1352
Trustee Stipend - 9/25/2019 Special Board Meeting	Paul Marsh		\$50.00	\$50.00		1353

TOTAL: \$7,542.05

NOTES:

Fund Balance as of 08/31/2019	\$507,501.83
Less Submitted Bills for Payment:	\$7,542.05
<b>Total:</b>	<b>\$499,959.78</b>

**BILLS TO BE PAID**  
September 11, 2019

NAME	INVOICE DATE	INVOICE #	AMOUNT	TOTAL \$	RATIFY	ARRANT #
The Record	8/31/2019	152425	\$123.69			
				\$123.69		1341
Reclamation District 1608	8/29/2019	186-190/20	\$220.00			
(1/4th rental share for records storage at B&R Self Storage)				\$220.00		1342
Kjedlsen, Sinnock & Neudeck, Inc.	1/10/2019	24358	\$473.75			
(January Invoices were accidentally left out.)	1/10/2019	24359	\$558.50			
	1/10/2019	24360	\$220.00			
	1/10/2019	24361	\$387.50			
	9/9/2019	26041	\$968.45			
	9/9/2019	26042	\$394.63			
	9/9/2019	26043	\$776.25			
	9/9/2019	26044	\$671.25			
				\$4,450.33		1343
Neumiller & Beardslee	8/29/2019	301308	\$4,060.25			
				\$4,060.25		1344
Trustee Stipend - 9/11/2019 Board Meeting	Deby Provost		\$50.00	\$50.00		1345
Trustee Stipend - 9/11/2019 Board Meeting	Bill Mendelson		\$50.00	\$50.00		1346
Trustee Stipend - 9/11/2019 Board Meeting	Paul Marsh		\$50.00	\$50.00		1347

TOTAL: \$9,004.27

NOTES:

Fund Balance as of 08/31/2019	\$507,501.83
Less Submitted Bills for Payment:	\$9,004.27
<b>Total:</b>	<b>\$498,497.56</b>

# ITEM 6

**RECLAMATION DISTRICT 828  
RESOLUTION 2019-08**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
DELTA LEVEE MAINTENANCE SUBVENTIONS PROGRAM WORK AGREEMENT  
FISCAL YEAR 2019-2020**

WHEREAS, the Board of Trustees ("Board") of Reclamation District 828 ("District"), has reviewed, and desires to enter into, that certain Delta Levee Maintenance Subventions Program Work Agreement Fiscal Year 2019-2020 ("Agreement"), between the District and the Reclamation Board of the State of California ("Reclamation Board");

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Agreement is approved, and the President of the Board is authorized and directed to execute the Agreement, and cause it to be presented to the Reclamation Board with a certified copy of this Resolution.

PASSED AND ADOPTED by the Board of Trustees of Reclamation District 828, at a regular meeting thereof, held on October 23, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTION:

RECLAMATION DISTRICT 828  
A Political Subdivision of the  
State of California

By: \_\_\_\_\_  
PRESIDENT

ATTEST:

\_\_\_\_\_  
SECRETARY



CERTIFICATION

I, \_\_\_\_\_, Secretary of Reclamation District 828, do hereby certify that the foregoing is a full, true and correct copy of a resolution of Reclamation District 828 duly passed and adopted at a meeting of the Board of Trustees thereof held on the 23<sup>rd</sup> day of October, 2019.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
SECRETARY, Reclamation District 828

**Delta Levee Maintenance Subventions Program  
WORK AGREEMENT  
Fiscal Year 2019-2020**

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, by and between **The Central Valley Flood Protection Board** of the State of California, hereinafter referred to as the "Board" and **Reclamation District No. 828**, a political subdivision of the State of California, hereinafter referred to as "Local Agency."

WHEREAS, Part 9, commencing with Section 12980 of Division 6 of the California Water Code establishes a program for State financial assistance to local agencies responsible for maintenance of nonproject and certain project levees in the Sacramento-San Joaquin Delta; and

WHEREAS, The Central Valley Flood Protection Board approved the Delta Levee Maintenance Subventions Program 2016 Guidelines, dated August 26, 2016; and

WHEREAS, Part 9 requires local agencies to enter into an agreement with the Board to perform maintenance and improvement work as approved by the Board in accordance with administrative provisions and criteria adopted by the Board; and

WHEREAS, the Local Agency has submitted and the Board has approved levee maintenance and improvement plans in accordance with those provisions and criteria; and

WHEREAS, on November 24, 1997, as required by California Water Code Sections 12307 and 78543, the Board, the Department of Water Resources, hereinafter referred to as "DWR" or "Department," the Department of Fish and Game, now known as the California Department of Fish and Wildlife (CDFW), and The Resources Agency executed Amendment No. 1 to the Memorandum of Understanding, requiring projects or plans to be consistent with a net long-term habitat improvement program in the delta; and

WHEREAS, in November, 1999, CDFW issued the "Fish and Wildlife Enhancement Guidance Document" to ensure net long-term habitat improvement; and

WHEREAS California Water Code Section 12987 provides that CDFW ensures expenditures must be consistent with a net long-term habitat improvement program and have a net benefit for aquatic species in the Delta; and

WHEREAS, the Local Agency, DWR, and CDFW agree that the Local Agency has completed or is in the process of completing all of the requirements of California Water Code Sections 12987 and 79050 in its previous agreements with the Board.

**NOW, THEREFORE, IT IS HEREBY AGREED THAT:**

- 1. This Agreement covers the performance, inspection, reimbursement, and cost sharing of maintenance and improvement work performed on nonproject and eligible project levees by the Local Agency from July 1, 2019 to June 30, 2020.**
- 2. The Local Agency shall accomplish the annual routine maintenance and rehabilitation work specified in the application prior to June 30, 2020. Local Agency shall be responsible for providing a registered engineer for appropriate direction and supervision of work described in the Local Agency's application to ensure that the work complies with accepted engineering and construction practices. Increased oversight by the Local Agency's engineer is expected with regard to any levee rehabilitation work.**
- 3. No employee, officer, employer, or agent of the Local Agency shall participate in the selection, award, or administration of a contract for which reimbursement will be sought if a conflict of interest, real or apparent, would be involved. The Local Agency shall comply with all applicable laws on conflict of interest including, but not limited to, Public Contract Code (PCC) sections 10335.5 et seq., PCC sections 10365.5 et seq., PCC sections 10410 et seq., and Government Code sections 1090 et seq. and 81000 et seq.**
- 4. The Local Agency shall be responsible for environmental compliance that may be necessary for the maintenance and improvement work covered by this Agreement including, but not limited to, compliance with the California Environmental Quality Act, the California Endangered Species Act, and obtaining a Streambed Alteration Agreement (Fish and Game Code Section 1600 et seq.) The Local Agency agrees to comply with all applicable State, federal, and local laws including, but not limited to, any environmental protection and habitat improvement required pursuant to California Water Code Section 12987. Prior to any payments to the Local Agency, pursuant to this Agreement, the Local Agency shall submit to DWR and CDFW, an acceptable habitat improvement program component which includes any mitigation and enhancement required by CDFW, which is consistent with a net long-term habitat improvement program. If a net long-term habitat improvement component is not agreed upon by the parties hereto and CDFW, then all payments made pursuant to this Agreement shall be subject to reimbursement by the Local Agency.**
- 5. Work that is subject to the California Environmental Quality Act (CEQA) shall not proceed under this Agreement until documents that satisfy the CEQA process are received by DWR and DWR has completed its CEQA compliance review. Work that is subject to a CEQA document shall not proceed until and unless concurred with by DWR. Such concurrence is fully discretionary and shall constitute a condition precedent to any such work for which it is required. Once CEQA documentation has been completed, DWR will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation.**

6. When reference is made herein to criteria or administrative procedures adopted by the Board, it is intended to include all addenda and supplements to said criteria or procedures.

7. Upon completion of the work agreed to be funded, the Local Agency shall submit a final claim completion report and notify DWR and CDFW for a joint inspection of the work. The Local Agency shall cooperate in the conduct of all inspections, including inspections by DWR, pursuant to California Water Code Section 12989, to monitor and ascertain compliance with and progress toward meeting the standards in the State's Flood Hazard Mitigation Plan for the Sacramento-San Joaquin Delta (DWR Office of Emergency Services, dated September 15, 1983), as updated or amended. To be eligible for reimbursement, the work shall be completed in the fiscal year for which application was made and approved.

8. In accordance with California Water Code § 9140, if Local Agency is responsible for the operation and maintenance of a project levee, or if Local Agency operates and maintains a nonproject levee that also benefits land within the boundaries of the area benefited by the project levee, Local Agency shall prepare and submit to DWR, on or before September 30<sup>th</sup> of each year, a report of information for inclusion in periodic flood management reports prepared by DWR relating to the project levee. The information shall include all of the following:

- a. Information known to the Local Agency that is relevant to the condition of the project levee.
- b. Information identifying known conditions that might impair or compromise the level of flood protection provided by the project levee.
- c. A summary of the maintenance performed by the Local Agency during the previous fiscal year.
- d. A statement of work and estimated cost for operation and maintenance of the project levee for the current fiscal year, as approved by the Local Agency.
- e. Any other readily available information contained in the records of the Local Agency relevant to the condition or performance of the project levee, as determined by the Board or DWR.

9. In accordance with California Water Code § 9650, if Local Agency receives funding from the State to upgrade a project levee that protects an area in which more than 1,000 people reside, the Local Agency responsible for the project levee and any city or county, including charter cities or counties, protected by the project levee shall enter into an agreement to adopt a safety plan within two years. The safety plan shall be integrated into any other Local Agency emergency plan and shall be coordinated with the state emergency plan. The local entity responsible for the operation and maintenance of the project levee shall submit a copy of the safety plan to DWR and the Central Valley Flood Protection Board. No advances or reimbursements shall be made by the State for a levee covered by this paragraph until it receives the Agreement from all necessary entities. The safety plan shall include all of the following elements:

- a. A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.
- b. A levee patrol plan for high water situations.
- c. A flood-fight plan for the period before the state or federal agencies assume control over the flood fight.
- d. An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.
- e. A floodwater removal plan.
- f. A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be the essential service providers:
  - 1.) The building is located outside an area that may be flooded.
  - 2.) The building is designed to be operable shortly after the floodwater is removed.

10. The Local Agency, its Engineer, contractors, subcontractors, and their respective agents and employees required for performing any work shall act in an independent capacity and not as officers, employees, or agents of the State. The Local Agency is solely responsible for planning, design, construction, maintenance, and operation of its levees. Any inspection, review or approval by the State is solely for the purpose of proper administration of State funding and shall not be deemed to relieve or restrict the Local Agency's responsibility for the safety and integrity of its levees. The Local Agency shall cooperate in the conduct of any State review or inspection.

11. The Local Agency shall be responsible for compliance with competitive bidding, prevailing wage provisions, contract administration laws, and all applicable labor laws including, but not limited to, Public Contract Code Section 20920, et seq., California Water Code Section 50907; and Labor Code Section 1720 et seq. and 1770 et seq. Prior to awarding a contract for a public works project funded in whole or in part under Proposition 50, Proposition 84, or any other source of funding so requiring, the Local Agency shall adopt and enforce a labor compliance program pursuant to Labor Code Section 1771.5. The Local Agency must comply with California Labor Code Section 1773.3 (Duty to notify the California Department of Industrial Relations (DIR) when awarding a contract for a public works project. Construction work performed by Local Agency forces may be exempt from competitive bidding and shall be reimbursed pursuant to the equipment rates established by Caltrans (annual labor surcharge and equipment rental rates) and the Delta Levees Subventions Program. These equipment rental rates are available on the internet at <http://www.dot.ca.gov/hq/construc/>.

12. The Local Agency shall maintain records and books relating to the costs and quantities of labor and materials used, purchased, or contracted for in the performance of its levee maintenance and improvement work. The Local Agency shall maintain all receipts, accountings, books, invoices and records, pertaining to its levee work for a period of 10 years after the work has been performed or the expenses incurred. The

Board and DWR shall have full and free access at all reasonable times to these books and records with the right at any time during office hours to make copies thereof. The Board, DWR, and the California State Controller's Office shall have the right to conduct audits, from time to time, of the Local Agency's expenditures for levee maintenance and improvement, the purpose of such audits being to assure that subvention funds are being properly used, that payments are not being made under other assistance programs for the same work, and that the Local Agency is seeking the most reasonable terms in its use of State funds. The Local Agency shall cooperate fully in any such audit.

13. The Local Agency shall be eligible for reimbursement for work satisfactorily completed in accordance with the following:

- a. Rural Levees – an area that is not urban.
  - 1.) No costs shall be reimbursed until the local agency has spent an average of \$1,000 per levee mile for all of its rural nonproject and eligible project levees;
  - 2.) The local agency shall be reimbursed up to 75 percent of eligible costs incurred in excess of \$1,000 per levee mile for all of its nonproject and eligible project levees.
- b. Urban Levees – an area in which 10 percent or more of the land area within the project area is used for residential use.
  - 1.) No costs shall be reimbursed until the local agency has spent an average of \$2,500 per levee mile for all of its nonproject and eligible project levees;
  - 2.) The local agency shall be reimbursed up to 75 percent of eligible costs incurred in excess of \$2,500 per levee mile for all of its nonproject and eligible project levees.
- c. If, in any year, the total eligible costs incurred exceed the State funds available, the Board shall apportion the funds among those levees or levee segments identified by DWR as being most critical and beneficial, considering the needs of flood control, water quality, recreation, navigation, habitat improvements, and fish and wildlife.
- d. The Local Agency acknowledges that pursuant to California Water Code Section 12986, DWR shall require the Local Agency to provide information to DWR that may include, but not be limited to, a detailed engineer's report prepared pursuant to subdivision (b) of Section 4 of Article XIID of the California Constitution, audited financial statement, or an assessment commissioner's report.

- e. The Local Agency acknowledges that the information or study shall be the basis for DWR's determination of the maximum allowable reimbursement. The Local Agency agrees to return to DWR any reimbursements paid to the Local Agency that are in excess of the maximum allowable reimbursement, based on an updated study of the agency's ability to pay.
- f. Local Agency shall apply for federal disaster assistance whenever eligible.

14. State expenditures under this Agreement shall not exceed **\$80,812** subject to the availability of funds. The Local Agency estimated reimbursement approved by the Board on June 28, 2019 is **\$21,278**. The maximum approved advance amount, limited to 75% of the approved estimated reimbursement is **\$15,958**. The Board may increase the estimated reimbursement and advance amounts if information that warrants an increase becomes available.

15. Advanced payments or progress payments may only be made to Local Agency after DWR and CDFW determine the following approval requirements have been met by the Local Agency:

- An AB 360 program *Advance Payment Information Form* is approved in writing by CDFW and DWR.
- A joint CDFW and DWR inspection is completed, as needed, and CDFW has evaluated the extent of the potential impacts associated with the funded project activity.
- Documentation is submitted to DWR confirming that eligible deductible expenditures exceed the \$1,000 per levee mile criteria.
- A schedule and appropriate bidding and contract documentation are submitted to DWR for projects requesting advanced funding.

16. To comply with the net long-term habitat improvement program and to have a net benefit to aquatic species as required by California Water Code Sections 12987 and 79050, in the event levee maintenance or improvement activities result in the loss of fish or wildlife habitat, the District agrees to fully mitigate this loss at a time, site and manner subject to CDFW approval.

17. Each Local Agency must comply with the requirements of the Delta Stewardship Council (DSC) regarding Covered Actions. If the Local Agency determines any activities are a Covered Action under Water Code Section 85057.5, the activities are required to be consistent with the regulatory policies of the Delta Plan. The Local Agency must certify consistency with the Delta Plan by submitting a Certification of Consistency to the DSC prior to performing covered activities. Information regarding Covered Actions and Certification of Consistency may be found on the DSC's website at the following locations:

1. Covered Actions: <http://deltacouncil.ca.gov/covered-actions>
2. Certification of Consistency:  
[http://coveredactions.deltacouncil.ca.gov/certification\\_process.aspx](http://coveredactions.deltacouncil.ca.gov/certification_process.aspx)

18. If DWR finds that work under this Agreement has not been satisfactorily performed, or where advances exceed actual reimbursable costs, the Local Agency shall promptly remit to DWR all amounts advanced in excess of reimbursable costs (California Water Code Section 12987). In the event that Local Agency has an outstanding obligation with DWR pursuant to this paragraph, DWR may seek such reimbursement from the Local Agency by any appropriate means including but not limited to, collecting any amount owing to the Local Agency from DWR or the Board under the Delta Flood Protection Program.

19. The Local Agency shall indemnify and hold and save the State of California, the Board, DWR, and all other agencies or departments of the State and their employees, free from any and all liability for any claims and damages (including inverse condemnation) that may arise out of this Agreement, including but not limited to, those arising from the planning, design, construction, maintenance and operation of levee rehabilitation measures for this Project and any breach of the terms of this Agreement. Local Agency shall require its contractors to name the State, its officers, agents and employees as additional insured's on their liability insurance for activities undertaken pursuant to this Agreement. Local Agency shall also require its contractors to have applicable performance and payment bonding in place before commencing work. The Local Agency's indemnity and related obligations under this Agreement also extend to any similar Department indemnity and related obligations with the U.S. Army Corps of Engineers for emergency assistance, response and rehabilitation of Local Agency's facilities and the Local Agency hereby expressly assumes those obligations.

20. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach, and no excuse of any condition or covenant shall be held to be an excuse of any other condition or covenant, or the same condition or covenant at a subsequent time.

21. This Agreement may be amended in writing by the mutual consent of the parties hereto.

22. The AB 360 Program Funding Claim Information Form with information detailing areas of work on the levees shall be submitted prior to any consideration for reimbursement.



23. All final claims associated with this Agreement shall be submitted by November 1, 2020. DWR requires that all habitat and mitigation requirements under this Agreement shall be completed to the satisfaction of CDFW no later than three years from the date of this Agreement absent a waiver of this requirement by DWR in writing. In the absence of this waiver, failure to complete habitat and mitigation requirements within the three year period will result in forfeiture of reimbursement under this Agreement and future agreements within the Delta Levees Program, until mitigation and habitat requirements are complete. It is the responsibility of the Local Agency to request this waiver of DWR.

**THE CENTRAL VALLEY  
FLOOD PROTECTION BOARD  
State of California**

By: \_\_\_\_\_  
Executive Officer

Date: \_\_\_\_\_

**THE DEPARTMENT OF  
WATER RESOURCES  
State of California**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:**

By: \_\_\_\_\_  
Assistant Chief Counsel

Date: \_\_\_\_\_

**RECLAMATION DISTRICT NO. 828**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

CS

# ITEM 9

## **RD 828: MASTER CALENDAR**

### **JANUARY**

- Board Meeting – 3<sup>rd</sup> Thursday at 8:30 a.m.
- Adopt Subventions Agreement Resolution
- Election of Officers (After an election)
- Obtain Insurance to be Approved. Insurance year is April to March

### **FEBRUARY**

- Send out Form 700s, remind Trustees of April 1 filing date
- Update Document Retention Policy

### **MARCH**

### **APRIL**

- April 1: Form 700s due
- Board Meeting – 3<sup>rd</sup> Thursday at 8:30 a.m.
- Renew District Insurance

### **MAY**

### **JUNE**

### **JULY**

- Board Meeting – 3<sup>rd</sup> Thursday at 8:30 a.m.
- Approve Audit Contract for expiring fiscal year
- Adopted Annual Budget
- Adopt Resolution for setting Assessments and submit to County Assessor's Office
- Adopt Notice of Exemptions Resolution

### **AUGUST**

- August 1: Deadline to certify assessments for tax-roll and deliver to County (duration of current assessment: Indefinite).
- August 1: Insurance renewal
- Send handbills for collection of assessments for public entity-owned properties
- In election years, opening of period for secretary to receive petitions for nomination of Trustees (75 days from date of election.) (*Cal. Wat. Code §50731.5*)

### **SEPTEMBER**

- In election years, last legal deadline to post notice that petitions for nomination of Trustees may be received (7 days prior to close of closure.) (*Cal. Wat. Code §50731.5*).

- In election years, closing of acceptance of petitions for nomination of Trustees (54 days from date of election.) (*Cal. Wat. Code §50731.5*).

**OCTOBER**

- Publish Notice of Election, odd numbered years (once per week, 4 times, commencing at least 1 month prior to election).
- Board Meeting – 3rd Thursday at 8:30 a.m.

**NOVEMBER**

- Election.

**DECEMBER**

- New Trustee(s) take office, outgoing Trustee(s) term(s) end on first Friday of each odd-numbered year.

**Term of Current Board Members:**

<b>Name</b>	<b>Term Commenced</b>	<b>Term Ends</b>
Bill Mendelson	First Friday 12/2017	First Friday of 12/2021
Debbie Provost	First Friday 12/2015	First Friday of 12/2019
Paul Marsh	Appointed 8/13/2017	First Friday of 12/2019

**No Expiration on Assessment**

**Refund of Smith Canal Closure Election Contribution – when there is adequate surplus funding available, the disbursement of which will not generate Project delays.**