



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • [email: admin@rd900.org](mailto:admin@rd900.org)

RECLAMATION DISTRICT NO. 900

REGULAR MEETING OF RECLAMATION DISTRICT NO. 900 BOARD OF TRUSTEES JULY 15, 2020 CLOSED SESSION AGENDA

Quirina Orozco
Martha Guerrero

Christopher L. Cabaldon

Christopher T. Ledesma
Beverly A. Sandeen

Timothy Mallen, General Manager/Secretary
Ralph R. Nevis, General Counsel

5:00 PM Call to Order

1. RD 900 GENERAL COUNSEL

Personnel Matter – Public Employee Performance - GC §54957(b). Title: Superintendent

The meeting will be held over a secured teleconference phone call.

I, Timothy Mallen, General Manager/Secretary, declare under penalty of perjury that the foregoing agenda for the February 19, 2020 closed session meeting of Reclamation District No. 900 was posted February 14, 2020 in the office of the City of West Sacramento City Clerk, 1110 West Capitol Avenue, West Sacramento, CA and the office of Reclamation District No. 900, 1420 Merkley Avenue, Suite 4, West Sacramento, CA was available for public review.

Timothy Mallen, General Manager/Secretary

All public, non-privileged, materials related to an item on this agenda submitted to the Agency after distribution of the agenda packet are available for public inspection in the office of Reclamation District No. 900, 1420 Merkley Avenue, Suite 4, West Sacramento, CA. Any public, non-privileged, document provided at the meeting by staff will also be available to the public. Any document provided at the meeting by the public will be available the next business day following the meeting.



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NOTICE OF REGULAR MEETING AND AGENDA RECLAMATION DISTRICT NO. 900

To be held via video conference, to submit comments in writing please email admin@rd900.org and write "Public Comment" in the subject line. Include the item number you wish to address along with your comments in the email. All comments received prior to the commencement of the meeting at 5:10pm will be provided to the Trustees and become part of the meeting records. If you need special assistance to participate in this meeting, please contact RD 900 at (916) 371-1483. Notification of at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting. Streaming of the Board Meeting is made available at <https://youtu.be/EnS--oeWwnU>.

I, Timothy, Secretary/ General Manager, declare under penalty of perjury that the foregoing agenda for the regular meeting to be held at 5:10 p.m. July 15, 2020 of the Board of Trustees of Reclamation District No. 900 was posted July 10, 2020 in the office of the City Clerk, 1110 West Capitol Ave, West Sacramento, CA as well as the office of Reclamation District No. 900, 1420 Merkley Ave Suite #4, West Sacramento, CA, and was available for public review. Pursuant to the Ralph M. Brown Act, comments from the public will be entertained on each agenda item. The agenda for that meeting is as follows

Timothy Mallen, Secretary/ General Manager

AGENDA

1. Agenda Approval
2. Public Comment on items not on the Agenda
3. Report out on Closed Session
4. Consent Calendar
 - 4.1. Approval of minutes from the meeting of June 17, 2020
 - 4.2. Approval of Revised contract with Marcus Bole for environmental consulting associated with the Blacker Canal Ditch Project.
5. Consideration of Entering into Professional Services Agreement with Dustin Dumars for the 2020-2021 Fiscal Year to Provide Financial Support Services. Discussion of future contracting requirements for professional services.
6. Informational Items
 - 6.1. General Manager's Report
 - 6.1.1. Administrative Operations
 - 6.1.2. District Operations
 - 6.1.3. Improvement Projects
 - 6.1.4. Agency Coordination
 - 6.1.5. WSAFCA Updates
 - 6.1.6. Development Project Coordination
 - 6.2. Trustee Reports and Updates
7. Adjourn



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June 17, 2020

Online through Zoom Meeting

5:00 P.M.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES OF RECLAMATION DISTRICT NO. 900

The members of the Board of Trustees of Reclamation District No. 900 convened at the above time remotely through the use of Zoom Meeting. President Christopher Cabaldon called the meeting to order. Also in attendance were Trustees Beverly Sandeen, Chris Ledesma, and Martha Guerrero; Secretary/Manager Tim Mallen; Attorney Ralph Nevis, Greg Fabun, and Sheila Johnston. Trustee Quirina Orozco was not present.

1. Agenda Approval. President Cabaldon asked if there were any required changes to the agenda, none were cited and the agenda was accepted as presented.
2. Public Comment on items not on the Agenda. No comments were made.
3. Consent Calendar: President Cabaldon asked for a motion to approve the minutes of the May 20th 2020 Board meeting as presented, Trustee Ledesma made the motion, Trustee Guerrero seconded the motion and it carried 4-0.
4. Consideration of the fiscal year 2020-2021 Budget. Manager Mallen presented the budgets to the Board highlighting some of the larger changes from the previous budget. For revenue this included a large decrease in FMAP money which was explained to be as a result of no longer being able to use it for equipment purchases as well as \$840k from FEMA which was explained as the potential 70% matching money for the proposed Blacker Canal project. The Blacker Canal project was explained as a project that needs to be done sooner than later but is unknown if the District will receive the FEMA funding, no update has been provided by Cal OES. Trustee Sandeen pointed out a typographical error on the proposed budget referencing 2016-2017; Manager Mallen noted the correction. Trustee Sandeen pointed out that potentially the assessment rate should be adopted first if it is predicated on the assessment. Trustee Ledesma asked for some context on the rate increase of 1.33% on the assessment. Manager Mallen deferred to Megan Jonsson of LWA who prepared the assessment. Megan explained that it is based on the Construction Cost Index and how it affects the original Engineers report used for the 218 election. She further explained that the rate was shifted from June to June to May to May to allow for timing of the budget. Manger Mallen explained that the Board has traditionally elected to follow the escalation rate for anticipated costs but no policy was in place. President Cabaldon asked for clarification on the column

labeled Final and whether it was actually year end actuals. Manager Mallen clarified it was projected actuals and the column would be renamed.

President Cabaldon asked for clarification on the large overage for the 2019-2020 Retiree actuals. Manager Mallen explained that the unfunded liability for retirees was partially funded through a CalPERS trust that was preapproved some time ago from the previous Board but was only now finalized and was not properly shown in the budget. The accounting for the funding needs to be cleaned up and audited to transfer from a separate account that had been set aside for the funding. It was explained that the liability based on the proposed budget would be completely funded which is why the 2020-2021 budget reflects a larger amount as well for retiree health care. Manager Mallen went through the remaining large budget changes including; Capital Improvement projects of Blacker Canal, Completing the New Building Remodel and inspection of pump station pipes through the levee. As well accounting services was increased by \$25k to allow for the CPA oversight and monthly closeouts that have been proposed, Manager Mallen explained that this had been accounted for in the 218 Engineer's report but had never been utilized.

President Cabaldon concurred with Trustee Ledesma's previous comments that the Assessment rate be decided upon first before the budget, the Board agreed.

Trustee Guerrero asked for clarification on the Blacker Canal project; Manager Mallen reported that the issue with the erosion is an unknown and could need to be done now or next year because of the unknown on how quickly it will erode. Trustee Guerrero presented that there should possibly be a workshop to more thoroughly evaluate the situation; Manager Mallen reported that he had begun to develop a risk, benefit, cost table for various projects for the District and would concur on the need for a committee to evaluate

The Board voted on Item 5 and then returned to item 4 for approval.

President Cabaldon asked for a motion to approve the 2020-2021 Budget with edits noted, Trustee Sandeen made the motion, Trustee Ledesma seconded the motion and it carried 4-0.

5. Consideration of Resolution 2020-06-01 Adopting Assessment Rate for fiscal year 2020-2021.

President Cabaldon asked for a motion to approve the 2020-2021 Assessment rate as presented, Trustee Ledesma made the motion, Trustee Guerrero seconded the motion and it carried 4-0.

6. Consideration of Resolution 2020-06-02 Requesting Collection of Charges on Yolo County Tax Roll.

Manager Mallen explained that the resolution was a required request for the County to collect the taxes. President Cabaldon asked for a motion to approve Resolution 2020-06-02 as presented, Trustee Sandeen made the motion, Trustee Guerrero seconded the motion and it carried 4-0.

7. Consideration of Certification of Assessment.

Manager Mallen stated that the certification was a verification from the Board to the County that all laws and practices were followed in the establishment of the assessment rate and request for collection. President Cabaldon had to step out of the meeting until partially through the Manager's Report. Trustee Sandeen asked for a motion to approve the Certification of Assessment as presented, Trustee Guerrero made the motion, Trustee Sandeen seconded the motion and it carried 3-0.

8. Informational Items.

8.1. General Manager's report. Manager Mallen presented the attached report. Additional discussion on specific items below.

8.1.1. Manager Mallen added that a new Field person had been hired and would begin work on July 6th, which he stated was good timing with beginning maintenance of the City portion of RD 537.

8.1.2.1. Trustee Guerrero reported out that she had received notices from concerned residents about a fire that had happened on the levee at Marshall Rd. Manager Mallen stated that this had been caused by a District mower striking some riprap at the crossing there and that this happens occasionally. He also stated that he had been talking with Bryon Johnson about additional safety measures that could be made to allow the District staff to quickly put out fires themselves in the future.

8.1.4.2. Manager Mallen clarified that the revenue stream used by DWR at present for MA4 is not transferable to RD 900 if the District takes over. He also explained that RD 537 and RD 900 portions of the WSAFCA assessment are used exclusively for Levee Maintenance and the portion allocated to the City has been largely unused to date. He also explained that the looking at the Levee system as a whole and the WSAFCA assessment as a whole there is sufficient funding to balance. President Cabaldon clarified that the City would continue working on incorporating the language in the existing bill for the boundary change and offered thanks to how diligently CVFPB staff has worked to assist on this matter.

8.1.4.3. Trustee Ledesma asked to speak offline with Manager Mallen about what actions to take on having so much money in the District's bank account and whether to transfer it to the County account.

8.1.4.4 Regarding the potential litigation over Reclamation District assessment payments by the California Department of Transportation, the District's Attorney offered to further investigate the lawsuit and whether to join and report back to the Board.

8.1.4. Manager Mallen added that he through the CVFCA has been added to a subcommittee that is exploring the possibility of a region wide assessment to fund the maintenance of regional benefit facilities. It was explained

that what those are is still being discussed; ranging from bypass levees, to reservoirs and dams. He further explained that this is already going committee that he just got rolled into and as of yet has only listened and absorbed in an attempt to get up to speed. President Cabaldon stressed the delicate nature of the subject and that he wants Manager Mallen to inform and discuss with the Board so that he can be visible and empowered to be a productive member of the committee. Manager Mallen offered his thoughts on having an RD 900 committee formed to facilitate input from the Board. Not action was taken

8.2. Trustee Reports and Updates. There was nothing further for the Trustees to report.

9. Adjourn. There being nothing further, President Cabaldon asked for a motion to adjourn. Trustee Guerrero moved and Trustee Sandeen seconded the motion.



Timothy Mallen, PE
General Manager/Secretary



Marcus H. Bole & Associates
An Environmental Consulting Firm

July 9, 2020

RD 900/WSAFCA
1420 Merkley Ave. Suite 4
West Sacramento, CA 95691

MHM Engineering
1204 E Street
Marysville, CA 95901

SUBJECT: SCOPE OF WORK AND COST ESTIMATE FOR ENVIRONMENTAL CONSULTING SERVICES INCLUDING BIOLOGICAL & CULTURAL RESOURCE ASSESSMENTS FOR THE BLACKER DRAINAGE DITCH PROJECT. MHB&A FILE 0709-2020-3661.

Thank you for considering Marcus H. Bole & Associates for your environmental consulting needs. Our services will be a Determination/Delineation of Waters of the United States, a Biological Assessment in accordance with USFW and USACE directives, Wetland Impact Permit Facilitation, Cultural Resource Assessments & Tribal Culture Resource Coordination, and CEQA document preparation and coordination for the Blacker Drainage Ditch Bank Stabilization and Access Road Improvement Project, Project, City of West Sacramento, California. Surveys and evaluations will be in accordance with California Department of Fish & Wildlife (CDFW) and United States Fish & Wildlife directives and protocols. Charges for our services will be based on an hourly rate for time and materials (T&M). The project is located west of Jefferson Blvd starting at the intersection of Jefferson Blvd and Blacker Road, and proceeding west to the Main Channel, City of West Sacramento, California. The project is within Township 8N, Range 4E, City of West Sacramento.

Task 1. Draft Determination/Delineation of Waters of the United States

Marcus H. Bole & Associates will conduct a formal wetland delineation within the study area to identify jurisdictional waters of the United States. Marcus H. Bole & Associates will use the site plans and profiles as provided by MHM Engineering as the extent of the project (study) area. All waters of the United States that meet the Clean Water Act criteria and are regulated by the Army Corps of Engineers (Corps) will be delineated within the study area. A report describing the methodology and results, including a map, will be developed. All wetland resources will be mapped and typed according to the Corps February 2016 mapping standards. A formal wetland delineation report per the *1987 Wetland Delineation Manual and Regional Supplement to the Corps Wetland Delineation Manual: Arid West Region* (2008, version 2) will be submitted to the Client and MHM Engineering. The Delineation of Waters of the US and the Determination of the Ordinary High Water Mark (wetland report) will be considered draft until the Corps provides a jurisdictional determination. MHM will also assist Marcus H. Bole & Associates in providing a profile view of the OHWM within the study area. The wetland report will also be compliant with the following regulatory guidance documents and standards:

- 1) *A Field Guide to the Identification of the Ordinary High Water mark (OHWM) in the Arid West Region of the Western United States*. August 2008

2) *Map and Drawing Standards for the South Pacific Division Regulatory Program.*
March 5, 2012, August 2012

3) *September 2008 Regional Supplement to the Corps Wetland Delineation Manual:
Arid West Region (version 2.0).*

4) *January 2016 Minimum Standards Sacramento Regulatory Division.*

Task 2. Biological Assessment

Marcus H. Bole & Associates will conduct a biological resource evaluation per USFWS, USACE, California Department of Fish and Wildlife (CDFW), California Native Plant Society (CNPS), and other regulatory agencies as required in order to establish a biological baseline condition assessment. During the field survey, Marcus H. Bole & Associates will make a determination regarding presence/absence of potentially occurring species based on habitats observed. Dominate plant and wildlife species observed on site will be documented. If any state or federally listed plant or wildlife species are identified the location will be mapped. For the purposes of this survey, special status species are those that fall into one of the following categories:

- 1) Designated as rare, threatened, or endangered by the federal government (ESA, 50 CFR 17.12) for listed plants and various notices in the Federal Register, CEQA, and/or State ESA.
- 2) Proposed for rare, threatened, or endangered status
- 3) Protected under the Migratory Bird Treaty Act (MBTA)

Task 3. Permit Facilitation

Marcus H. Bole & Associates will apply for a §404 nationwide permit from the Corps, a §401 water quality certification from the Central Valley Regional Water Quality Control Board (RWQCB), and a §1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW), as required. Issuance of these permits requires a complete analysis of project related impacts to waters of the United States, a Biological Resources Evaluation or letter report discussing the potential for special-status plant and wildlife species to occur on the site, a mitigation plan (if required), and CEQA documentation. Due to recent changes in the USACE directives, their Section 408 Division will require a National Historic Preservation Act §106 compliant Archaeological Resources Survey and Report (AB 52). Based upon the request of the USACE Project Manager, additional endangered species evaluations may be required to satisfy Section 7 coordination with the USFWS.

Task 3a: Section 404 Permit from the US Army Corps of Engineers

Marcus H. Bole & Associates will conduct an impacts analysis to quantify project related impacts to waters of the US. Marcus H. Bole & Associates assumes that less than 0.1 acres of jurisdictional wetlands will be impacted. Marcus H. Bole & Associates will provide the Client with a draft impacts analysis map for review and revisions/modifications, if deemed necessary, prior to finalizing the impact map for inclusion in permit applications. The impacts assessment must be approved by the project engineer and Client prior to submittal to the Corps. Marcus H.

Bole & Associates will prepare a §404 nationwide permit application and Pre-Construction Notification Form, for submittal to the Corps of Engineers. Marcus H. Bole & Associates will serve as the Client's agent during the application review process.

Task 3b: Section 401 Permit from the Regional Water Quality Control Board

Marcus H. Bole & Associates will prepare the §401 permit application for a Water Quality Certification from the RWQCB. The submittal will include the §401 Certification application form, the RWQCB fee calculator spreadsheet and fee check, a copy of the information that will be submitted as part of the §404 permit application, and CEQA Compliance/Notice of Determination. The cost of this task does not include the application fee cost for the §401 Certification, which will be determined based on project related impacts and the current RWQCB fee calculator spreadsheet, and will be provided by the Client in the form of a check made out to the State Water Resources Control Board. Marcus H. Bole & Associates will serve as the Client's representative during the application review process. #

Task 3c: Section 1602 Permit Application (Lake and Streambed Alteration Agreement)

A Lake and Streambed Alteration Agreement (LSAA) is required as the California Department of Fish & Wildlife takes jurisdiction over impacts to levees within California. Marcus H. Bole & Associates will prepare the §1602 LSAA application for submittal to the CDFW. (See: <https://www.wildlife.ca.gov/Conservation/LSA>). The CDFW requires that construction drawings that are 60% complete accompany the permit application. Prior to submission of the permit application Marcus H. Bole & Associates may need to conduct a site visit with CDFW to assure that all desired information is included in our submittal. The submittal typically includes the §1602 LSAA application form, a copy of information that will be submitted as part of the §401 Certification application, a copy of information that will be submitted as part of the §404 Pre-Construction Notification, CEQA Compliance/Notice of Determination, and a check to cover permit application fees. Marcus H. Bole & Associates will serve as the Client's liaison during the application review process. The Client will be responsible to pay any permit fees required by the California Department of Fish and Wildlife.

Task 3d: Encroachment Permit, Central Valley Flood Protection Board.

Pursuant with Title 23, California Code of Regulations (Title 23), Section 6, the Central Valley Flood Protection Board (CVFPB), will require an encroachment permit for "any repair or maintenance" that involves activities within their jurisdiction. MHBA will assist MHM is preparing the encroachment permit application and agency coordination.

Task 4: CEQA Initial Study/Mitigated Negative Declaration

RD900 is the CEQA Lead Agency. Marcus H. Bole & Associates (MHBA) will prepare an environmental document in accordance with the California Environmental Quality Act (Public Resources Code 12000 et seq.), the Guidelines (14 Cal. Code 15000 et seq.), agency CEQA procedures, if applicable, and relevant court decisions. The document type for the project is expected to be an Initial Study / Mitigated Negative Declaration (IS/MND). Data collected during the completion of the specialized studies and contacts with other sources will be incorporated by reference into an appropriate environmental document. Copies of the IS/MND

will be subject to internal and administrative reviews by RD900 prior to finalization and circulation. At the completion of the administrative review, MHBA will incorporate appropriate comments received from RD900, and other public agencies into the final environmental documents and produce the document for circulation. MHBA will attend public meetings (as required) during the review of the environmental document and hearings for the adoption of the environmental document (if appropriate).

Task 5: Archaeological Survey and Tribal Cultural Resources Report

CEQA, the California Department of Fish & Wildlife, Corps of Engineers and the CVFPB will require compliance with AB52, California’s Native American “tribal cultural resources” initiative. To accomplish this task, an Archaeological Survey Report in compliance with Federal Section 404 & Section 408 Standards will be required. MHBA uses the services of Genesis Society, Archaeologist Peter Jensen, to accomplish this task.

Cost Estimate:

Services will be rendered on a time and materials basis according to the attached fee schedule. If you have any questions about any items on your invoice, please contact us promptly.

Task	Description	Project Manager	Environmental Scientist/ Biologist	Biologist & Botanist	GIS Analyst	Total
		\$110	\$90/hr.	\$75/hr.	\$68/hr.	
1	Determination/ Delineation of Waters of the US		\$8,250	\$525	\$340	\$9,115
2	Biological Resource Assessment with Section 7 coordination	\$220	\$9,800	\$1,125	\$68	\$11,213
3	Permit Facilitation					
3a	Corps §404 Concurrence Letter or Nationwide/Individual Permit	\$660	\$720	\$250		\$1,630
3b	RWQCB §401	\$330	\$630			\$960
3c	CDFW §1602	\$330	\$360	\$225		\$915
3d	CVFCB & 408 Permit	\$440	\$360		\$68	\$868
4	CEQA Initial Study/Mitigated Negative Declaration					
4a	CEQA Project Management/Admin /Meetings	\$880		\$150		\$1,030
4b	Environmental Consultation and Coordination	\$440	\$540		\$68	\$1,048

4c	Prepare Admin. Draft IS/MND	\$4,500	\$720	\$450	\$136	\$5,806
4d	Revise Admin. Draft IS/MND	\$440				\$440
4e	Prepare Final IS/MND	\$440				\$440
5	Archaeological Survey & Tribal Coordination	6,900				6,900
Reimbursable Expenses (GPS, mileage,)						\$1,250
Estimated Total						\$41,615

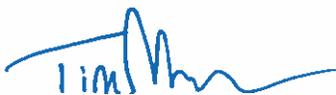
Schedule:

The timing for obtaining permits from the regulatory agencies varies greatly. Typical timeframes for obtaining §1602 and §401 permits is approximately 4 months from time of submitting the application. Typical timeframes for obtaining §404 permits is approximately 5 months in the Sacramento District of the Corps. Timing to complete the CEQA Initial Study/Mitigated Negative Declaration is 2 months. Once RD900 approves the document, the public comment and response period is thirty days. Once the comment period is over, the Notice of Determination will be filed. If you have any questions concerning our Scope of Work, Cost or Timing please feel free to contact me directly at: Marcus H. Bole & Associates, Attn: Marcus Bole, 104 Brock Drive, Wheatland, CA 95692, phone: 530-633-0117, fax: 530-633-0119, cell: 916-747-8501, and email: mbole@aol.com.

Respectfully submitted,



Marcus H. Bole, M.S., Principal
Senior Environmental Scientist
Marcus H. Bole & Associates





Marcus H. Bole & Associates
An Environmental Consulting Firm

September 1, 2016

RD 900/WSAFCA
Attn: Kenric Jameson, P.G.
1420 Merkley Ave. Suite 4
West Sacramento, CA 95691

SUBJECT: SCOPE OF WORK AND COST ESTIMATE FOR ENVIRONMENTAL CONSULTING SERVICES, PRELIMINARY BIOLOGICAL ASSESSMENT FOR THE BLACKER DRAINAGE DITCH SLOPE MAINTENANCE PROJECT. MHB&A FILE 0829-2016-3445.

Thank you for considering Marcus H. Bole & Associates for your environmental consulting needs. Our services will be a Preliminary Biological Assessment for the Blacker Drainage Ditch Slope Maintenance Project, City of West Sacramento, California. Surveys and evaluations will be in accordance with California Department of Fish & Wildlife (CDFW) and United States Fish & Wildlife directives and protocols. Charges for our services will be based on an hourly rate for time and materials (T&M). Charges (NOT TO EXCEED) as estimated as follows:

Biological and Botanical Evaluations	\$1,200.00
Report Preparation and Delivery	\$200.00
Total:	<u>\$1,400.00</u>

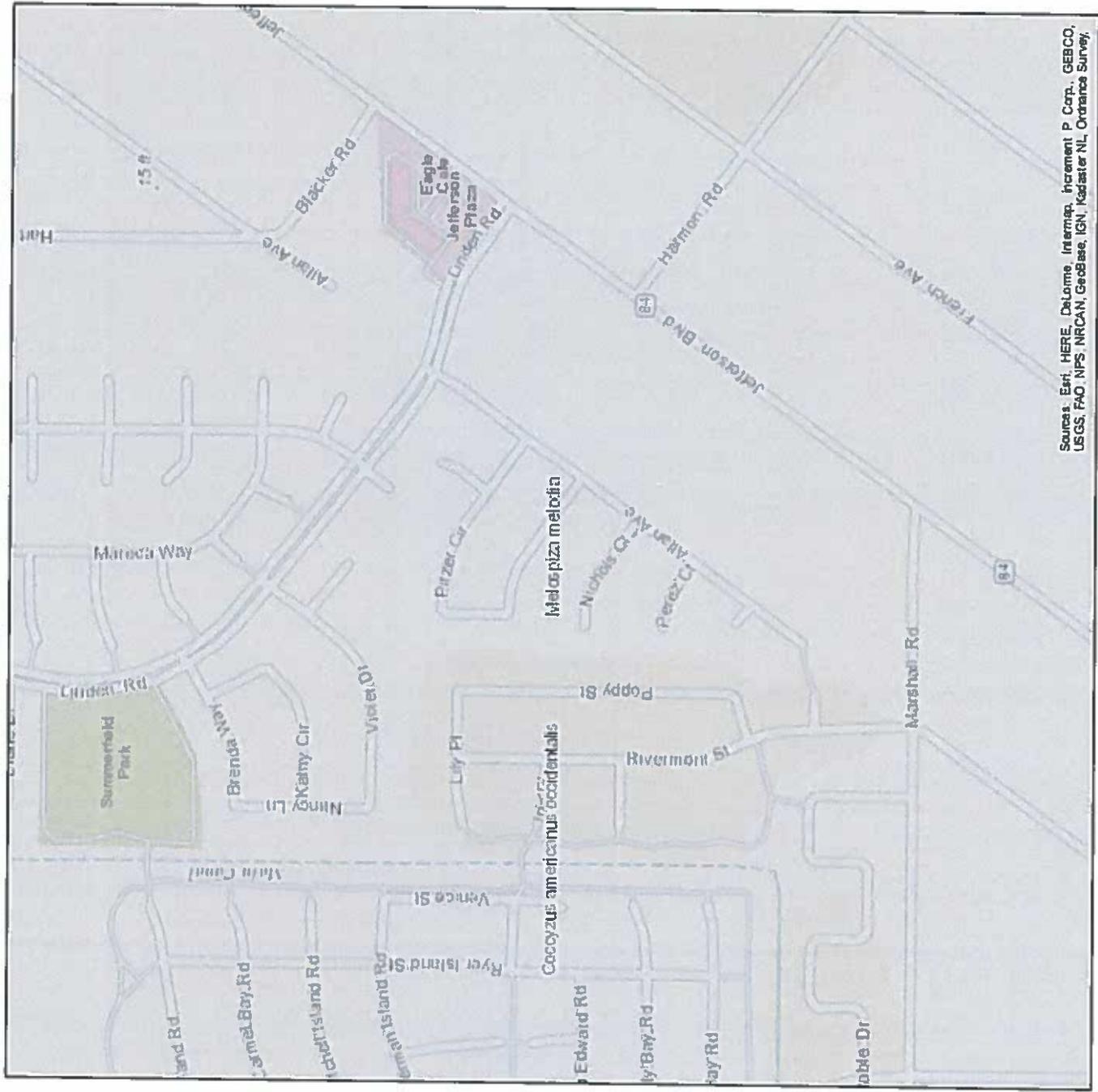
If this scope of work and cost estimate is acceptable, please sign and return this work order to our office via email to: mbole@aol.com, or fax: 530-633-0119. If you have any question concerning our scope of work or cost estimate, please feel free to contact me directly at: Marcus H. Bole & Associates, Attn: Marcus Bole, 104 Brock Drive, Wheatland, CA 95692, phone: 530-633-0117, fax: 530-633-0119, cell: 916-747-8501, or email: mbole@aol.com. For a downloadable copy of my Statement of Qualifications please visit my website at: mhbole.com.

Sincerely,

Marcus H. Bole, M.S., Principal
Senior Wildlife Biologist

Client Approval Signature

Map of Project Area



- Plant (80m)
- Plant (specific)
- Plant (non-specific)
- Plant (circular)
- Animal (80m)
- Animal (specific)
- Animal (non-specific)
- Animal (circular)
- Terrestrial Comm. (80m)
- Terrestrial Comm. (specific)
- Terrestrial Comm. (non-specific)
- Terrestrial Comm. (circular)
- Aquatic Comm. (80m)
- Aquatic Comm. (specific)
- Aquatic Comm. (non-specific)
- Aquatic Comm. (circular)
- Multiple (80m)
- Multiple (specific)
- Multiple (non-specific)
- Multiple (circular)
- Sensitive EO's (Commercial only)



September 1, 2016

Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCase, IGN, Kadaster NL, Ordnance Survey,



Summary Table Report

California Department of Fish and Wildlife

California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks										Population Status		Presence	
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extrap.	Extrap.			
<i>Desmocerus californicus dimorphus</i> valley elderberry longhorn beetle	G3T2 S2	Threatened None		13 30	271 S:7	0	0	2	0	0	0	5	5	2	7	0	0		
<i>Elderberry Savanna</i> Elderberry Savanna	G2 S2.1	None None		30 30	4 S:1	0	0	1	0	0	0	1	1	0	1	0	0		
<i>Great Valley Cottonwood Riparian Forest</i> Great Valley Cottonwood Riparian Forest	G2 S2.1	None None		15 15	56 S:1	0	0	0	0	0	1	1	1	0	1	0	0		
<i>Hibiscus lasiocarpus var. occidentalis</i> woolly rose-mallow	G5T2 S2	None None	Rare Plant Rank - 1B2 SB_RSABG-Rancho Santa Ana Botanic Garden	10 10	173 S:1	0	0	0	1	0	0	1	1	0	1	0	0		
<i>Lasius cinereus</i> hoary bat	G5 S4	None None	IUCN_LC-Least Concern WBWG_M-Medium Priority		235 S:1	0	0	0	0	0	1	1	0	1	0	0	0		
<i>Melospiza melodia</i> song sparrow ("Modesto" population)	G5 S37	None None	CDFW_SSC-Species of Special Concern	10 20	92 S:2	0	0	0	0	0	2	1	1	2	0	0	0		
<i>Oncorhynchus mykiss irideus</i> steelhead - Central Valley DPS	G5T2Q S2	Threatened None	AFS_TH-Threatened		31 S:2	0	0	0	0	0	2	0	2	2	0	0	0		
<i>Oncorhynchus tshawytscha</i> chinook salmon - Central Valley spring-run ESU	G5 S1	Threatened Threatened	AFS_TH-Threatened	20 20	13 S:1	0	0	0	1	0	0	0	1	1	0	0	0		
<i>Oncorhynchus tshawytscha</i> chinook salmon - Sacramento River winter-run ESU	G5 S1	Endangered Endangered	AFS_EN-Endangered	20 20	2 S:1	0	0	0	1	0	0	0	1	1	0	0	0		
<i>Pogonichthys macrolepidotus</i> Sacramento splittail	GNR S3	None None	AFS_VU-Vulnerable CDFW_SSC-Species of Special Concern IUCN_EN-Endangered	20 20	15 S:1	0	1	0	0	0	0	1	1	0	1	0	0		
<i>Progne subis</i> purple martin	G5 S3	None None	CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern	24 24	68 S:1	0	0	0	0	0	1	0	1	1	0	0	0		
<i>Spirinchnus thaleichthys</i> longfin smelt	G5 S1	Candidate Threatened	CDFW_SSC-Species of Special Concern	20 20	45 S:1	0	0	0	0	0	1	0	1	1	0	0	0		



Summary Table Report

California Department of Fish and Wildlife

California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks							Population Status			Presence	
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.	
<i>Symphoricarichum lentum</i> Suisun Marsh aster	G2	None	Rare Plant Rank - 1B.2 SB_RSABG-Rancho Santa Ana Botanic Garden SB_USDA-US Dept of Agriculture	1	173 S:1	0	0	0	0	0	0	1	0	1	0	0	
	S2	None				0	0	0	0	0	0	0	0	0	0	0	0
<i>Thamnophis gigas</i> giant gartersnake	G2	Threatened	IUCN_VU-Vulnerable	15	346 S:4	0	4	0	0	0	0	0	0	4	0	0	
	S2	Threatened				0	0	0	0	0	0	0	0	0	0	0	0
<i>Vireo bellii pusillus</i> least Bell's vireo	G5T2	Endangered	IUCN_NT-Near Threatened NABCI_YWL-Yellow Watch List	15	469 S:2	0	1	0	0	0	0	1	1	2	0	0	
	S2	Endangered				0	0	0	0	0	0	0	0	0	0	0	0

**RECLAMATION DISTRICT NO. 900
CONSTRUCTION COST ESTIMATE
BLACKER CANAL BANK STABILIZATION PROJECT**

Project RD 900 - Blacker Canal - Bank Stabilization Project	CO. Sutter	RCVD. BY S.M. Minard	DATE 31-Oct-17
MHM PROJECT NO. 16-137	QTY. BY T. Mallen	IN 15-Nov-13	CONST. INDEX 10315.44
ESTIMATE NO. 1	QTY. CHK. S. Minard	OUT 31-Oct-17	BLDG. INDEX 5637.09

Item No.	Item Description	Estimated Quantity	Unit	Unit Price (\$/Unit)	Amount (\$)
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Bid Schedule A (RD 900 - Blacker Canal - Bank Stabilization Project) (Preconstruction Submittals and Activities)

1	Mobilization/Demobilization Work Plan (TS 01 11 00.01)	1	EA	\$800.00	\$ 800.00
2	Injury and Illness Prevention Plan (GS6-11.01)	1	EA	1,500.00	1,500.00
3	Project Schedule (GS7-5)	1	EA	1,500.00	1,500.00
4	Flood Contingency Plan (SP-42)	1	EA	500.00	500.00
5	Contractor Quality Control Plan (TS 01 45 04.00 41)	1	EA	3,200.00	3,200.00

Total Bid Schedule A = \$7,500.00

Bid Schedule B (RD 900 - Blacker Canal - Bank Stabilization Project) (North Slope)

1	Mobilization/Demobilization	1	EA	\$24,273.30	\$ 24,273.30
2	Import Embankment Fill	2,400	CY	35.00	84,000.00
3	Excavation	500	CY	12.00	6,000.00
4	Clearing and Grubbing	1	AC	6,500.00	6,500.00
5	Box Culvert Crossing of Blacker Drainage Ditch	1	EA	20,000.00	20,000.00
6	Terra Aqua Stable Slope 3'x3'x12'	294	EA	140.00	41,160.00
7	Terra Aqua Stable Slope 3'x1.5'x12'	127	EA	100.00	12,700.00
8	Stone Fill	1,940	TN	90.00	174,600.00
9	Non-Woven Filter Fabric	3,360	SY	3.10	10,416.00
10	Stable Slope Placement	421	EA	250.00	105,250.00
11	Rock Slope Protection (Facing, Method B)	40	TN	165.00	6,600.00
12	SWPPP - Temporary Silt Fence	2,640	LF	3.50	9,240.00
13	SWPPP - Temporary Stabilized Construction Site Access	1	EA	2,500.00	2,500.00
14	SWPPP - Construction Waste Management	1	EA	3,500.00	3,500.00
15	SWPPP - Erosion Control Seeding	1	AC	3,000.00	3,000.00

Total Bid Schedule B = \$509,739.30

Bid Schedule C (RD 900 - Blacker Canal - Bank Stabilization Project) (South Slope West of Linden Avenue)

1	Mobilization/Demobilization	1	EA	\$14,450.30	\$ 14,450.30
2	Import Embankment Fill	200	CY	35.00	7,000.00
3	Excavation	600	CY	12.00	7,200.00
4	Clearing and Grubbing	1	AC	3,500.00	3,500.00
5	Terra Aqua Stable Slope 3'x3'x12'	278	EA	140.00	38,920.00
6	Terra Aqua Stable Slope 3'x3'x6'	10	EA	70.00	700.00
7	Stone Fill	1,530	TN	90.00	137,700.00
8	Non-Woven Filter Fabric	2,260	SY	3.10	7,006.00
9	Stable Slope Placement	288	EA	250.00	72,000.00
10	Rock Slope Protection (Facing, Method B)	40	TN	165.00	6,600.00
11	SWPPP - Temporary Silt Fence	1,680	LF	3.50	5,880.00
12	SWPPP - Temporary Stabilized Construction Site Access	1	EA	2,500.00	2,500.00
13	SWPPP - Construction Waste Management	1	EA	3,500.00	3,500.00
14	SWPPP - Erosion Control Seeding	1	AC	3,000.00	3,000.00

Total Bid Schedule C = \$309,956.30

**RECLAMATION DISTRICT NO. 900
CONSTRUCTION COST ESTIMATE
BLACKER CANAL BANK STABILIZATION PROJECT**

Project RD 900 - Blacker Canal - Bank Stabilization Project	CO. Sutter	RCVD. BY S.M. Minard	DATE 31-Oct-17
MHM PROJECT NO. 16-137	QTY. BY T. Mallen	IN 15-Nov-13	CONST. INDEX 10315.44
ESTIMATE NO. 1	QTY. CHK. S. Minard	OUT 31-Oct-17	BLDG. INDEX 5637.09

Bid Schedule D (RD 900 - Blacker Canal - Bank Stabilization Project) (South Slope East of Linden Avenue)

Item No.	Item Description	Estimated Quantity	Unit	Unit Price (\$/Unit)	Amount (\$)
1	Mobilization/Demobilization	1	EA	\$12,886.25	\$ 12,886.25
2	Import Embankment Fill	100	CY	35.00	3,500.00
3	Excavation	900	CY	12.00	10,800.00
4	Clearing and Grubbing	1	AC	4,500.00	4,500.00
5	Terra Aqua Stable Slope 3'x3'x12'	190	EA	140.00	26,600.00
6	Terra Aqua Stable Slope 3'x1.5'x12'	89	EA	100.00	8,900.00
7	Stone Fill	1,270	TN	90.00	114,300.00
8	Non-Woven Filter Fabric	2,050	SY	3.10	6,355.00
9	Stable Slope Placement	279	EA	250.00	69,750.00
10	Rock Slope Protection (Facing, Method B)	40	TN	165.00	6,600.00
11	SWPPP - Temporary Silt Fence	1,120	LF	3.50	3,920.00
12	SWPPP - Temporary Stabilized Construction Site Access	1	EA	2,500.00	2,500.00
13	SWPPP - Construction Waste Management	1	EA	3,500.00	3,500.00
14	SWPPP - Erosion Control Seeding	1	AC	3,000.00	3,000.00

Total Bid Schedule D =	\$277,111.25
Subtotal Construction Cost (A through D) =	\$1,104,306.85
<i>Geotechnical Project Identification Report =</i>	<i>17,718.00</i>
<i>Environmental Document and Environmental Permitting =</i>	<i>45,137.00</i>
Subtotal (A through D plus Miscellaneous Items) =	\$1,167,161.85
<i>Project Management and Coordination =</i>	<i>11,645.00</i>
<i>Design Engineering and Surveying =</i>	<i>54,113.00</i>
<i>Pre-Construction/Bidding =</i>	<i>2,421.00</i>
<i>Engineering During Construction =</i>	<i>13,626.00</i>
<i>Construction Management and Inspection =</i>	<i>61,139.00</i>
<i>Construction Documentation =</i>	<i>4,844.00</i>
<i>RD 900 Team Coordination =</i>	<i>9,629.00</i>
<i>Agency Coordination =</i>	<i>0.00</i>
Grand Total =	\$1,324,578.85
For Budget Purposes =	\$1,325,000.00



2950 Beacon Blvd. #70
West Sacramento, CA 95691

Tim Mallen
Reclamation District 900
PO Box 673
1420 Merkley Avenue, Ste. #4
West Sacramento, CA. 95691

Dear Tim:

The following is a list of services available from Dustin N. Dumars, CPA for Reclamation District 900. We hope to better meet your expectations of service from our firm by clearly identifying the particular services to be provided and their frequency. Our services will begin July 1, 2020 and will continue until written notice from either party.

You are responsible for assuming all management responsibilities, and for overseeing any bookkeeping services, or other services we provide by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, or experience. In addition, you are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services.

None of the services can be relied on to disclose errors, fraud, or illegal acts. However, we will inform you of any material errors and of any evidence or information that comes to our attention during the performance of our services, that fraud may have occurred. In addition, we will inform you of any evidence or information that comes to our attention during the performance of our services procedures regarding illegal acts that may have occurred, unless they are clearly inconsequential. We have no responsibility to identify and communicate deficiencies in your internal control as part of this engagement.

We have marked the frequency of the services that we expect to provide. Please review the information below and make any changes necessary.

	Monthly	Quarterly	Annually
Bookkeeping Services			
Record journals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Post general ledger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Post other ledgers (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reconcile bank statements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Post earnings records	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare payroll tax returns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare W-2s	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other bookkeeping services (specify)			
Assist with adjusting entries and provide analysis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assist with accounting system and transaction tracking	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Financial Statements			
<i>Compiled Financial Statements</i>			
Balance Sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Profit and loss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of cash flows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Notes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supplementary information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Reviewed Financial Statements</i>			
Balance sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of income and retained earnings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Statement of cash flows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Notes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supplementary information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special statements (specify)			
Internal financial reports			
Assist with projects and budgeting	x	<input type="checkbox"/>	<input type="checkbox"/>
Profit and Loss Actual vs. Budget	x	<input type="checkbox"/>	<input type="checkbox"/>
Tax Services			
Federal income tax return	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State income tax return	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State franchise report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other state returns (specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax planning or consultations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other tax services (specify)			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Services (specify)			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

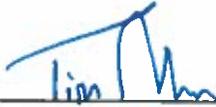
Our fees for the listed services to be provided will not exceed \$25,000 per year. If significant additional time becomes necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional cost. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

Dustin N. Dumars, CPA

Acknowledged:
Reclamation District 900



7/15/2020

Date



RECLAMATION DISTRICT 900

Post Office Box 673

West Sacramento, CA 95691

PH: (916) 371-1483 • [email: admin@rd900.org](mailto:admin@rd900.org)

DATE: July 15, 2020

AGENDA ITEM NO. 6.1

TITLE: General Manager's Report –July 2020

SUBJECT: Update on activities since the June 2020 Board of Trustees Meeting

EXECUTIVE SUMMARY:

This Staff Report is intended to report the noteworthy activities and events of the District. Noteworthy activity since the previous Board Meeting on 6/17/20

BACKGROUND:

6.1.1. Administration Services

We continue to work with Dustin Dumars on transitioning to the new chart of accounts and moving expenses to the correct categories.

As of July 6th another field staff began working and has been shadowing others through all the various summertime duties.

The excess funds that were transferred into the District's bank account have been largely transferred to the County Treasury. Of the \$758k, \$600k was transferred which left a remaining balance in the bank account of roughly \$200k. This amount is a little higher than the typical operating balance but avoided having to make a July transfer out of the treasury and stayed within the federally insured limits.

LWA has offered to either as a workshop or as a Board meeting item walk through the process of producing the assessment report and escalation factors, as well as the annual process of levying the assessment.

6.1.2. District Operations

6.1.2.1. Flood Operations:

The District continues to work on cutting off vehicle and motorcycle access as well as update signage along the DWSC levee. Several locations have been completed but there is still much work to be done.

6.1.2.2. Internal Drainage Operations:

The City well providing water to maintain Bridgeway lakes has been down for a couple weeks, resulting in ever decreasing water level. It is expected to be repaired and operational soon.

We were alerted by a property owner on the south cross levee that the lake

General Manager's Report – July 2020

opposite the levee which is within RD 900, but in the RD999 basin has water levels dropping quickly. After a discussion with the other District's manager, it was determined this did not impact farming of the old Sarmiento parcel. They are unaware of how the lake is actually fed, but they did perform a culvert repair nearby last year that may have cutoff backwater that was getting into the lake.

6.1.2.3. RD 537 Updates:

Prior to July all mowing was completed on both the River and bypass levees of the City portion of RD 537 by contractor. One area of deferred maintenance though is the riprap along the bypass, there is vegetation growing within the riprap which is not allowed per standards. At this time it is not possible to properly spray the slopes because of a lack of access to the bottom of the slope; the waterside maintenance corridor has become overgrown with brush and small trees. Coordination has begun with a contractor to assist in clearing out a 20' wide path along the levee toe so that we can work towards eliminating the vegetation in the riprap.

6.1.3. Capital Improvement Projects

6.1.3.1. Blacker Canal:

FEMA has reached out to plan an environmental assessment field visit to begin the NEPA process; simultaneous with this Marcus Bole will begin the CEQA process for the District. Once the NEPA process is complete funding will follow and at that time we can complete the CEQA process and fine tune the plans to reflect any site changes over the last few years. Given the timing of all this and the permit restrictions we will have this would a best go to bid December/January and be for Spring/Summer construction in 2021, weather dependent.

6.1.4. Agency Coordination:

6.1.4.1. USACE:

Nothing to report at this time.

6.1.4.2. CVFPB:

At the last Board meeting with the CVFPB it was agreed that Leslie Gallagher would provide the letter of support for the Legislative language to add MA4 into the boundary of RD 900 and continue to work with the District and DWR towards completing the transfer of authority for the area. With the letter of support and the efforts of Doug the language was successfully added to AB-3226.

The OMRR&R agreement between RD 900, WSAFCA and CVFPB for the Southport Levee Improvement Project has been updated to reflect definition of OMRR&R that the CVFPB and DWR as accepted. Once the CVFPB has accepted the final version the agencies need to work together to execute the agreement.

6.1.4.3. CalTrans:

Ralph Nevis to provide an update on the potential involvement of the District in the class action lawsuit against CalTrans

General Manager's Report – July 2020

6.1.4.4. RD 537:

Discussions are ongoing with RD 537 about how to transfer assets a property to RD 900 within the acquired City portion. As part of this a separate treasury account needs to be established, as this portion of RD 900 will remain a separate benefit area with an independent assessment.

6.1.5. WSAFCA Updates

6.1.5.1. USACE Yolo Bypass East Levee Projects:

Coordination with the design team is ongoing; the project remains on schedule for construction in 2021. 65% design review comments are all due by the end of the month and a virtual tour and kick-off with the Safety Assurance Review is scheduled to occur on July 14th.

6.1.6. Development Project Coordination:

The City Corp yard design was presented to RD 900 as well as WSAFCA and the preliminary design showed drainage from the site being directed to a levee seepage interceptor system located adjacent to the site. Coordination between the City, the Hydrology/Hydraulics engineer, WSAFCA and RD 900 are ongoing. Concern has been raised about the volumes, capacity and potential permitting this would require. The calculations are being checked as well as possible design alternatives.

ATTACHMENTS: None

STAFF RESPONSIBLE FOR REPORT:



Timothy Mallen, General Manager

OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND
 REHABILITATION AGREEMENT BETWEEN
 The Central Valley Flood Protection Board
 AND
 Reclamation District No. 900
 AND
 the West Sacramento Area Flood Control Agency
 FOR
 The Southport Levee Improvement Project

This Operation, Maintenance, Repair, Replacement, and Rehabilitation Agreement ("OMRR&R Agreement") is entered into by and between the State of California ("State"), acting by and through the Central Valley Flood Protection Board, or any successor thereto, ("Board"), Reclamation District No. 900 ("Local Maintaining Agency"), and, for the limited purpose of Section I.A.3. and 4., hereof, the West Sacramento Area Flood Control Agency ("Funding Recipient") on this _____ day of _____, 2020 in view of the following circumstances:

1. The Southport Levee Improvement Project ("Southport Project") is part of the West Sacramento Levee Improvement Program, which in turn is a part of the Sacramento Metro Area Flood Control Project that was authorized by Congress in Section 101(4) of the Water Resources Development Act of 1992, the Energy and Water Development Appropriations Act of 1999 and the Water Infrastructure Improvements for the Nation Act of 2016, and is a part of the Sacramento River Flood Control Project, which was authorized by Congress on March 1, 1917, and amended on May 16, 1928, August 26, 1937, August 18, 1941, August 17, 1954, and July 16, 1960. The Southport Project is being funded in part under the Early Implementation Program (EIP) guidelines, with the balance of such Southport Project to be undertaken under the Department of Water Resources' ("Department") Urban Flood Risk Reduction ("UFRR") guidelines.
2. State funding has become available for the EIP and UFRR Projects:
 - The voters of California approved Propositions 1E and 84 on November 7, 2006, making bond funds available for flood control work and other purposes.
 - The State, acting by and through the Department, has accepted applications for EIP funding and has solicited applications for UFRR funding for its State-Federal Flood Control System Modifications Program.
 - As a result, Funding Agreements were signed. The Funding Agreements are between the Department and the Funding Recipient for the Southport Project.
 - The Funding Agreements provide that the Funding Recipient shall be responsible for construction, operation, maintenance, repair, replacement, and rehabilitation ("OMRR&R") of the Southport Project. Under this OMRR&R Agreement the Board will oversee OMRR&R for the Southport Project for the State, as part of the State Plan of Flood Control.
 - Under the Funding Agreements the Funding Recipient may agree to assume the responsibility of the Local Maintaining Agency as set out in this OMRR&R Agreement or may agree with a Local Maintaining Agency that it shall assume responsibility for OMRR&R of the Southport Project, provided that the Funding Recipient shall assume responsibility for

OMRR&R if for any reason the Local Maintaining Agency fails to perform under this OMRR&R Agreement.

- The Funding Recipient has agreed with the Local Maintaining Agency that the Local Maintaining Agency shall assume responsibility for OMRR&R by entering into this OMRR&R Agreement.
 - The Department has agreed to enter into the Funding Agreements with the Funding Recipient on the condition that the Local Maintaining Agency enter into the OMRR&R Agreement and that the Funding Recipient shall assume responsibility for OMRR&R if for any reason the Local Maintaining Agency fails to perform under this OMRR&R Agreement.
3. It is not expected that the Federal Government will provide funding for the EIP and UFRR funded Projects at this time, but in anticipation that federal funds may become available eventually:
 - The Funding Agreements require the Funding Recipient to seek credit for the expenditures made under the Funding Agreements from the Federal Government, acting by and through the U.S. Army Corps of Engineers ("USACE"), and to enter into agreements necessary to obtain credit or reimbursement from the USACE.
 - The parties agree that this OMRR&R Agreement may be superseded by one or more agreements acceptable to the USACE and the Board that gives satisfactory assurances to the Federal Government and the Board that the required local cooperation will be furnished in connection with the Southport Project.
 4. The Local Maintaining Agency agrees that it already has responsibility for OMRR&R for existing portions of the project (as hereinafter defined and as depicted on the plat attached hereto as Figure 1) under California Water Code Section 12642 which states, and under which the State contends, that in all cases where the Federal Government does not maintain and operate projects, it is the responsibility and duty of the county, city, state agency, or public district affected to maintain and operate flood control and other works, after completion, and hold and save the State and the Federal Government free from damages.
 5. The Board has agreed to enter into this OMRR&R Agreement on the condition that the Local Maintaining Agency provides the Board with the assurances specified in this OMRR&R Agreement that Local Maintaining Agency will be responsible for OMRR&R of the Project upon its completion; and will, as described below, hold and save the Federal Government, State, their representatives, officers, directors, and employees, including their attorneys, as well as their successors and assigns, free and harmless from any and all claims and damages arising from OMRR&R of the Southport Project, and Funding Recipient will, as described below, hold and save the Federal Government, State, their representatives, officers, directors, and employees, including their attorneys, as well as their successors and assigns, free and harmless from any and all claims and damages arising from construction of the Southport Project.
 6. The Board and the Local Maintaining Agency have agreed that this OMRR&R Agreement will set forth not only their agreement with respect to OMRR&R for the Southport Project, but also for work funded under prior and future funding agreements related to The West Sacramento Levee Improvement Program, save and except for portions operated and maintained by State Maintenance Area 4, on land and rights-of-way that have been or will ultimately be transferred to the Sacramento and San Joaquin Drainage District, acting by and through the Board and for portions operated and maintained by Reclamation District No. 537, and all of the federally and State authorized flood facilities related to the project that are within the Local Maintaining Agency's boundaries.

NOW, THEREFORE, IT IS HEREBY AGREED:

For purposes of this OMRR&R Agreement, the terms below are defined as indicated:

“Board:” The State of California Central Valley Flood Protection Board or any successor thereto.

“USACE:” The United States Army Corps of Engineers.

“Department:” The State of California Department of Water Resources.

“Funding Agreements:” Agreements between the State of California Department of Water Resources and the West Sacramento Area Flood Control Agency for The West Sacramento Levee Improvement Program dated October 19, 2009, Agreement Number 4600008653 and June 23, 2011, Agreement Number 4600009394.

“Funding Recipient:” The West Sacramento Area Flood Control Agency, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, which is the signatory to the Funding Agreements.

“Federal Government:” Department of the Army represented by the Assistant Secretary of the Army (Civil Works).

“Local Maintaining Agency:” Reclamation District 900 or its successors or assigns, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, which is either the signatory to a Funding Agreement or has been designated by the Funding Recipient as the agency which will assume responsibility for OMRR&R for any Functional Portion of the Southport Project, and the Project.

“OMRR&R:”

Operation, maintenance, repair, replacement, and rehabilitation of the Project in accordance with Federal law, including without limitation, compliance with operations and maintenance requirements contained in Code of Federal Regulations, title 33, section 208.10, Board Resolution No. 2018-06 and future amendments thereto, Federal guidance such as ER 1110-2-401 and other documents which confirm that repair, replacement, and rehabilitation does not include reconstruction of a project or project segment that has reached the end of its design service life or is deficient due to a design or construction defect, and applicable Operation and Maintenance Manuals for the State Plan of Flood Control facilities within the jurisdiction of the Funding Recipient, any revised or updated version of the Operation and Maintenance Manual, or any supplement to the Operation and Maintenance Manual.

“OMRR&R Agreement:” This agreement between the Central Valley Flood Protection Board, West Sacramento Area Flood Control Agency, and Reclamation District No. 900, for OMRR&R of the Project.

“Overall Work Plan:” The plan described in Exhibit A-1 of the Funding Agreements, as amended.

“Post Construction Performance Reports:” Funding Recipient shall submit a summary of the operations for the Project. This report shall be prepared annually in compliance with Assembly Bill 156 (Stats. 2007, ch. 368) and comply with Section 9140 of the California Water Code.

“Project:” All of the federally and State authorized flood facilities as shown in Figure 1 to the extent to which they are within the Local Maintaining Agency’s boundaries.

“Project Site:” The location of the Southport Project.

“Southport Project:” The flood risk reduction project features of such Southport Project as described in the Overall Work Plan described in the Funding Agreement, as amended.

“Standard Operation and Maintenance Manual:” A document prepared by Local Maintaining Agency and submitted to the State for review, comment and approval that will govern the operation, maintenance, repair, replacement and rehabilitation of the Project. This manual will include all manuals related to the Project and facilities covered by this OMRR&R agreement, including those prepared by the USACE and/or Board for flood, ecosystem, habitat, mitigation or other purposes and any other such manuals.

“State:” The State of California, acting by and through the Board.

“State Plan of Flood Control:” The state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations described in Cal. Pub. Res. Code § 5096.805(j).

SECTION I: Obligations of the Local Maintaining Agency, and, in part, the Funding Recipient.

A. **General Obligations.** The Local Maintaining Agency, and, in part, as provided in Subsection 3 and 4, below, the Funding Recipient agree to the following:

1. To perform OMRR&R for the Project, in accordance with the Project design specifications, environmental permits, environmental impact reports, regulations, and directions prescribed by the State, all without any cost to the State. The duties of the Local Maintaining Agency to perform OMRR&R for State Plan of Flood Control Project features shall be performed in a manner that does not diminish the flood protection afforded by or jeopardize the structural integrity of the Project and the flood control system of which the Project is part. The duties of the Local Maintaining Agency pursuant to this paragraph are described further in Section I-B below.
2. To defend, indemnify, hold and save the Federal Government and the State, to the extent allowed by law, their representatives, officers, directors, agents, and employees, including their attorneys as well as their successors and assigns free and harmless, to the extent permitted by law, from any and all liability for any claims and damages (including inverse condemnation) that may arise out of this OMRR&R Agreement, including but not limited to any claims or damages arising from the construction and performance of OMRR&R under this Agreement.
3. The Funding Recipient agrees to defend, indemnify, hold and save the Federal Government and the State, to the extent allowed by law, their representatives, officers, directors, agents, and employees, including their attorneys as well as their successors and assigns free and harmless, to the extent permitted by law, from any and all liability for any claims and damages (including inverse condemnation) that may arise out of construction of the Southport Project, and to assume responsibility for OMRR&R if for any reason the Local Maintaining Agency fails to perform under this Agreement.
4. The Funding Recipient agrees to cause OMRR&R to be performed on all mitigation features of the Project in accordance with environmental permits, environmental impact reports, and applicable regulations and directions.

B. **Specific Obligations to Operate, Maintain, Repair, Replace, and Rehabilitate**

1. The Local Maintaining Agency hereby accepts responsibility for OMRR&R of the Project. The Local Maintaining Agency agrees that it will be responsible for OMRR&R of the Project as further explained in: (1) the Standard Operation and Maintenance Manual for

the Project and (2) any applicable Supplement to the Standard Operation and Maintenance Manual for the Project.

2. The Local Maintaining Agency agrees to cooperate in the Funding Recipient's development of a Standard Operation and Maintenance Manual for the Project as required by Board permits issued to The Funding Recipient for The West Sacramento Levee Improvement Program. The Standard Operation and Maintenance Manual for the Southport Project may be a stand-alone document or an amendment to the Standard Operation and Maintenance Manual for the Project as directed by the Board. The Local Maintaining Agency acknowledges that changes to the Standard Operation and Maintenance Manual may be made by the State and the USACE before the document becomes final. The State may make reasonable changes but shall consult with Local Maintaining Agency prior to making such changes. Local Maintaining Agency shall be required to update the Standard Operation and Maintenance Manual as may be necessary or as required by the Board and shall make a copy available to the State within three (3) days after the State so requests. Local Maintaining Agency shall be responsible for OMRR&R in accordance with any revised version of the Standard Operation and Maintenance Manual for the Project or any Supplement to the Standard Operation and Maintenance Manual.
3. The Local Maintaining Agency hereby gives State the right to enter, at reasonable times and in a reasonable manner, upon the Project Site and land which it owns or controls for access to the Project Site for the purpose of: (i) conducting subsequent inspections to verify that the Local Maintaining Agency is complying with its obligations under this OMRR&R Agreement; and (ii) operating, maintaining, repairing, replacing, or rehabilitating any part of the Project located at or accessible by the Project Site in conjunction with any present or future flood control plan if in the reasonable judgment of State the Local Maintaining Agency fails to comply with its obligations under this OMRR&R Agreement. In the event the State assumes title to any of the land to which the Local Maintaining Agency needs access to fulfill the obligations set forth in the paragraph, the State grants an irrevocable license to the Local Maintaining Agency to enter the land to fulfill its obligations under this OMRR&R Agreement.
4. If the Local Maintaining Agency has failed or refused to perform the obligations set forth in this OMRR&R Agreement or the requirements of the manuals mentioned above, the State may take appropriate actions including proceedings to establish a maintenance area under California Water Code Section 12878 *et seq.*

If the Local Maintaining Agency has failed or refused to perform the obligations set forth in this OMRR&R Agreement or the requirements of the manuals mentioned above, and for any reason the State is not able to take appropriate actions under these provisions of law, then the State may take appropriate actions under this OMRR&R Agreement as follows: If the failure or refusal constitutes, in the sole discretion of the State, a threat to the continued ability of the Project or functional portion thereof to perform in a manner necessary to provide its designed level of flood protection, then the State may itself perform the necessary work or do so by contract. The State may in its sole discretion develop a work plan and present it to the Local Maintaining Agency with instructions that if the Local Maintaining Agency does not agree to carry out the work plan within the time specified in the work plan, the State will perform the necessary work or do so by contract. The Local Maintaining Agency will reimburse the State for the costs of performing such work in accordance with the procedures set forth in this OMRR&R Agreement. No completion, operation, maintenance, repair, replacement, or rehabilitation by the State shall operate to relieve the Local Maintaining Agency of responsibility to meet the Local Maintaining Agency's obligations as set forth in this OMRR&R Agreement, or to preclude the State from pursuing any other remedy at law or equity to ensure faithful performance pursuant to this OMRR&R Agreement.

C. Additional Obligations:

1. The Local Maintaining Agency shall annually review and, if appropriate or requested by the State, update the safety plan for the Southport Project prepared pursuant to the relevant Funding Agreements or required by California Water Code section 9650. The Local Maintaining Agency agrees to use best efforts to ensure that the updated safety plan is integrated into any other local agency emergency plan and is coordinated with the State emergency plan.
2. No later than September 30th of each year, the Local Maintaining Agency shall provide an annual Post Construction Performance Report to the Department. It is agreed that the report provided pursuant to Water Code section 9140 will serve that purpose.
 - (a) If the Local Maintaining Agency is not the same as the Funding Recipient, the Local Maintaining Agency represents that it has made arrangements with the Funding Recipient to obtain any information needed from the Funding Recipient in order to prepare this report.
 - (eb) The Department in its sole determination may modify the reporting requirements as needed to ensure that it has adequate information with which to perform its responsibilities.
3. Upon request, the Funding Recipient will provide the State with copies of Project Completion Reports prepared pursuant to the Funding Agreement.
 - (a) No later than September 30th of each year the Local Maintaining Agency shall certify that it has reviewed the Standard Operations and Maintenance Manual and that either: (1) no updates are needed to the Standard Operation and Maintenance Manual; or (2) the Standard Operation and Maintenance Manual has been updated.
 - (b) The Board in its sole determination may modify the reporting requirements as needed to ensure that it has adequate information with which to perform its responsibilities.

SECTION II: Hazardous Substances

The Local Maintaining Agency acknowledges that the State may incur obligations with respect to hazardous substances regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675; California Hazardous Substances Account Act, Calif. Health & Safety Code §§ 25310 *et seq.* or other statutes or regulations (collectively referred to as "state and federal Hazardous Substances Laws") on lands necessary for Project construction and OMRR&R to the extent the Local Maintaining Agency fails to comply with its obligations under this OMRR&R Agreement. The Local Maintaining Agency agrees:

- A. That in the event that the Local Maintaining Agency discovers through an environmental investigation or other means that any lands, easements, or rights of way that have been acquired or provided for the Project contain reportable quantities of hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws, the Local Maintaining Agency shall promptly notify the State of that discovery if it can be reasonably anticipated that the discovery of reportable quantities of hazardous substances will require Local Maintaining Agency to incur response costs in excess of \$10,000.
- B. That in the event reportable quantities of hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws have been found, the Local Maintaining Agency shall initiate and complete any and all necessary response and cleanup activity required

under CERCLA and/or other state and federal Hazardous Substances Laws, which shall include any studies and investigations necessary to determine the appropriate response to the contamination. Payment for the costs of such necessary response and cleanup activity as required under CERCLA and/or other state and federal Hazardous Substances Laws shall be made by the Local Maintaining Agency. In the event that the Local Maintaining Agency fails to provide the funds necessary for response and cleanup activity required under CERCLA and/or other state and federal Hazardous Substances Laws, or to otherwise discharge the Local Maintaining Agency's responsibilities under this Paragraph B, then the State may perform the necessary response and cleanup activity, and the Local Maintaining Agency shall reimburse the State in accordance with the procedures set out in this OMRR&R Agreement. If the State performs the necessary response and cleanup activity required under CERCLA and/or other state and federal Hazardous Substances Laws, the State shall consult with the Local Maintaining Agency concerning the selection of the person(s) to perform the work, the amount of money to be spent on the work, the scope of the work, and any other aspect of response and cleanup activity.

- C. That the Local Maintaining Agency shall consult with the State in order to ensure that responsible persons under CERCLA and/or other state and federal Hazardous Substances Laws ultimately bear all necessary response and cleanup costs as defined in CERCLA and/or other state and federal Hazardous Substances Laws.
- D. That the Local Maintaining Agency shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will control and minimize the release or threatened release of hazardous substances regulated under CERCLA and/or other state and federal Hazardous Substances Laws on lands necessary for Project construction, operation, maintenance, repair, replacement, or rehabilitation.
- E. That in the event that the State, their representatives, officers, directors, employees, including their attorneys, as well as their successors and assigns, are found to be liable under CERCLA and/or other state and federal Hazardous Substances Laws for the release or threatened release of hazardous substances arising out of the operation, maintenance, repair, replacement, or rehabilitation of the Project, then the Local Maintaining Agency shall indemnify and hold the State, its representatives, officers, directors, employees, including its attorneys, as well as their successors and assigns, harmless from any response or cleanup costs for which the State, its representatives, officers, directors, employees, including its attorneys, as well as their successors and assigns, may be found to be liable under CERCLA and/or other state and federal Hazardous Substances Laws.
- F. No decision made or action taken pursuant to any provision of this Section of the Project OMRR&R Agreement shall relieve any responsible person from any liability that may arise under CERCLA and/or other state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the State or the Local Maintaining Agency of any right to seek from any responsible person as defined by CERCLA and/or other state and federal Hazardous Substances Laws the recovery, contribution of, or indemnification from costs incurred by the State or the Local Maintaining Agency for response or cleanup activity required under CERCLA and/or other state and federal Hazardous Substances Laws, nor shall such decision or action be considered a waiver by the State of any other right or remedy provided by law.

SECTION III: Authorization for Delegation or Subcontracting

The Local Maintaining Agency may delegate or subcontract its responsibilities under this OMRR&R Agreement. The Local Maintaining Agency shall be responsible for all work to be performed under the contract, including any delegated work. The State shall have the right to ask that any services for this OMRR&R Agreement provided by any subcontractor be terminated if its performance is unsatisfactory.

Payment for services rendered by subcontractors shall be made entirely by the Local Maintaining Agency; the State shall not have any responsibility for making any payments to the subcontractors for any services they may render in connection with this OMRR&R Agreement.

SECTION IV: Procedures for Reimbursing the State

To the extent the Local Maintaining Agency fails to fulfill its obligations under this Agreement, the State may perform such obligations and bill the Local Maintaining Agency accordingly. In such circumstances, the State shall provide an invoice to the Local Maintaining Agency for the costs of performing the work. The Local Maintaining Agency agrees, subject to compliance with applicable state law, to reimburse the State by promptly paying any such invoices within thirty days.

SECTION V: Disputes

Before any party to the OMRR&R Agreement may bring suit in any court concerning an issue relating to this OMRR&R Agreement, that party must first seek in good faith to resolve the issue through negotiation or other forms of nonbinding alternative dispute resolution mutually acceptable to all parties.

SECTION VI: Obligation of Future Appropriations

The parties agree that nothing herein shall constitute, or be deemed to constitute, an obligation of future appropriations by the Legislature of the State of California.

SECTION VII: Term of Agreement; Amendment

The effective date of this OMRR&R Agreement is the last date it is signed by all parties. The OMRR&R Agreement will continue in full force and effect unless terminated or amended upon written consent of all parties.

The parties acknowledge that in order to obtain federal credits or reimbursement for this Project, it may be necessary to amend this OMRR&R Agreement as required by the USACE. The parties agree that they will not unreasonably withhold consent for any amendments necessary to obtain federal credits or reimbursement.

SECTION VIII: Notices

All notices, requests, demands, and other communications required or permitted to be given under this OMRR&R Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by first class (postage pre-paid), registered, or certified mail, as follows:

If to the Local Maintaining Agency:
 Reclamation District No. 900
 ATTN: General Manager
 1420 Merkley Avenue, Suite 4
 West Sacramento, CA 95691

If to the Board:

Central Valley Flood Protection Board
ATTN: Executive Officer
3310 El Camino Avenue, Suite 170
Sacramento, CA 95821

If to the Funding Recipient:
West Sacramento Area Flood Control Agency
ATTN: General Manager
1420 Merkley Avenue, Suite 4
West Sacramento, CA 95691

A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this section.

Any notice, request, demand, or other communication made pursuant to this section shall be deemed to have been received by the addressee at such time as it is personally delivered or seven calendar days after it is mailed, as the case may be.

SECTION IX: Standard Conditions

This OMRR&R Agreement incorporates by reference the standard conditions that are included in Attachment A to this OMRR&R Agreement.

SECTION X: Authority

The Local Maintaining Agency has provided a copy of a resolution adopted by its governing body designating a representative to execute this OMRR&R Agreement. This resolution is substantially the same as the draft resolution provided in Attachment B to this OMRR&R Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this OMRR&R Agreement.

The Central Valley Flood Protection Board

Reclamation District No. 900

By _____
Leslie M. Gallagher,
Executive Officer

By _____
Tim Mallen,
General Manager

Date: _____

Date: _____

Approved as to Legal Form
and Sufficiency:

Approved as to Legal Form
and Sufficiency:

Kanwarjit Dua,
Board Counsel

Ralph R. Nevis.,
General Counsel

West Sacramento Area Flood Control Agency

By _____
Greg Fabun,
General Manager

Approved as to Legal Form
And Sufficiency:

Ralph R. Nevis,
General Counsel

Attachment A

STANDARD CONDITIONS

1. **GOVERNING LAW:** This OMRR&R Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
2. **TIMELINESS:** Time is of the essence in this OMRR&R Agreement.
3. **AMENDMENT:** This OMRR&R Agreement may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Local Maintaining Agency for amendments must be in writing stating the amendment request and the reason for the request. The State shall have no obligation to agree to an amendment.
4. **SUCCESSORS AND ASSIGNS:** This OMRR&R Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this OMRR&R Agreement or any part thereof, rights hereunder, or interest herein by the Local Maintaining Agency shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.
5. **INSPECTION OF BOOKS, RECORDS, AND REPORTS:** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this OMRR&R Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this OMRR&R Agreement. Failure or refusal by Local Maintaining Agency to comply with this provision shall be considered a breach of this OMRR&R Agreement, and the State may take any other action it deems necessary to protect its interests, after complying with paragraph V of the OMRR&R Agreement.
6. **PROHIBITION AGAINST DISPOSAL OF EIP PROJECT WITHOUT STATE PERMISSION:** Local Maintaining Agency shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the EIP Project, without prior permission of the State. Local Maintaining Agency shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Local Maintaining Agency meet its obligations under this OMRR&R Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property acquired, reimbursed or credited with State funds be remitted to the State.
7. **NO THIRD PARTY RIGHTS:** The parties to this OMRR&R Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this OMRR&R Agreement, or of any duty, covenant, obligation or undertaking established herein.
8. **OPINIONS AND DETERMINATIONS:** Where the terms of this OMRR&R Agreement provide for action to be based upon, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
9. **SUIT ON OMRR&R AGREEMENT:** Each of the parties hereto may sue and be sued with respect to this OMRR&R Agreement.
10. **REMEDIES NOT EXCLUSIVE:** The use by either party of any remedy specified herein for the enforcement of this OMRR&R Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

11. **SEVERABILITY:** Should any portion of this OMRR&R Agreement be determined to be void or unenforceable, such shall be severed from the whole and the OMRR&R Agreement shall continue as modified.
12. **WAIVER OF RIGHTS:** None of the provisions of this OMRR&R Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties hereto that from time to time either party may waive any of its rights under this OMRR&R Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the OMRR&R Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.
13. **TERMINATION FOR CAUSE:** The State may terminate this OMRR&R Agreement should Local Maintaining Agency fail to perform the requirements of this OMRR&R Agreement at the time and in the manner herein provided or in the event of a default by the Funding Recipient under the relevant Funding Agreement.
14. **INDEPENDENT CAPACITY:** Local Maintaining Agency, and the agents and employees of Local Maintaining Agencies, in the performance of the OMRR&R Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
15. **CONFLICT OF INTEREST**
 - a) **Current State Employees:** No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.
 - b) **Former State Employees:** For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
 - c) **Employees of the Local Maintaining Agency:** Employees of the Local Maintaining Agency shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the California Political Reform Act, Cal. Gov't Code § 87100 *et seq.*
16. **WORKERS' COMPENSATION:** Local Maintaining Agency affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Local Maintaining Agency affirms that it will comply with such provisions before commencing the performance of the work under this OMRR&R Agreement and will make its contractors and subcontractors aware of this provision.
17. **AMERICANS WITH DISABILITIES ACT:** By signing this OMRR&R Agreement, Local Maintaining Agency assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 *et seq.*), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

18. **NONDISCRIMINATION CLAUSE:** During the performance of this OMRR&R Agreement, Local Maintaining Agency and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Local Maintaining Agency and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Local Maintaining Agency and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Local Maintaining Agency and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Local Maintaining Agency shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the OMRR&R Agreement.

19. **DRUG-FREE WORKPLACE CERTIFICATION**

Certification of Compliance: By signing this OMRR&R Agreement, Local Maintaining Agency, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and, if such Act applies to Local Maintaining Agency, have or will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355(a)(1).
- b) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(a)(2) to inform employees, contractors, or subcontractors about all of the following:
 - 1. The dangers of drug abuse in the workplace,
 - 2. Local Maintaining Agency's policy of maintaining a drug-free workplace,
 - 3. Any available counseling, rehabilitation, and employee assistance programs, and
 - 4. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
- c) Provide as required by Government Code Sections 8355(a)(3), that every employee, contractor, and/or subcontractor who works under this OMRR&R Agreement:
 - 1. Will receive a copy of Local Maintaining Agency's drug-free policy statement, and
 - 2. Will agree to abide by terms of Local Maintaining Agency's condition of employment, contract or subcontract.

Suspension of Payments: This OMRR&R Agreement may be subject to suspension of payments or termination, or both, and Local Maintaining Agency may be subject to debarment if the State determines that:

- a) Local Maintaining Agency, its contractors, or subcontractors have made a false certification, or

- b) Local Maintaining Agency, its contractors, or subcontractors violates the certification by failing to carry out the requirements noted above.
20. UNION ORGANIZING: Local Maintaining Agency, by signing this OMRR&R Agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to this OMRR&R Agreement. Furthermore, Local Maintaining Agency, by signing this OMRR&R Agreement, hereby certifies that:
- a) No State funds disbursed by this OMRR&R Agreement will be used to assist, promote, or deter union organizing.
 - b) Local Maintaining Agency shall account for State funds disbursed for a specific expenditure by this OMRR&R Agreement to show those funds were allocated to that expenditure.
 - c) Local Maintaining Agency shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the program.
 - d) If Local Maintaining Agency makes expenditures to assist, promote, or deter union organizing, Local Maintaining Agency will maintain records sufficient to show that no State funds were used for those expenditures and that Local Maintaining Agency shall provide those records to the Attorney General upon request.
21. COMPUTER SOFTWARE: Local Maintaining Agency certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this OMRR&R Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
22. DELIVERY OF INFORMATION, REPORTS, AND DATA: Local Maintaining Agency agrees to expeditiously provide, during work on the State-Federal Flood Control System Modification Program (Early Implementation Projects) and throughout the term of this OMRR&R Agreement, such reports, data, information, and certifications as may be reasonably required by the State.
23. RIGHTS IN DATA: Local Maintaining Agency agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this OMRR&R Agreement shall be made available to the State and shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act, Cal. Gov't Code §§ 6250 *et seq.* Local Maintaining Agency may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this OMRR&R Agreement, subject to appropriate acknowledgement of credit to the State for financial support. Local Maintaining Agency shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The State shall have the right to use any data described in this paragraph for any public purpose.
27. LOCAL MAINTAINING AGENCY NAME CHANGE: Approval of the State's Project Manager is required to change the Local Maintaining Agency's name as listed on this OMRR&R Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
28. AIR OR WATER POLLUTION VIOLATION: Under State laws, the Local Maintaining Agency shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

Attachment B: Draft Resolution

Resolved by the _____ Resolution No. _____
(Governing body, city council, or other)

of the _____
(Name of Local Maintaining Agency)

that pursuant and subject to all of the terms and provisions of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, and the Disaster Preparedness and Flood Prevention Bond Act of 2006, that funds awarded to _____
(Name of Funding Recipient)

by the California Department of Water Resources for a State-Federal Flood Control System Modification Program project titled: _____
(Project title)

have been accepted, and as a condition of accepting these funds the Funding Recipient committed to signing [modify if Funding Recipient and Local Maintaining Agency are not the same to add: "or having a Local Maintaining Agency sign"] an additional agreement with the Central Valley Flood Protection Board, or successor thereto, which requires _____
(Name of Local Maintaining Agency)

to assume responsibility for operation, maintenance, repair, replacement, and rehabilitation of _____
(Project title)

Therefore, the _____
(Presiding officer, president, city manager, or other official)

of the _____ is hereby authorized and directed to
(Name of Local Maintaining Agency)

sign an operation, maintenance, repair, replacement and rehabilitation agreement with the Central Valley Flood Protection Board, or successor thereto.

Passed and adopted at a regular meeting of the _____
(Board of Directors, Supervisors, etc.)

of the _____
(Name of Local Maintaining Agency)

on _____
(Date)

Affix official seal here

Authorized Signature _____

Printed Name _____

Title _____

Clerk/Secretary _____