

MINUTES OF THE MEETING
OF THE BOARD OF TRUSTEES OF
DELTA FARMS RECLAMATION DISTRICT NO. 2028
HELD ON WEDNESDAY, MARCH 18, 2020

Upon Notice to and consent by the Trustees of Delta Farms Reclamation District No. 2028, of the County of San Joaquin, State of California, a Meeting of the Board of Trustees was held at the offices of the District, at 343 East Main Street, Suite 815, Stockton, California, as well as various teleconference locations in accordance with Paragraph 11, Executive Order N-25-20, Executive Department, State of California, on Wednesday, March 18, 2020, at 10:30 A.M.

There were present and absent the following named Trustees, to-wit:

PRESENT

ABSENT

DAVID A. FORKEL
RANDALL NEUDECK
RUSSELL RYAN

NONE

There was also present Pamela A. Forbus, of the Law Offices of Hoslett and Forbus, Attorneys for the Reclamation District; Nate Hershey, of the firm MBK Engineers, the District's Engineer; and Ralph Heringer.

The Minutes of the meeting of the Board of Trustees held on February 12, 2020, were considered, and upon motion made and seconded, it was:

RESOLUTION APPROVING MINUTES

RESOLVED AND ORDERED by the Board of Trustees of Delta Farms Reclamation District No. 2028, as follows:

1. That the Minutes of the meeting of the Board of Trustees of Delta Farms Reclamation District No. 2028 held on February 12, 2020 be and the same are hereby approved.

ROLL CALL:

Ayes: Trustees Forkel, Neudeck and Ryan
Noes: None
Absent: None

Upon Roll Call, the foregoing Resolution was declared unanimously passed and adopted.

The Trustees were presented with the financial report for the District. The Trustees discussed the ratification and approval of warrants and checks issued in payment of obligations of the District. Upon motion duly made and seconded, it was:

RESOLUTION RATIFYING AND APPROVING WARRANTS
AND CHECKS IN PAYMENT OF CURRENT OBLIGATIONS

RESOLVED AND ORDERED by the Board of Trustees of Delta Farms Reclamation District No. 2028, as follows:

1. That the Warrants and Checks written since the meeting held on February 12, 2020 and presented to the Trustees at this March 18, 2020 meeting are hereby ratified, approved and authorized, a copy of which shall be attached to the minutes of the meeting and which is incorporated by reference, are hereby approved.

The Trustees were advised that, with the payment of the current obligations of this Reclamation District, there was a balance on hand in the general account in the sum of \$60,906.00 and held \$600,000.00 in registered warrants with the Bank of Stockton. The Trustees were further advised that there was a balance on hand in the District's account with the Bank of Stockton the sum of \$3,379,967.15.

ROLL CALL:

Ayes: Trustees Forkel, Neudeck and Ryan
Noes: None
Absent: None

Upon Roll Call, the foregoing Resolution was declared unanimously passed and adopted.

The Trustees were advised that Dave Robertson, the District's Superintendent, and Ralph Heringer did a drive around the district and suggest that the Trustees consider removing some eucalyptus trees. Dino and Sons is still working on the pipe.

The Engineer presented the Trustees with a written report, which included the following:

1. The Engineer reported on the District's participation in the Delta Levee Subventions Program, as follows:
 - A. Fiscal year 2018-19: The District submitted an application in the Program in the amount of \$500,000. DWR has indicated that \$12 million has been approved for program funding for FY 2018-19, consistent with recent years. The District's final claim has been submitted in the amount of \$276,982.97. DWR and CDFW have performed their annual inspections and the claim is currently being processed.

- B. Fiscal year 2019-20: The District submitted an application in the Program in the amount of \$615,000. DWR has lowered the Program funding amount to \$10 million for FY 2019-20.
 - C. Fiscal year 2020-21: Applications for participation in the Program are due April 1. The Engineer presented the Trustees with a draft application, any comments will be incorporated to the final package prior to the deadline.
2. Special Projects: The enhancement component of the Old River multi-benefit levee rehabilitation project is in progress. All planting is complete, and herbicide has been applied to the slopes to control broadleaf vegetation and invasive species. Maintenance activities will be on-going to promote health and longevity.
- The Engineer has submitted a Full Proposal for a Directed Action project to rehabilitate the north and south levees in January 2019. DWR has agreed to fund the project design and the District has received a funding agreement for the non-construction portion of the project. The District executed the agreement and it has been returned to DWR. Once the agreement is fully executed, the Engineer can begin work on the design.
3. Annual Maintenance: The Engineer advised the Trustees of the current maintenance items that the District is currently tracking. The Engineer has reviewed that status of the stationing paddles on the island, and missing paddles are scheduled to be installed later this month.
4. Five Year Plan: Work on the Five-Year Plan is currently in progress. The Engineer will be distributing a draft for review and comments in the coming months. The Plan must be completed by the end of 2020.
5. SB 88: Work under Phase 2 of the measurement experiment (work plan for 2019 through Feb 2020) has concluded and work under Phase 3 will soon commence. MBK is awaiting MWD comments on a draft report summarizing MBK's efforts relative to Phase 2, and then will finalize the report. Phase 3 will include the installation of new measurement devices (flange magnetic meters, channel water level sensors, and telemetry equipment) on Bacon Island, Bouldin Island, Webb Tract and Holland Tract, on the water side of the siphons. In addition, some existing equipment will continue to be used. MBK recently obtained approval of the budget for Phase 3 and will move forward with purchasing new equipment, removing existing equipment that is no longer functioning, and relocating/repurposing existing equipment that is functional. MBK will continue to perform regular field visits to inspect the equipment and perform portable meter testing on any siphons running at the times of the visits.

On February 27, MBK and MWD attended the quarterly Delta Measurement Consortium meeting to provide an update to the Consortium on the planned efforts for Phase 3. At the meeting, the Delta Watermaster informed the group that his office will be pursuing a Delta-wide Alternative Compliance Plan focused on Open ET; he asked for cooperation of the Consortium in that effort. MWD and the RDs plan to proceed with the planned Phase 3 efforts while continuing participation with the Consortium and investigating the potential use of Open ET.

The Trustees were advised of the status of the Prop 218 Election. John Bliss, of SCI Consulting, had previously provided the Trustees with a draft Engineers report for review and comments. Following a discussion of the need for adopting a Prop 218 Election for Delta Farms Reclamation District No. 2028 the Trustees unanimously passed and adopted Resolution No. 2020-001 A RESOLUTION INITIATING PROCEEDINGS, PROVIDING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2019-20, PRELIMINARILY APPROVING THE ENGINEER'S REPORT, AND PROVIDING FOR NOTICE OF HEARING, AND THE MAILING OF ASSESSMENT BALLOTS FOR THE RECLAMATION DISTRICT NO. 2028 LEVEE AND FLOOD CONTROL FACILITIES MAINTENANCE AND REPAIR ASSESSMENT DISTRICT. The Trustees further unanimously passed and adopted Resolution No. 2020-02 RESOLUTION OF THE BOARD OF TRUSTEES OF RECLAMATION DISTRICT NO. 2028 ADOPTING PROPOSITION 218 ASSESSMENT BALLOT PROCEEDINGS PROCEDURES.

The Chair advised the Trustees that the annual water rights reporting for diversions under the District's water license is due prior to April 1, 2020 and he will arrange that the reports be filed with the State Water Resources Control Board prior to that date.

The Chair asked for Public Comment. There being no one present wishing to address the Board of Trustees, the Public Comment session was closed. There being no one wishing to address the Board, and there being no further business to come before the Board, the meeting was adjourned.

PAMELA A. FORBUS, Secretary
Delta Farms Reclamation District No. 2028

Minutes of the Meeting
held on March 18, 2020,
are hereby approved.

Trustees of Delta Farms
Reclamation District No. 2028

RECLAMATION DISTRICT 2028
WARRANT LIST

From: 2/08/2020 through 03/16/2020

Date	Num	Payee	Account	Payment
2/13/2020	4895	Reclamation District No. 2028 Payroll Acc	15100 Bank of Stockton Payroll	25,000.00
2/13/2020	4896	SJC Mosquito and Vector Control	50408 Taxes and Fees	203.93
2/24/2020	4899	MBK Engineers	57185 BN-18-1 5YP Engineering	1,554.50
			55140 Engineering Serv	834.50
3/5/2020	4900	PG&E	50140 Engineering-Routine	183.00
3/5/2020	4901	W.C. Maloney, Inc.	50212 Utilities	15,773.95
3/9/2020	4903	MBK Engineers	50185 Other Maintenance	24,500.00
3/9/2020	4904	River Partners	57125 BN-15-1 Engineering	39,828.63
			57127 BN-15-1 Planting	393,851.71
Account Balances				
		General Fund Account Balance		\$ 60,906.00
		Bank of Stockton Payroll Acct Balance		\$ 30,112.32
		Outstanding Registered Warrant Acct Balance		\$ 600,000.00
2/13/2020		RW#4894		\$ 25,000.00
2/21/2020		Reg Warrant #4897, 4898		\$ 50,000.00
		BN-15-1 Bank of Stockton Acct Balance		\$ 3,379,967.68

RESOLUTION NO. 2020-001

A RESOLUTION INITIATING PROCEEDINGS, PROVIDING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2019-20, PRELIMINARILY APPROVING THE ENGINEER'S REPORT, AND PROVIDING FOR NOTICE OF HEARING, AND THE MAILING OF ASSESSMENT BALLOTS FOR THE RECLAMATION DISTRICT NO. 2028 LEVEE AND FLOOD CONTROL FACILITIES MAINTENANCE AND REPAIR ASSESSMENT DISTRICT

WHEREAS, The Reclamation District No. 2028 ("District") desires to initiate the proceedings for the formation of a levee and flood control facilities maintenance and repair assessment district pursuant to the provisions of the Government Code section 53750, 54710 et seq. and Article XIID of the California Constitution; and to continue to maintain and repair levee and flood control facilities to protect all the properties within the boundaries of the District; and

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIIC and XIID of the California Constitution and implementing statutes impose certain procedural and substantive requirements relating to assessments (as defined); and

WHEREAS, A Levee and Flood Control Facilities Improvement Assessment for Reclamation District No. 2028 - Bacon Island was initially formed by resolution at the conclusion of a balloted, Proposition 218-compliant process, on January 17, 2019. However, the District subsequently identified several significant additional flood control improvements and emergency response concerns that were not included in this initial assessment. Therefore, the District is initiating the formation of the Levee and Flood Control Facilities Improvement Assessment for fiscal year 2019-20 to replace 2019 assessment, an accordingly, is conducting a full Proposition 218 process, based upon this updated Engineer's Report and supporting documents; and

WHEREAS, an Engineer's Report (the "Report") has been prepared by SCI Consulting Group (the "Engineer of Work") and submitted to the District Board of Trustees (the "Board"), in which a new assessment is proposed to fund the cost of maintaining and repairing levee and flood control facilities within the District boundaries. This proposed assessment shall be described as the "Levee and Flood Control Facilities Maintenance and Repair Assessment District" (hereinafter the "Assessment District").

NOW, THEREFORE, BE IT RESOLVED, BY THE DISTRICT BOARD OF TRUSTEES OF THE RECLAMATION DISTRICT NO. 2028, AS FOLLOWS:

1. **Reference to Initiation.** SCI Consulting Group, the Engineer of Work, has prepared an Engineer's Report in accordance with Article XIID of the California Constitution and Government Code section 53750, 54710 et seq. (the "Report"). The Report has been made, filed with the Secretary of the Board and duly considered by the Board and is hereby deemed sufficient and preliminarily approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing resolution.
2. **Description of the Services.** Within the Assessment District, The proposed Services will include the inspection, maintenance, repair and installation of levees and levee patrol roads; the maintenance of pumping stations; control of vegetation and rodents; electricity to operate pump stations adjacent to the levees; the reimbursement of the

local share of costs of construction of levee repairs; and other flood control services as referenced in the Engineer's Report identified below. "Installation" means the construction or installation of improvements, including, but not limited to, land preparation, such as grading, leveling, cutting and filling. "Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvements, including repair, removal, or replacement of all or part of any improvement and the removal of rubbish, debris, and other solid waste.

3. **Reference to Engineer's Report.** Reference is hereby made to the Report for a full and detailed description of the Services, the boundaries of the Assessment District and the proposed assessments upon assessable lots and parcels of land within the Assessment District.
4. **Report of the Engineer of Work.** The Report, which is available for public review at the District's office – 343 E. Main Street, Suite 815, Stockton, CA 95202 is hereby incorporated by reference. This Engineer's Report includes:
 - A. A description of the Services to be funded with assessment proceeds;
 - B. An estimate of the annual cost of such Services;
 - C. A description of the assessable parcels of land within the District and proposed to be subject to the new assessment;
 - D. A description of the proportionate special and general benefits conferred on property by the proposed assessment;
 - E. A description of the boundaries of the proposed Assessment District, and
 - F. A specification of the amount to be assessed upon various types of assessable land to fund the cost of the Services.
5. **Description of Assessment District.** The Assessment District consists of the lots and parcels shown on the boundary map of the Assessment District on file with the Secretary of the Board, and reference is hereby made to such map for further particulars.
6. **Proposed Assessment Rate.** It is the intention of this Board to levy and collect assessments within the Assessment District. The estimated fiscal year 2019-20 cost of providing the Services is \$935,218. This cost results in a proposed assessment rate of ONE HUNDRED FORTY-THREE DOLLARS AND FIFTY-TWO CENTS (\$143.52) per benefit unit for fiscal year 2019-20.
7. **Public Hearing.** The public hearing on the proposed assessment shall be held before the Board of Trustees of the Reclamation District No. 2028 at the District office, located at 343 E. Main Street, Suite 815, Stockton, CA on Wednesday, May 6, 2020, at the hour of 10:30 A.M. and for the purpose of this Board's determination of whether the public interest, convenience and necessity require the Services and this Board's final action upon the Report and the assessments therein.
8. **Notice and Ballot.** The Board's Secretary is hereby authorized and directed to cause Notice of the hearing ordered under Section 7 hereof to be given in accordance with law by mailing, postage prepaid, in the United States mail, and such Notice shall be deemed

to have been given when so deposited in the mail. The envelope or cover of the mailing shall include the name of the District. The mailed Notice shall be given by such mailing by name to those persons whose names and addresses appear on the last equalized secured property tax assessment roll of the County of San Joaquin, or in the case of any public entity, the representative of such public entity at the address thereof known to the Secretary. The Notice shall include, but not be limited to, the total amount of assessment proposed to be levied in the Assessment District for fiscal year 2019-20, the assessment proposed for the owner's particular parcel(s) and the duration thereof and the reason for the assessment. Each Notice shall also contain the proposed assessment and the basis upon which the amount of the assessment was calculated. Each Notice shall also contain an assessment ballot, a summary of the procedures applicable to the completion, return and tabulation of assessment ballots, the date, time, and location of the public hearing and a statement that the existence of a majority protest will result in the assessment not being imposed. The Notice herein provided shall be mailed not less than forty-five (45) days before the date of the public hearing.

9. **Additional Information.** To get additional information about the proposed assessments, the Assessment District or the proposed Services contact: Dave Forkel, Board Chairman, Reclamation District 2028, 343 E. Main Street, Suite 815, Stockton, CA 95202, phone number (209) 943-5551. The Engineer's Report and other written material about the Assessment District may also be reviewed at the District Office during regular business hours.
10. **Annual Assessments.** The assessments are proposed to be levied annually. If the proposed assessments are approved and confirmed by the District Board of Trustees, the assessments may increase in future years by an amount equal to the annual change in the Consumer Price Index for All Urban Consumers in the San Francisco, Oakland, Hayward Area not to exceed 3% in any year. Any and all unused CPI may be cumulatively reserved for future use in any year in which the CPI is less than 3%.

The CPI may only be calculated based upon this proposed assessment amount. In each subsequent year in which the assessments will be levied, an updated Engineer's Report, including a proposed budget and assessment rate, shall be prepared. The updated Engineer's Report shall be considered by the District Board of Trustees at a noticed public hearing. The updated Engineer's Report shall serve as the basis for the continuation of the assessments.

The foregoing Resolution No. 2020-001 was approved and adopted by the Board of Trustees of the Reclamation District No. 2028 at a regular meeting of said Board held on March 18, 2020, by the following voice vote:

AYES: Trustees Forkel, Neudeck and Ryan

NAYES: None

ABSENT: None

ABSTAIN: None

ATTEST:

David A. Forkel
Chairman, Reclamation District No. 2028

Pamela A. Forbus
Secretary, Reclamation District No. 2028

RESOLUTION NO. 2020-002

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE RECLAMATION DISTRICT NO. 2028 ADOPTING PROPOSITION 218 ASSESSMENT BALLOT PROCEEDINGS PROCEDURES

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIIC and XIID of the California Constitution impose certain procedural and substantive requirements relating to assessments (as defined); and

WHEREAS, some of the requirements of Proposition 218 are unclear and require, or have required, judicial interpretation and/or legislative implementation; and

WHEREAS, the Reclamation District No. 2028 (the "District") believes it to be in the best interest of the District and its property owners to confirm and memorialize the District's procedures and guidelines regarding implementation of the provisions of Proposition 218 and pertinent statutes relating to assessments.

NOW, THEREFORE, the Board does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. In adopting this resolution, it is the Board's intent to adopt assessment ballot proceedings, which are consistent and in compliance with Articles XIIC and XIID of the California Constitution and with Government Code Sections 53750 through 53754. It is not the intent of the Board to vary in any way from the requirements of either the California Constitution or the laws of the State of California. If there is any inconsistency between a provision of this resolution and state law, state law will govern.

SECTION 2. Definition of Assessment. Proposition 218 defines "assessment" as "any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or services, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement or the cost of the service being provided." "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment," and "special assessment tax."

SECTION 3. Assessment Ballot Proceeding. The following procedures shall be used in an assessment ballot proceeding that follows the requirements of Article XIID, section 4 of the California Constitution:

- A. **Amount of Assessment.** Only special benefits are assessable. The amount of each assessment shall be each identified parcel's proportionate share of the cost of the additional flood control and levee maintenance services based upon that parcel's special benefit from the Service. The amount shall be proportional to and no greater than the special benefits conferred on the property.
- B. **Engineer's Report.** The Board shall direct the filing of an engineer's report that shall comply with the applicable state statute authorizing the assessment and with Article XIID, Section 4, of the California Constitution. The engineer's report shall explain the special benefits conferred by the improvements and/or services funded by the assessments. The engineer's report shall also provide the evidence upon which the Board may find that a special benefit exists. If the improvement or service confers a general benefit, the engineer's report shall describe the general benefit and an alternative funding source for any general benefits. The engineer's report shall be prepared by a registered professional engineer certified by the State of California, (the "Assessment Engineer"). The cost of preparing the engineer's report shall be included as a cost of the assessment.
- C. **Notice.** The following guidelines shall apply to giving notice of an assessment:
1. The record owner(s) of each parcel to be assessed shall be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner shall receive notice. Only property owners shall receive notice;
 2. The notice shall be sent at least forty-five (45) days prior to the date set for the public hearing on the assessment;
 3. The notice provided by this section shall contain the following information:
 - a. The total amount to be assessed for the entire assessment district;
 - b. The amount to be assessed to the owner's particular parcel;
 - c. The duration of the payments;
 - d. The reason for the assessment;
 - e. The basis upon which the amount of the proposed assessment was calculated;
 - f. The date, time and location of the public hearing on the proposed assessment;
 - g. A summary of the procedures for the completion, return and tabulation of the assessment ballots;
 - h. A disclosure statement that the existence of a majority protest will result in the assessment not being imposed; and
 - i. A ballot to be completed by the owner, as further described in section D of this resolution.

4. The notice provided by this section and in accordance with Government Code Sections 53753(b) and (c) shall supersede and be in lieu of any other statutes requiring notice to levy or increase an assessment, including but not limited to the notice required by the state statute authorizing the assessment and Government Code section 54954.6;
5. Failure of any person to receive notice shall not invalidate the proceedings;
6. The cost of providing notice shall be included as a cost of the assessment.

D. Assessment Ballot. The following guidelines shall apply to the assessment ballot:

1. The ballot required by Article XIID, section 4(d), of the California Constitution shall be mailed to all property owners of record subject to the proposed assessment at least forty-five (45) days prior to the date of the public hearing on the proposed assessment. This ballot shall comply with Government Code Sections 53753(b) and (c). The ballot shall be designed in such a way that, once sealed, its contents are concealed.
2. All ballots must be returned either by mail or by hand delivery; not later than the date for return of ballots stated on the notice and ballot described in this section. Mailed ballots must be returned to 343 E. Main Street, Suite 815, Stockton, CA 95202 or, if delivered at the time and location of the public hearing, to be held at the Reclamation District No. 2028 District Office, located at 343 E. Main Street, Suite 815, Stockton, CA, and handed to the Secretary of the Board (the "Secretary"). Ballots must be returned either by mail or by hand delivery prior to the conclusion of the public input portion of the public hearing. SCI Consulting Group shall tabulate the ballots (the "Tabulator").
3. Each ballot must be signed under penalty of perjury. In the event that more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the Board or Assessment Engineer by documentation provided by the record owners. If two or more persons own a parcel subject to the assessment, any one owner may cast an assessment ballot for all owners.
4. If a parcel has multiple owners, any owner may request a proportional assessment ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must include evidence, satisfactory to the District, of the owner's proportional rights in the parcel. The Assessment Engineer will provide the proportional ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must include evidence, satisfactory to the District, of the identity of the person requesting the ballot. Each proportional ballot will be marked to identify it as a proportional ballot and to indicate the owner's proportional rights in the parcel. The Assessment Engineer will keep a record of each proportional ballot provided to an owner.
5. The District will only accept official ballots mailed or otherwise provided to owners by the Assessment Engineer.

6. If an assessment ballot is lost, withdrawn, destroyed or never received, the Assessment Engineer will mail or otherwise provide a replacement ballot to the owner upon receipt of a request delivered to the District or the Assessment Engineer. The replacement ballot will be marked to identify it as a replacement ballot or a replacement proportional ballot. Any request for a replacement or replacement proportional ballot to be mailed to another location must include evidence, satisfactory to the District or the Assessment Engineer, of the identity of the person requesting the ballot. The same procedure applies to replacement ballots or replacement proportional ballots, which are lost, withdrawn, destroyed, or never received.
7. If an assessment ballot is returned by the United States Post Office as undeliverable, the Assessment Engineer may mail a redelivered ballot to the current property owner, if updated ownership or owner mailing address can be determined. The redelivered ballot will be marked to identify it as a redelivered ballot.
8. An assessment ballot proceeding is not an election.
9. An assessment ballot is a disclosable "public record" as that phrase is defined by Government Code section 6252 during and after tabulation of the ballots.
10. The California Government Code requires that assessment ballots be signed by property owners. However, property owner names and corresponding votes will remain strictly confidential, except as necessary to count the votes or as may be required by California law.
11. To complete an assessment ballot, the owner of the parcel or his or her authorized representative must (1) mark the appropriate box (or circle) supporting or opposing the proposed assessment, and (2) sign, under penalty of perjury, the statement on the ballot that the person completing the ballot is the owner of the parcel or the owner's authorized representative. Only one box (or circle) may be stamped or marked on each ballot. All incomplete or improperly marked ballots shall be disqualified from balloting. The Tabulator will retain all such invalid ballots.
12. After returning an assessment ballot to the District, or the Tabulator on behalf of the District, the person who signed the ballot may withdraw the ballot by submitting a written statement to the District directing the District to withdraw the ballot. Such statement must be received by the District or the Tabulator prior to the close of the public input portion of the public hearing on the proposed assessment. When ballots for the assessment are tabulated, the Tabulator will segregate withdrawn ballots from all other returned ballots. The Tabulator will retain all withdrawn ballots and will indicate on the face of such withdrawn ballots that they have been withdrawn.
13. In order to change the contents of a ballot that has been submitted, the person who has signed that ballot may (1) request that such ballot be withdrawn, (2) request that a replacement ballot be issued, and (3) return the replacement ballot fully completed. Each of these steps must be completed according to the procedures set forth above.

E. Tabulating Ballots. The following guidelines shall apply to tabulating assessment ballots:

1. Assessment ballots shall remain sealed until tabulation commences at the conclusion of the public input portion of the public hearing.
2. Tabulation shall be performed by SCI Consulting Group ("Tabulator") in a room open to the public. The Tabulator shall follow the rules and procedures of the laws of the State of California, this resolution and any other rules and procedures of the Board. If the Tabulator needs clarification, then they shall inquire of the Board, who is the final arbiter. All ballots shall be accepted as valid except those in the following categories:
 - a. A photocopy of a ballot, a letter or other form of a ballot that is not an official ballot provided by the District or the Assessment Engineer on behalf of the District;
 - b. An unsigned ballot, or ballot signed by an unauthorized individual;
 - c. A ballot which lacks an identifiable mark in the box for a "yes" or "no" vote or with more than one box marked;
 - d. A ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
 - e. A ballot for which the barcode representing the parcel number is damaged or obstructed, unless the parcel number or property ownership information is legible and allows the Tabulator to clearly determine the property(s) identified on the ballot;
 - f. A ballot received after the close of the balloting time period.

The Tabulator's decision, after consultation with the Board's legal counsel that a ballot is invalid, shall be final and may not be appealed to the Board.

3. If more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot in proportion to the respective record ownership interests, as shown on the record or as established to the District's satisfaction by documentation provided by the record owners.
4. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the Board will make such determination from the official County Assessor records and any evidence of ownership submitted to the Board prior to the conclusion of the public hearing. The Board will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.
5. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the Board may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the Board prior to the conclusion of the public hearing. The Board will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.

6. A property owner who has submitted an assessment ballot may withdraw the ballot and submit a new or changed ballot up until the conclusion of the public input portion of the public hearing on the assessment. Assessment ballots may be withdrawn, and newer changed ballots submitted up until the conclusion of the public input portion of the public hearing on the assessment.
7. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings conducted under this section and section 4, Article XIII D, of the California Constitution.
8. The District shall retain all ballots for a period of two (2) years from the date of the public hearing.

F. Public Hearing.

1. At the public hearing, the Board shall hear and consider all public testimony, objections and protests regarding the proposed assessment and accept ballots until the close of the public input portion of the public hearing.
2. Reasonable time limits may be imposed on both the length of the entire hearing and the length of each speaker's testimony.
3. At the conclusion of the public input portion of the hearing, but prior to the conclusion of the public hearing, the Tabulator shall begin tabulation of the ballots at the direction of the Board, including those received during the public hearing.
4. If it is not possible to tabulate the ballots on the day of the public hearing, or if additional time is necessary for public testimony, the Board may continue the public hearing to a later date to receive additional testimony or information, or to finish tabulating the ballots.
5. If according to the final tabulation of the ballots, ballots submitted against the assessment exceed the ballots submitted in favor of the assessment, weighted according to the proportional financial obligation of the affected property, a "majority protest" exists and the Board shall not impose the assessment.

PASSED AND ADOPTED by the Board of Trustees of the Reclamation District No. 2028 at its regular meeting on March 18, 2020, by the following vote:

AYES: Trustees Forkel, Neudeck and Ryan

NAYES: None

ABSENT: None

ABSTAIN: None

ATTEST:

David A. Forkel
Chairman, Reclamation District No. 2028

Pamela A. Forbus
Secretary, Reclamation District No. 2028