I  CALL TO ORDER

II  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, Dan Logue

III  PUBLIC COMMUNICATIONS: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today’s agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes.

IV  CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.

A. Minutes: Approve minutes of the special meeting of January 29, 2008.

V  ACTION ITEMS

A. Adopt resolution authorizing specific actions in regard to the funding program for Phase 4 Feather River and Yuba River Levee Improvements; and

   i. Adopt resolution authorizing the Authority to accept funds from the State of California; and
   ii. Approve agreement to seek responsibility for operation and maintenance responsibility with Reclamation District 784 and authorize the Executive Director to execute upon review and approval of Counsel; and
   iii. Approve agreement to seek credit or reimbursement with Yuba County Water Agency and authorize the Executive Director to execute upon review and approval of Counsel; and
   iv. Approve First Amendment to the Second Funding Agreement for advance funding and reimbursement of costs for levee improvements and authorize the Executive Director to execute upon review and approval of Counsel; and
   v. Approve funding agreement with State Department of Water Resources and authorize the Executive Director to execute upon review and approval of Counsel.

B. Approve extension of lobbying contract with Peterson Consulting, Inc. through December 31, 2008 and authorize Chair to execute same.

C. Adopt resolution in regard to lack of significant impacts from alignment shift of the Feather River Setback Levee.

VI  BOARD AND STAFF MEMBERS’ REPORTS

VII  CLOSED SESSION

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
MINUTES – BOARD OF DIRECTORS
JANUARY 29, 2008 – SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 9:00 a.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Don L. Graham, Mary Jane Griego, and Dan Logue. Director Jerry Crippen was absent. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chair Griego presided.

ELECTION OF OFFICERS

Chair: Following nomination by Director Logue, upon motion of Director Logue, seconded by Director Graham, and carried with Director Crippen being absent, the Board elected Director Griego as Chair for calendar year 2008.

Vice-chair: Director Griego nominated Director Brown for the office of Vice-chair. Director Graham nominated Director Logue for the office of Vice-chair. With no further nominations forthcoming, the Clerk called for a vote on the nomination for Director Brown as Vice-chair for 2008 with Directors Brown, Graham, and Griego voting in support, with Director Logue voting in opposition and Director Crippen being absent, the Board elected Director Brown as Vice-chair for calendar year 2008.

CONSENT AGENDA

Upon motion of Director Logue, seconded by Director Graham, and carried with Director Crippen being absent, the Board took the following actions:

1) Minutes: Approved the minutes of the special meeting of January 8, 2008 as written.

ACTION ITEMS

1) **Displaced Person Appeals Board Stipend**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Brown, seconded by Director Logue, and carried, with Director Graham abstaining and Director Crippen being absent, the Board approved a $50 stipend, plus mileage, per meeting attended by members of the Displaced Person Appeals Board where member is not otherwise compensated for past and future meetings.

2) **SCI Consulting Group/Second Amendment/$20,000**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Logue, seconded by Director Brown, and carried with Director Crippen being absent, the Board approved a Second Amendment to the agreement with SCI Consulting Group in the amount of $20,000 and authorized the Executive Director to execute upon review and approval of Counsel.

3) **The Handen Company/Second Amendment/$143,800**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Logue, seconded by Director Graham, and carried with Director Crippen being absent, the Board approved a Second Amendment to agreement with The Handen Company, Inc. in the amount of $143,800 for construction management services and authorized the Executive Director to execute upon review and approval of Counsel.

4) **Reclamation District 784/Pump Station 10**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Graham, seconded by Director Logue, and carried with Director Crippen being absent, the Board approved an agreement with Reclamation District 784 for payments related to Construction of Pump Station 10 Discharge Pipe Crossing and authorized the Executive Director to execute upon review and approval of Counsel.

5) **United States Army Corps of Engineers/Historic Preservation Office**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Logue, seconded by Director Brown, and carried with Director Crippen being absent, the Board approved a draft Memorandum of Agreement between United States Army Corps of Engineers, State Historic Preservation Office, and Three Rivers Levee Improvement Authority regarding Segment 2 of the Feather River Levee Repair Project subject to any conforming or clarifying changes consistent with the draft, and authorized the Executive Director to execute upon review and approval of Counsel.
BOARD AND STAFF MEMBERS’ REPORTS

Reports were received on the following:

Director Griego:
- Welcomed Director Graham to the Board

Executive Director Paul Brunner:
- Proposition 1E/84 funding agreement
- Section 104 credit process for Yuba River Basin project and protection to Marysville and Reclamation District 784
- Operation and maintenance agreement with Reclamation District 784
- Proposed assessment district for operation and maintenance of levee system
- Tour of levee system February 5, 2008 with Corp of Engineers
- Financial update and cash flow

CLOSED SESSION

The Board retired into closed session at 9:44 a.m. to discuss the following:

A. Pending litigation pursuant to Government Code §54956.9(a) – Harmon vs. TRLIA

B. Pending litigation pursuant to Government Code §54956.9(a) – Auburn Manor vs. TRLIA

The Board returned from closed session at 10:12 a.m. with all Board and staff members present as indicated above.

Chair Griego advised direction was provided to staff regarding closed session items and to report back the resolution.
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 10:14 a.m. by Chair Griego.

__________________________
Chairman

ATTEST: DONNA STOTTERMeyer
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

______________________________
Approved: _____________________
February 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Scott Shapiro, General Counsel

SUBJECT: Approval of Funding Program for Phase Four of Levee Improvement Program

Staff Recommendation: Staff recommends the Board approve and have the Chairman sign the resolution entitled "Resolution Authorizing Specific Actions In Regard To The Funding Program For Phase 4 Feather River and Yuba River Levee Improvements" (Attachment 1) which will authorize:

1. The Chair to sign a resolution entitled "Resolution By The Board Of Directors Of Three Rivers Levee Improvement Authority Authorizing The Authority To Accept Funds From The State Of California" (Attachment 2);
2. The Executive Director to execute the agreement with RD 784 whereby RD 784 agrees to execute a future agreement with the State to ensure O&M of the levee system (Attachment 3);
3. The Executive Director to execute the agreement with Yuba County Water Agency (YCW A) whereby YCWA agrees to work with the State to obtain federal credit for the funds provided by the State (Attachment 4);
4. The Executive Director execute the First Amendment to the Second Funding Agreement (Attachment 5); and
5. The Executive Director to execute the final version of the State Funding Agreement (Attachment 6)

Background:

Three Rivers Levee Improvement Authority (the “Authority”) has constructed over $130,000,000 of levee improvements resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear River, and significant portions of the levees on the Yuba River, thereby significantly improving public safety in Southern Yuba County. The Authority, the County of Yuba, RD 784, and certain landowners in south

907283.1
Yuba County, previously executed the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements ("Second Funding Agreement") which was to provide for up to $135 million of funds to be advanced by the landowner signatories thereto to strengthen-in-place the remaining RD 784 levees and complete the Authority's levee improvement program. In February 2007 the Authority certified the final environmental impact report for the Feather River Levee Repair Project, the fourth and final phase of levee improvements, which included a Feather River setback levee, and selected the setback levee over the strengthen-in-place alternative. In order to fund the setback levee the Authority applied to the State of California for, and has been selected to receive, funding in the amount of $138.51 million to construct levee improvements including a setback levee along the Feather River as the fourth and final phase of the Authority's work.

The purpose of the proposed resolution (Attachment 1) is to provide the Authority's approval of all agreements and related actions required to provide the funding for the remainder of the Authority's levee improvement program.

**Discussion:** Five actions are authorized by approval of the Resolution (Attachment 1). First, the resolution approves the Chair to sign a different resolution requested by the State as a condition to executing the State Funding Agreement. Second, the resolution approves the execution by the Executive Director of a different resolution requested by RD 784 whereby RD 784 agrees to execute a future agreement with the State to ensure O&M of the levee system; this is a condition of State funding. Third, the resolution approves the execution by the Executive Director of an agreement with Yuba County Water Agency (YCWA) whereby YCWA agrees to work with the State to obtain federal credit for the funds provided by the State; this is a condition of State funding. Fourth, the resolution approves execution by the Executive Director of the First Amendment to the Second Funding Agreement. Finally, the resolution authorized the Executive Director to execute the State Funding Agreement. Each of these actions is explained herein.

**Approval of State Funding Agreement:** There are two parts of the Resolution relevant to this Agreement. First is the authorization for the Chair to execute a separate resolution in the form requested by the State (Attachment 2) and second is the authorization for the Executive Director to execute the State Funding Agreement (Attachment 6).

The State Funding Agreement uses a standard form approved by both the Department of Water Resources and the Department of General Services. It provides for a grant of up to $138.51 million subject to certain cost sharing formulas. In other words, if the Authority's project costs exactly as it is estimated to cost (including contingency), then the State will provide the entire $138.51 million. In contrast, if the project costs less, the State will only provide its percentage of cost share, so that the State shares in the cost savings. The Funding Agreement does provide the flexibility for the State to provide up to an additional 10% in cost share in special circumstances, subject to a later approval of the State.
Recognizing the infeasibility of treating the State funding as a reimbursement program, the State Funding Agreement advances funds each quarter for the work proposed to be completed during that quarter, subject to a holdback. As work exceeds the advanced funds, the Authority will request reimbursement from the holdback. Every quarter, the State and the Authority will reconcile their positions and adjust funding as required. Because the Authority has already advance funded more than ten million dollars of work under the Funding Agreement, the Authority will receive a credit for that work and no local cost share will be required until that credit is exhausted. Special funding arrangements also exist for real estate acquisition designed to facilitate the speedy acquisition of needed property. While the funding mechanism is quite complex, it represents a significant effort on the part of the State to work with local agencies to develop a realistic funding program.

The Funding Agreement suffers from all of the provisions that we have come to expect in State grant agreements. For example, the Funding Agreement provides that the Authority will hold harmless and indemnify the State (this provision does not extend to the Authority's member agencies). The Funding Agreement provides that the State's cost share is subject to the availability of funds, but does note the specific appropriation that made the funds available. The Funding Agreement shifts to the Authority any costs associated with hazardous materials discovered through the project. The Funding Agreement only commits to disburse funds for an element once all permitting is complete for that element. The Funding Agreement provides that if the Authority defaults on the Agreement the Authority must repay all granted funds. The Funding Agreement also includes a host of other boilerplate language contained in all State agreements.

The Funding Agreement culminates the last 15 months of effort by the Authority to obtain a funding source to construct the Feather River setback levee. If the Resolution (Attachment 1) is approved by the Board, the Chair would execute the separate Resolution (Attachment 2), and the Executive Director would also execute the final version of the Funding Agreement, a version of which was included with this Staff Report as Attachment 6.

Approval of Agreement to Seek OMRR&R Agreement. A condition of approval for the State Funding Agreement is that the Authority and RD 784 execute an agreement whereby RD 784 agrees to negotiate and execute an agreement with the Central Valley Flood Protection Board (formerly the Reclamation Board) to ensure that operation, maintenance, repair, rehabilitation, and replacement (OMRR&R) of the entire levee system is performed. The form of that OMRR&R agreement is attached to this Staff Report as Attachment 3.

Staff believes that RD 784 will be executing the OMRR&R agreement on or before February 19, 2008. Following execution by the Authority, RD 784 would then work with the Flood Protection Board on a future agreement. Under the terms of the State Funding Agreement, if RD 784 was not able to satisfactorily negotiate and execute that future agreement, then OMRR&R of the system would fall to the Authority.
Approval of Agreement to Seek Credit and Reimbursement. A condition of approval for the State Funding Agreement is that the Authority and YCWA execute an agreement whereby YCWA agrees to work with the State to seek from the Army Corps of Engineers the maximum credit or reimbursement associated with the funds that the State is providing under the State Funding Agreement. The form of that agreement is attached to this Staff Report as Attachment 4. Staff believes that YCWA will be executing the credit agreement on or before February 19, 2008.

Approval of First Amendment to Second Funding Agreement. The final action that would be authorized by approval of the Resolution is for the Executive Director to execute the First Amendment to the Second Funding Agreement. This First Amendment does not substantially alter the Authority's obligations under the Second Funding Agreement to construct the levee improvements. Rather, it primarily changes the revenues to be received by the Authority and the mechanism for repayment of some of those revenues. This staff paper offers a brief summary of the funding mechanisms. For more detail, please refer to the staff report prepared by County staff for the Board of Supervisors. The form of First Amendment to the Second Funding agreement is attached to this Staff Report as Attachment 5.

The First Amendment provides advanced funding by the Participating Landowners in the amount of $30 million and by the County in the amount of $23.3 million. Cash savings during the program can lower the County's funding, but will not affect the Landowners' funding. Funding from other sources can also reduce the County's funding, but the County will still provide the full funding amount if needed to cover cost overruns. Three Rivers will continue to work with the County to collect Impact Fees, and those fees are used to repay certain funds advanced by the Landowners and the County.

In contrast to the Second Funding Agreement, this First Amendment puts into place more significant penalties for a Landowner that fails to fund. Such a Landowner will go to the back of the line for repayment, will lose the ability to build additional homes, and can be arbitrated against to collect the funds owed. As with the State Funding Agreement, this First Amendment puts in place the necessary funding that will allow the Authority to finish the planned levee improvements.

Financial Impact: The two funding agreements approved by this action (the State Funding Agreement and the First Amendment to the Second Funding Agreement) provide the funding for the Authority's program and the budget previously approved by this Board.

Attachments:
1. Resolution No. 2008-__ - "Resolution Authorizing Specific Actions In Regard To The Funding Program For Phase 4 Feather River and Yuba River Levee Improvements"
2. Resolution No. 2008-__ - "Resolution By The Board Of Directors Of Three Rivers Levee Improvement Authority Authorizing The Authority To Accept Funds From The State Of California"
3. TRLIA–RD784: Agreement to Seek Responsibility for OMRR&R
4. TRLIA–YCWA: Agreement to Seek Credit or Reimbursement
5. First Amendment to the Second Funding Agreement
6. State Funding Agreement
RESOLUTION NO. 2008-__

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING
SPECIFIC ACTIONS IN REGARD TO THE FUNDING PROGRAM
FOR PHASE 4 FEATHER RIVER AND YUBA RIVER LEVEE IMPROVEMENTS

(General Background)

WHEREAS, the Three Rivers Levee Improvement Authority (the "Authority"), a joint exercise of powers authority of which the County of Yuba and Reclamation District 784 (RD 784) are the members, has constructed over $130,000,000 of levee improvements resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear River, and significant portions of the levees on the Yuba River, thereby significantly improving public safety in Southern Yuba County; and

WHEREAS, the Authority, the County of Yuba, RD 784, and certain landowners in south Yuba County, previously executed the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements ("Second Funding Agreement") which was to provide for up to $135 million of funds to be advanced by the landowner signatories thereto to strengthen-in-place the remaining RD 784 levees and complete the Authority's levee improvement program; and

WHEREAS, in February 2007 the Authority certified the final environmental impact report for the Feather River Levee Repair Project, the fourth and final phase of levee improvements, which included a Feather River setback levee, and selected the setback levee over the strengthen-in-place alternative; and

WHEREAS, in order to fund the setback levee the Authority applied to the State of California for, and has been tentatively selected to receive, funding in the amount of $138.51 million to construct levee improvements including a setback levee along the Feather River as the fourth and final phase of the Authority's work; and

(Authority to Sign State Agreement)

WHEREAS, as a condition of receiving the $138.51 million, the State of California is requiring that the entity receiving the funding agreement execute a Resolution Accepting Funds which authorizes and directs a representative of the Authority to sign a Funding Agreement with the California Department of Water Resources and to sign requests for disbursements to be made under that Funding Agreement; and

(O&M Responsibilities)

WHEREAS, as a further condition of receiving the $138.51 million, the State of California is requiring that an entity responsible for the operation and maintenance of the
levees protecting portions of southern Yuba County execute a new Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) agreement; and

WHEREAS, RD 784 as the entity currently responsible for the operation and maintenance of the levees being evaluated and reconstructed by the Authority is willing to execute a new OMRR&R agreement; and

WHEREAS, in lieu of executing the new OMRR&R agreement prior to execution of a funding agreement between the State and the Authority, the State has agreed to accept an Agreement To Seek Responsibility For OMRR&R to demonstrate RD 784's intent to execute a new OMRR&R agreement; and

(Seeking Federal Credit)

WHEREAS, as a further condition of receiving the $138.51 million, the State of California is requiring that the entity responsible for seeking credit from the United States for flood protection work performed and to be performed using the State funds seeks credit for existing and future work toward the non-federal share of the costs of the Yuba River Basin Project; and

WHEREAS, as the local project sponsor, Yuba County Water Agency (YCW A) has previously submitted application information to the non-federal project sponsor, the Central Valley Flood Protection Board (formerly known as the State Reclamation Board), for a federal credit determination by the Corps following the procedures authorized by P.L. 99-162 Section 104 and set forth in 33 CFR Part 240 and is willing to continue to pursue credit for existing and future work; and

WHEREAS, the Authority and YCW A desire to enter into this an Agreement to provide the necessary assurances to the State of California so that the Authority can receive the State funding; and

(First Amendment to Second Funding Agreement)

WHEREAS, as a further condition of receiving the $138.51 million, the State of California is requiring that the Authority execute an amendment to the Second Funding Agreement which confirms the available of funds for the local share of the project not covered by the State grant; and

WHEREAS, the Authority, the County, certain landowners in southern Yuba County, and RD 784 wish to amend the Second Funding Agreement to update their respective roles and responsibilities in regard to the funding of the local share of the remainder of the Authority's program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Three Rivers Levee Improvement Authority as follows:
Section 1. The Board hereby authorizes the Chair to sign the Resolution Accepting Funds (Attachment 2 to the Staff Report) which authorizes and directs Paul Brunner, Executive Director of the Authority, to sign the Funding Agreement with the California Department of Water Resources (Attachment 6 to the Staff Report), subject to minor conforming and clarifying changes as may be agreed to by the Executive Director and General Counsel, and to sign requests for disbursements to be made under that Funding Agreement.

Section 2. The Board hereby approves the Agreement to Seek Responsibility for OMRR&R (Attachment 3 to the Staff Report), subject to minor conforming and clarifying changes as may be agreed to by the Executive Director and General Counsel, and authorizes and directs Paul Brunner, Executive Director of the Authority, to sign such agreement.

Section 3. The Board hereby approves the Agreement to Seek Credit or Reimbursement (Attachment 4 to the Staff Report), subject to minor conforming and clarifying changes as may be agreed to by the Executive Director and General Counsel, and authorizes and directs Paul Brunner, Executive Director of the Authority, to sign the such agreement.

Section 4. The Board hereby approves the First Amendment to the Second Funding Agreement (Attachment 5 to the staff report), subject to minor conforming and clarifying changes as may be agreed to by the Executive Director and General Counsel, and authorizes and directs Paul Brunner, Executive Director of the Authority, to sign such agreement.

* * * * * *

PASSED AND ADOPTED this 19th day of February, 2008, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________  President

ATTEST: DONNA STOTTEMEYER,
CLERK OF THE BOARD
APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO
RESOLUTION NO. 2008—

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING
THE AUTHORITY TO ACCEPT FUNDS FROM THE STATE OF CALIFORNIA

WHEREAS, the Three Rivers Levee Improvement Authority (the “Authority”), a joint
exercise of powers authority of which the County of Yuba and Reclamation District 784
(RD 784) are the members, has constructed over $130,000,000 of levee improvements
resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear
River, and significant portions of the levees on the Yuba River, thereby significantly
improving public safety in Southern Yuba County; and

WHEREAS, in order to fund the final phase of the Authority's program, including the
Feather River setback levee, the Authority applied to the State of California for, and has
been tentatively selected to receive, funding in the amount of $138.51 million to
construct levee improvements including a setback levee along the Feather River as the
fourth and final phase of the Authority's work; and

WHEREAS, as a condition of receiving the $138.51 million, the State of California is
requiring that the entity receiving the funding agreement execute a Resolution Accepting
Funds which authorizes and directs a representative of the Authority to sign a Funding
Agreement with the California Department of Water Resources and to sign requests for
disbursements to be made under that Funding Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Three
Rivers Levee Improvement Authority as follows:

Section 1. 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 the
funds awarded to the Authority by the California Department of Water Resources for a
State-Federal Flood Control System Modification Program project titled Feather River
Levee Improvement Project are hereby accepted.

Section 2. The Executive Director of the Authority is hereby authorized to sign a
Funding Agreement with the California Department of Water Resources and to sign
requests for disbursements to be made under this Funding Agreement.

* * * * * *
PASSED AND ADOPTED this 19th day of February, 2008, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
President

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

______________________________
APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO
Attachment 3:

AGREEMENT TO SEEK RESPONSIBILITY FOR OMRR&R
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
RECLAMATION DISTRICT NO. 784

This AGREEMENT TO SEEK RESPONSIBILITY FOR OMRR&R (“Agreement) is made and entered into on the last day executed, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a Joint Powers Authority, (“TRLIA”) and RECLAMATION DISTRICT NO. 784, a district created under Water Code Section 50000 et seq. (“RD 784”).

RECITALS:

WHEREAS, TRLIA has been engaged in an aggressive program to evaluate and reconstruct the levees protecting portions of southern Yuba County;

WHEREAS, RD 784 has historically had operation and maintenance responsibility for the same levees that TRLIA has been evaluating and reconstructing;

WHEREAS, TRLIA has applied to the State for, and has been tentatively selected to receive, funding in the amount of $138.51 million to construct levee improvements along the Feather River as the fourth and final phase of TRLIA’s work;

WHEREAS, as a condition of receiving the $138.51 million, the State of California is requiring that an entity responsible for the operation and maintenance of the levees protecting portions of southern Yuba County execute a new Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) agreement;

WHEREAS, RD 784 as the entity currently responsible for the operation and maintenance of the levees being evaluated and reconstructed by TRLIA is willing to execute a new OMRR&R agreement;

WHEREAS, in lieu of executing the new OMRR&R agreement prior to execution of a funding agreement between the State and TRLIA, the State has agreed to accept an AGREEMENT TO SEEK RESPONSIBILITY FOR OMRR&R to demonstrate RD 784’s intent to execute a new OMRR&R agreement;

WHEREAS, TRLIA and RD 784 desire to enter into this Agreement to provide the necessary assurances to the State of California so that TRLIA can receive the State funding.

NOW, THEREFORE, TRLIA and RD 784 agree as follows:
1. This Agreement incorporates by reference Exhibit D to the Funding Agreement offered by the State to TRLIA, which exhibit provides the terms sought by the State for the new OMRR&R agreement.

2. RD 784 agrees to negotiate and enter into an OMRR&R agreement with the Central Valley Flood Protection Board, or any successor thereto, with terms substantially similar to the form of Exhibit D to the Funding Agreement.

This AGREEMENT is hereby executed on this ______ day of February 2008.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

BY: __________________________
    Paul G. Brunner

ATTEST: DONNA STOTTOLEMEYER, CLERK OF THE BOARD OF DIRECTORS

APPROVED AS TO FORM: SCOTT L. SHAPIRO
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
GENERAL COUNSEL

RECLAMATION DISTRICT NO. 784

BY: __________________________

APPROVED AS TO FORM: CARL LINDMARK RD 784 GENERAL COUNSEL
AGREEMENT TO SEEK CREDIT OR REIMBURSEMENT
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
YUBA COUNTY WATER AGENCY

This AGREEMENT TO SEEK CREDIT OR REIMBURSEMENT ("Agreement") is made and entered into on the last day executed, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a Joint Powers Authority, ("TRLIA") and YUBA COUNTY WATER AGENCY ("YCWA").

RECITALS:

WHEREAS, TRLIA has been engaged in an aggressive program to evaluate and reconstruct the levees protecting portions of southern Yuba County;

WHEREAS, YCWA is simultaneously pursuing the Yuba River Basin Project, a federally authorized flood damage reduction project which will include many of the same levees evaluated and reconstructed by TRLIA as well as other levees protecting the City of Marysville;

WHEREAS, the Water Resources Development Act of 2007 directs the U.S. Army Corps of Engineers ("Corps") to credit toward the non-federal share of the cost of the Yuba River Basin Project the cost of project work carried out by the non-federal interest (P.L. 110-114, sec. 3041; 1121 Stat. 1116);

WHEREAS, TRLIA has applied to the State for, and has been tentatively selected to receive funding in the amount of $138.51 million to construct levee improvements along the Feather River as the fourth and final phase of TRLIA's work;

WHEREAS, as a condition of receiving the $138.51 million, the State of California is requiring that the entity responsible for seeking credit from the United States for flood protection work performed and to be performed using the State funds seeks credit for existing and future work toward the non-federal share of the costs of the Yuba River Basin Project;

WHEREAS, as the local project sponsor, YCWA has previously submitted application information to the non-federal project sponsor, the Central Valley Flood Protection Board (formerly known as the State Reclamation Board), for a federal credit determination by the Corps following the procedures authorized by P.L. 99-162 Section 104 and set forth in 33 CFR Part 240 and is willing to continue to pursue credit for existing and future work;
WHEREAS, The Water Resources Development Act of 2007 also directs the Secretary of the Army to credit the non-Federal interests for work carried out before the date of the partnership agreement;

WHEREAS, TRLIA and YCWA desire to enter into this Agreement to provide the necessary assurances to the State of California so that TRLIA can receive the State funding.

NOW, THEREFORE, TRLIA and YCWA agree as follows:

1. TRLIA agrees to diligently prepare all information needed for seeking a federal credit or reimbursement from the Corps following the procedures authorized by P.L. 99-162 Section 104, 33 CFR Part 240 and P.L. 110-114 Section 3041 and provide this information in a timely manner for YCWA to submit to the Central Valley Flood Protection Board.

2. YCWA agrees to use the information provided by TRLIA to diligently pursue obtaining federal credit or reimbursement through the Central Valley Flood Protection Board from the Corps following the procedures authorized by P.L. 99-162 Section 104, 33 CFR Part 240 and P.L. 110-114 Section 3041.

3. YCWA agrees to promptly provide copies of all correspondence requested by the State and will provide timely advance notice to the State of meetings, if any, between TRLIA and/or YCWA and the Corps concerning the federal credit or reimbursement application.

4. If the Corps decides that amendments to the federal credit or reimbursement applications are required for the Corps to provide federal credit or reimbursement, YCWA shall not unreasonably withhold its consent to approve and submit such amendments.

5. YCWA currently is the local non-federal sponsor for the Yuba River Basin Project. In accordance with section 8(c), paragraph 2 of the Funding Agreement Between the State of California Department of Water Resources and TRLIA, YCWA and TRLIA agree that any credits and/or reimbursements obtained from the federal government with respect to the Yuba River Basin Project shall be shared and applied as follows: (i) First, by YCWA as the local share of any costs associated with implementation of any portion of the Yuba River Basin Project not implemented by TRLIA; (ii) second, by YCWA for other flood damage reduction projects within, or providing flood damage protection for, Yuba County, and (iii) third, as may be otherwise mutually agreed to in writing by YCWA and TRLIA.
This AGREEMENT is hereby executed on this _______ day of February 2008.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

BY: ________________________________
    Paul G. Brunner

ATTEST: DONNA STOTTERMeyer, CLERK OF THE BOARD OF DIRECTORS

APPROVED AS TO FORM:
SCOTT L. SHAPIRO
THREE RIVERS LEVEE IMPROVEMENT GENERAL COUNSEL

YUBA COUNTY WATER AGENCY

BY: ________________________________
    Chair, ____________________________

APPROVED AS TO FORM:
Richard P. Shanahan
YCWA GENERAL COUNSEL
Attachment 5:

FIRST AMENDMENT TO AND RESTATEMENT OF THE SECOND AGREEMENT FOR ADVANCED FUNDING AND REIMBURSEMENT OF COSTS FOR LEVEE IMPROVEMENTS
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FIRST AMENDMENT TO THE
SECOND AGREEMENT FOR ADVANCED FUNDING AND
REIMBURSEMENT OF COSTS FOR LEVEE IMPROVEMENTS

This First Amendment to and Restatement of the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements ("First Amendment"), dated for convenience this 19th day of February, 2008 (however, this First Amendment is not effective until the Effective Date as defined below in Section 20.C.), is by and among the County of Yuba, a political subdivision of the State of California ("County"), Reclamation District 784, a Reclamation District formed under Water Code sections 50000 et seq. ("RD 784"), the Three Rivers Levee Improvement Authority, a joint powers authority created by the County and RD 784 ("TRLIA"), and the Participants (as that term is defined below).

RECITALS:

A. Participants intend to develop homes on certain land located within the area generally known as the Plumas Lake Specific Plan and the North Arboga Study Area (the "Affected Area") situated in the unincorporated area of Yuba County as shown on Exhibit A, which is attached hereto, and by reference made a part hereof.


C. Various studies conducted since 2003 have identified freeboard and geotechnical deficiencies on the Bear River, Western Pacific Interceptor Canal, Yuba River and Feather River levees.

D. On November 4, 2003, the County, RD 784, Yuba County Water Agency ("YCWA"), and certain owners of land within the Affected Area executed a Funding Agreement for Plumas Lake Specific Plan Area Flood Control Levee Improvements ("2003 Funding Agreement") which provided for the payment of certain fees by those owners of land, which fees were to be used to fund studies on the adequacy of the Bear River and Western Pacific Interceptor Canal Levees.

E. In 2004, TRLIA and certain owners of land established Community Facilities District 2004-1 Three Rivers Levee Improvement Authority (South County Area) (the "CFD 2004-1") to assist in financing the "local share" of funds required for grants administered under Proposition 13 (the Costa-Machado Water Act of 2000, which allocated $90,000,000 for improved flood protection and environmental enhancement in the Feather River watershed and Colusa Drain ("Prop. 13")) for reimbursement of costs incurred in connection with Phase 2 Work and Phase 3 Work (as such terms are defined below).

F. The State Reclamation Board issued Permit No. 17782 authorizing improvements to the existing levees along portions of the Western Pacific Interceptor Canal (from station 0+00 to 332+50) and the right bank of the Bear River (from station 130+00 to 169+00), and construction of a new setback levee along portions of the right bank of the Bear River (from station 131–00 to a point approximately one mile north of the confluence of the Bear and Feather Rivers), and also issued Permit No. 17921 authorizing the construction of 2,500 linear feet of seepage berm at two...
sites along the landside slope of the left (south) bank levee of the Yuba River extending west from the UPRR crossing to a downstream point approximately 150 feet west of Highway 70.

G. On February 22, 2005, the County adopted Ordinance No. 1340 (entitled "Interim Ordinance of the County of Yuba Controlling Issuance of Building Permits in the Plumas Lake Specific Plan Area and North Arboga Study Area and Directing Conditions of All New Tentative Maps in the Plumas Lake Specific Plan and North Arboga Study Area") to satisfy some of the conditions of State Reclamation Board Permit 17782. Minor amendments, to conform Ordinance No. 1340 to the proposal made to and accepted by the Reclamation Board, were made to Ordinance No. 1340 by the County on March 15, 2005, pursuant to Ordinance No. 1343.

H. In April of 2005, Yuba County, TRLIA, RD 784, and a number of other parties including certain owners of land, or interests therein, within the Affected Area, executed the Implementation Agreement in regard to State Reclamation Board Permit No. 17782 and County of Yuba Ordinance Nos. 1340 and 1343 ("Implementation Agreement"). While the State Reclamation Board was not a party to the Implementation Agreement, it was an express third party beneficiary of certain provisions of the Implementation Agreement.

I. By its terms, the Implementation Agreement obligated the County and the landowner parties to limit the issuance of building permits within the Affected Area during 2005 and 2006 until such time as TRLIA completed Phase 2 Work and Phase 3 Work and presented certain information to the State Reclamation Board regarding Phase 4 Work (as such term is defined below).

J. To implement the Implementation Agreement, the County, TRLIA, RD 784 and certain landowner parties entered into the Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated April 19, 2005 ("2005 Advanced Funding Agreement"), which linked advances of funds for the Levee Improvement Program (as defined in Section 3, below) to an allocation and issuance of a limited number of building permits.

K. The Parties acknowledge that the funds previously raised under the 2003 Funding Agreement, CFD 2004-1, and the 2005 Advanced Funding Agreement will not be sufficient to fund the required Phase 2 Work, Phase 3 Work, and the Phase 4 Work.

L. TRLIA presented testimony to the State Reclamation Board that the limitation on the ability of the County to issue building permits in 2006 and in future years will preclude the issuance of bonds, thereby severely limiting its ability to implement a financing plan for Phase 4 Work, resulting in a delay of the flood control improvements required to provide 200 year protection to the lands within the Affected Area, including substantial portions of RD 784.

M. At its April 21, 2006 meeting, the State Reclamation Board adopted Resolution No. 2006-14, under which the State Reclamation Board expressed its intent to allow the building permit limitation for 2006 to be lifted upon satisfaction of certain conditions, thus allowing for the acceleration of certain Phase 4 Work and the completion of the Levee Improvement Program to achieve 200 year protection for the Affected Area and lands within RD 784 by 2008.

N. At its May 19, 2006 meeting, the State Reclamation Board approved the Second Implementation Agreement In Regard to State Reclamation Board Permit No. 17782, by and
between County, TRLIA and RD 784, dated May 23, 2006 ("Second Implementation Agreement"). While the State Reclamation Board is not a party to the Second Implementation Agreement, it is an express third party beneficiary to certain provisions of the Second Implementation Agreement. The Second Implementation Agreement was approved by County on May 23, 2006, by TRLIA on May 16, 2006 and by RD 784 on May 16, 2006.

O. TRLIA and certain of the Participants established Community Facilities District 2006-1 (South County Area) (the "CFD 2006-1") to issue bonds in respect of funds advanced by some of the Participants to finance the required Phase 2 Work, Phase 3 Work, and Phase 4 Work, as contemplated by the Second Funding Agreement referred to in Recital S below.

P. In order to assure the necessary and timely funding by the Participants of up to a maximum of $135 million for all remaining construction required for Phase 2 Work, Phase 3 Work, and Phase 4 Work, the Participants agreed that as a condition of lifting the building permit restriction as set forth in the Second Implementation Agreement, there was a need to develop a financing program to complete the Levee Improvement Program, establish a new community facilities district, commit to providing, at no cost to all new residents in the Affected Area, flood insurance, as outlined below, and other obligations as provided in Section 7 below.

Q. On August 1, 2006, the County adopted Ordinance No. 06-439 (entitled "An Ordinance of the Board of Supervisors of the County of Yuba Implementing State Reclamation Board Resolution No. 06-14 and Establishing a Funding Mechanism for Flood Protection Improvements") (the "Implementing Ordinance") to satisfy the requirements of the Second Implementation Agreement. The Implementing Ordinance put into place a Levee Impact Fee (as defined below), which was to have completely funded the remaining levee improvements, primarily located along the Feather River and Yuba River, necessary to achieve 200-year flood protection for southern Yuba County. The costs of this program were to be advanced by certain landowners, and those landowners were to be reimbursed, over time, from the collection of Levee Impact Fees paid by other landowners.

R. On August 29, 2006, the County agreed to provide certain funding to TRLIA to facilitate the cash flow of the Levee Improvement Project in light of new cost estimates and a softening real estate market. On the same day YCWA agreed to provide a loan of $2,000,000 to the Levee Improvement Program for purposes of satisfying the first Capital Call in compliance with the Second Implementation Agreement.

S. As a result of the two actions described in Recital R above, the County, TRLIA, RD 784, and certain landowners executed the Second Agreement for Advanced Funding and Reimbursement of costs for Levee Improvements ("Second Funding Agreement") which was to provide for up to $135 million of funds to be advanced by the landowner signatories thereto.

T. Following execution of the Second Funding Agreement, the landowner signatories thereto advanced $17.7 million to TRLIA and that funding was used to perform further work on the levees along the Yuba River (Phase 4 Yuba Acceleration Work, as defined below). Consistent with the terms of the Second Funding Agreement, and in order to provide a mechanism for the landowner signatories thereto to be reimbursed for funds used for improvements other than the...
Levee Improvement Program, TRLIA, with the affirmative vote of the participating landowners, formed CFD 2006-2.

U. As a result of the $17.7 million in funding and from previous funding, TRLIA has now constructed over $130 million of levee improvements with funding from the Participants, other landowners, and the State of California. These improvements have led to the certification of levees on the Western Pacific Interceptor Canal, the Bear River, and portions of the levees on the Yuba River, significantly improving public safety in southern Yuba County.

V. In November of 2006, a majority of the voters of the State of California passed Propositions 84 and 1E providing approximately $5 billion of funding for levee improvements in the Central Valley of California. In large part because of the passage of these two propositions, TRLIA elected to not immediately proceed with improvements to the existing Feather River levees, instead opting to further investigate the possibility of funding for a setback levee from the recently passed propositions. Because of this decision to further investigate funding for the setback levee, TRLIA adopted an updated capital call schedule and delayed the Second Capital Call contemplated by the Second Funding Agreement until the spring of 2007.

W. In February of 2007, based in part upon the potential availability of funds as a result of the passage of Propositions 84 and 1E, and in part upon the superior flood protection benefits, TRLIA certified an environmental impact statement for Feather River Levee Improvements and selected the Feather River Setback Levee as the project to be implemented.

X. During the spring of 2007, Western Pacific Housing, Inc. (D.R. Horton) and KB Home Sacramento paid $2,114,160 and $462,941, respectively, to TRLIA under section 6.B.(3) of the Second Funding Agreement to allow Western Pacific Housing, Inc. and KB Home to proceed with construction of additional residential units. TRLIA subsequently used these funds to begin improvements to the northernmost reach of the Feather River Levee.

Y. Following the certification of the environmental impact statement and the selection of the setback levee, TRLIA applied to the State to fund (from Propositions 1E and 84) a setback levee on the Feather River, which has costs in excess of the program originally to be funded. By a letter dated August 30, 2007, the State provided preliminary notice of its willingness to fund a maximum State cost share of $138.51 million for levee improvements, including the Feather River Setback Levee. In order to qualify for the funding, TRLIA is required to demonstrate the timely availability of a local share of $53.3 million.

Z. While the entire local share of $53.3 million can ultimately be paid for by development through the Levee Impact Fee, the purpose of this First Amendment is to establish how monies will be advanced by certain landowners, and the County, and then how those landowners and the County can be repaid by the eventual collection of Levee Impact Fees and by other means. The local share necessary to be advanced is made up of two different types of funds: (i) The first type of funds are Levee Impacts Fees for Participants' projects, which fees Participants are willing to advance in the form of Capital Calls in the amount of $22.4 million. (ii) The second type of funds are Levee Impact Fees which will eventually be paid by non-participating landowners but, due to the need for timely availability of funds, will be jointly advanced by the Participants and the County and which will ultimately be repaid to the Participants and the
County from Levee Impact Fees paid by non-participating landowners, along with other sources of revenue. Collectively, these fees are referred to in the Second Funding Agreement as the Deferred Participant Obligation in the amount of $30.9 million.

AA. Through this First Amendment the Participants are committing to advance fund their share of the Levee Obligation. Through this First Amendment, the County and the Participants are agreeing to jointly advance fund the Deferred Participant Obligation of $30.9 million as follows: (i) The Participants will contribute $7.6 million, and (ii) The County will contribute $23.3 million. It is anticipated that cost overruns will be covered by the currently existing contingency fund outlined in the budget, additional revenue received from Levee Impact Fees, revenues received from RD 784, and additional revenue received by TRLIA based on additional grant requests which may be made.

BB. TRLIA has now obtained, or will shortly obtain, all permits and approvals required for the construction of levee improvements along the Feather River.

CC. The Parties acknowledge that this First Amendment is intended to amend, replace, and supersede the Second Funding Agreement but that not all signatories to the Second Funding Agreement are executing this First Amendment and therefore that the term Original Participants under this First Amendment refers to a smaller group of landowners than the Original Participants under the Second Funding Agreement, and consistent with Section 5 below of this First Amendment shall only affect the rights and obligations of the Original Participants that have executed this First Amendment.

DD. During the 2007 legislative session the Legislature approved and the Governor signed AB 17 and AB 5 which collectively transformed the Reclamation Board into the Central Valley Flood Protection Board effective January 1, 2008. The Parties agree that all references in this First Amendment to the Reclamation Board or the General Manager of the Reclamation Board, shall be deemed to instead refer to the Central Valley Flood Protection Board or the Executive Officer of the Central Valley Flood Protection Board, respectively.

EE. The Parties now desire to formalize in this First Amendment conditions accomplishing a fully funded Levee Improvement Program and completion of the work required to achieve for south Yuba County a 200 year level of flood protection.

NOW, THEREFORE, in consideration of the mutual promises herein made, the Parties agree as follows:
AGREEMENT

1. RECITALS. The recitals are incorporated herein as if set forth in full.

2. DEFINITIONS. As used in this First Amendment, the following terms shall have the following meanings:

   A. "Bond" shall mean a debt instrument issued by TRLIA, other than debt issued pursuant to Section 11, to support the Levee Improvement Program.

   B. "Builder Bonds" shall mean Capital Appreciation Bonds to be repaid by CFD 2006-1 special taxes that may be purchased by Participants within each Tax Zone as a means of paying their Levee Obligations, or that have been issued by CFD 2006-2 discussed in Section 7.A.(2) of the Second Funding Agreement, or that may be issued by any overlay CFD that may be authorized to be created in the future, in the sole discretion of the County. When used in certain places in this First Amendment, and as more fully described in Section 7.B.(2), the term "Builder Bonds" may also refer to bonds issued under a CFD created in furtherance of Section 12.

   C. "Capital Appreciation Bonds" shall be bonds that accrue interest and under which all interest and principal is scheduled to be paid in one payment at maturity, and for which no reserve fund or capitalized interest shall be required.

   D. "Capital Call(s)" shall mean the scheduled requests for funding required to be satisfied by each Participant. Capital Call(s) does not refer to funds provided by the County, State, or RD 784 to the Levee Improvement Program.

   E. "Capital Call Amount(s)" shall mean the periodic amounts to be paid by individual Participants pursuant to this First Amendment and consistent with the Capital Call Schedule (as defined below).

   F. "Capital Call Period" shall mean the period of time during which all scheduled Capital Calls are to be paid by Participants.

   G. "Capital Call Schedule" shall mean the schedule that contains all of the Capital Calls to be made by the Participants, and which also shows the County Levee Improvement Funds (as defined below) to be advanced by the County. The initial Capital Call Schedule is contained in Exhibit D, attached hereto and made a part hereof. TRLIA shall have the sole right and shall be obligated to amend the Capital Call Schedule to reflect the actual monthly needs of the Levee Improvement Program provided that such amendment shall not (i) increase the total funding obligation under this First Amendment for the Participants or the County, or (ii) without their prior written consent, accelerate the cumulative monthly payment obligations of the Participants or the County as compared to the initial Capital Call Schedule.

   H. "Catch-up Capital Call" shall mean the amount of $89,225, less future Capital Calls to be made by the Participant, which total amount includes a Levee Obligation portion and a Deferred Participant Obligation portion, and which shall be applicable to each gross developable acre of a Deferred Participant or Future Participant executing this First Amendment.
during the Capital Call Period. See Exhibit H, attached hereto and incorporated herein by reference, for a statement of how the Catch-Up Capital Call amount was determined. In the event that a Deferred Participant joins the Financing Program after the initial Open Enrollment Period, but still during the Capital Call Period, and that Participant has previously made one or more Capital Calls under previous funding agreements, the Catch-Up Capital Call shall be recalculated to give that Participant credit for the payments already made.

I. "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded for the final portion of Phase 4 Work, or (ii) the date on which a determination of substantial completion is made by the Reclamation Board General Manager that the Phase 4 Work provides the intended flood protection, even if non-flood protection aspects of Phase 4 Work remain to be completed later.

J. "County Levee Improvement Funds" shall have the meaning set forth in Section 11 of this First Amendment.

K. "Curative Action" shall mean the actions that the County is authorized or required to implement in the Affected Area in accordance with the Second Implementation Agreement, including the ability to stop the recordation of final subdivision maps and the issuance of building permits in the event of a Potential Default, as provided in Section 19 of this First Amendment.

L. "Deferred Participant" shall mean (i) those persons or entities who have an approved parcel, final or tentative subdivision map within the Affected Area covering such real property as of the Effective Date (as defined in Section 20.C., below) of this First Amendment and who do not elect to become a Participant before the end of the Open Enrollment Period provided for in 20.Q., (ii) those persons or entities that were Original Participants under the Second Funding Agreement but have elected to not execute this First Amendment (e.g., Lakemont Homes (Feather Glen Phase 1), Rio Del Oro Farms No. 2 (Rio Del Oro Village 16), Rio Del Oro 4 (Rio Del Oro/Danna 70), and Ryland Homes (Thoroughbred Aces)), or (iii) Participants under this First Amendment that fail to make a required Capital Call within the time period allowed by Section 6.A.(5)c.

M. "Deferred Participant Obligation" shall mean the Levee Obligation advanced on behalf of Deferred Participants by the Participants and the County, as illustrated in column 5 of Exhibit E, as such exhibit may be revised depending upon the future participation of Deferred and Future Participants. As explained in Section 7.C. below, a Participant's share of the Deferred Participant Obligation shall not increase beyond the amount allocated to each Original Participant as of the Effective Date if any other Original Participant becomes a Deferred Participant.

N. "Escrow Holder" shall mean the entity selected by the Participant Escrow Committee to hold the Participant Levee Improvement Fund created pursuant to Section 13.A. of this First Amendment.

O. "Feather River Setback Levee" shall mean the setback levee that will be constructed by TRLIA as part of the Phase 4 Work, now that additional funding (including
County and State) is being secured, and which will be a newly constructed levee on the left (east) bank of the Feather River approximately 5.7 miles long between Star Bend and Shanghai Bend designed to replace approximately 6.1 miles of the existing Feather River levee.

P. "Final Fair Share Funding Study" shall be a study conducted by TRLIA as provided in Section 16.A. to determine the cost of the Levee Improvement Program and the ultimate obligations of the Participants for their fair share.

Q. "Final Par Amount" shall mean an amount determined pursuant to Section 16.B. of this First Amendment, upon completion of the Final Fair Share Funding Study, which represents the fees to be imposed upon certain land to pay for the Levee Improvement Program.

R. "Financing Program" means the program by which property owners or holders of an equity interest in property in the Affected Area shall become parties, to advance the funds necessary for the Levee Improvement Program, as memorialized in this First Amendment.

S. "Future Participant" shall mean those persons or entities who now own or in the future will own real property within the Affected Area and which real property is not included within the boundaries of an approved final, parcel or tentative subdivision map as of the end of the Open Enrollment Period, as defined in Section 20.Q.

T. "Impact Fee Bonds" are bonds that can be purchased by Participants to cover their portion of the Deferred Participant Obligation, secured by the revenue from the TRLIA Levee Impact Fee.

U. "Interim Levee O&M Support" shall mean financial and consulting support provided by TRLIA to RD 784 to assist with the operation and maintenance of the RD 784 levees and to comply with other restrictions associated with the Levee Improvement Program, not to exceed $750,000 from the Participants' $30 million advanced hereunder, for the period from the Effective Date of the Second Funding Agreement until January 30, 2009.

V. "Levee Improvement Program" shall have the meaning set forth in Section 3.A. of this First Amendment.

W. "Levee Obligation" shall mean the following:

(1) For an Original Participant: The remaining fair share cost of the Levee Improvement Program as identified in column 4 of Exhibit E, the TRLIA Financing Proforma. The Levee Obligation for each Participant was calculated by first dividing the total Levee financial obligation of $181,670,849 by the 2457 project acres available for Levee funding, and then multiplying that amount by the number of available project acres for each Participant (column 1). The results of this calculation are listed in column 3 of Exhibit E. Subtracting the Advance Funding paid by each Participant (column 9) from the calculations listed in column 3 generates the remaining Levee Obligation, as listed in column 4.

(2) For a Deferred or Future Participant: The amount of the then current TRLIA Levee Impact Fee in effect when the Deferred Participant or Future Participant becomes a Participant, or that portion due within a Catch-up Capital Call and subsequent Capital Calls.
The remaining Levee Obligations listed in column 4 of Exhibit E for Deferred Participants only apply during the Open Enrollment Period discussed in Section 20.Q, after which the Levee Obligations will be subject to any increased costs for the Levees and changes to the TRLIA Levee Impact Fee.

X. "Non-Participant" shall mean either a Deferred Participant or a Future Participant.

Y. "Original Participant" shall mean those persons or entities (i) who have an approved parcel, final or tentative subdivision map within the Affected Area, (ii) whose names and real properties within the Affected Area are set forth on Exhibit B, attached hereto and made a part hereof, and who have executed this First Amendment on or before the Effective Date of this First Amendment, and (iii) who timely deposit the Capital Call Amounts as required by this First Amendment or are not required to make any further Capital Call payments because the required Capital Call Amounts have been or will be prepaid, as shown on Exhibit E. In addition, an Original Participant may also be a holder of an interest in property as of the Effective Date of this First Amendment who voluntarily agrees to take on the obligations of a Participant during the Open Enrollment Period identified in Section 20(Q) below.

Z. "Participant" (and collectively, "Participants") shall mean (i) each Original Participant; and (ii) each subsequent purchaser of all or a portion of an Original Participant's property, who shall then become an Original Participant hereunder by execution of an assignment and assumption agreement, in form and content acceptable to TRLIA and the Participant Escrow Committee; and (iii) each other party (or successor) that owns real property within the Affected Area and who was either a Deferred Participant or a Future Participant as of the Effective Date of this First Amendment, and who subsequently elects to execute this First Amendment and assumes and continues to perform the obligations of a Participant. Each owner of real property which is included within the boundaries of an approved parcel, final or tentative subdivision map shall constitute a separate Participant for the purpose of participation in this First Amendment. Accordingly, if a Participant owns multiple properties subject to different maps, such Participant shall be treated separately with respect to each of its mapped properties and such Participant may make separate elections with respect to the participation of such properties under this First Amendment.

AA. "Participant Escrow Committee" shall be a committee of Participant representatives constituted pursuant to Section 14 of this First Amendment.

BB. "Participant Levee Improvement Fund" shall have the meaning set forth in Section 13 of this First Amendment.

CC. "Parties" shall refer to all signatories to this First Amendment.

DD. "Party" shall refer to anyone signatory to this First Amendment.

EE. "Phase 1 Work" shall mean the improvements to the Yuba River Levee conducted under State Reclamation Board Permit No. 17828 that were completed October 31, 2004 and certain geotechnical investigations and related studies performed in anticipation of Phase 2 Work and Phase 3 Work and previously funded;
FF. "Phase 2 Work" shall mean improvements to the existing levees along portions of the Western Pacific Interceptor Canal from station 0+00 to 332+50 and the right bank of the Bear River from station 130+00 to 169+00, and the construction of a landside seepage berm along the left (south) levee of the Yuba River from Highway 70 to the UPRR and previously funded.

GG. "Phase 3 Work" shall mean construction of the setback levee on Bear River from approximately one mile north of Bear and Feather Rivers confluence to a point approximately two miles along the Bear River, including degradation of the remaining unimproved Bear River Levee.

HH. "Phase 4 Feather Work" shall mean certain strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River and includes a Feather River Setback Levee from Star Bend to Shanghai Bend.

II. "Phase 4 Work" shall mean work on the Feather and Yuba River Levees including Phase 4 Yuba Work and Phase 4 Feather Work for which $20,000,000 was identified and provided to TRLIA through the 2005 Advanced Funding Agreement and for which additional funding was made available under the Second Funding Agreement and is being made available under this First Amendment.

JJ. "Phase 4 Yuba Acceleration Work" shall mean improvements to the existing left (south) Yuba River levee from the UPRR to Simpson Lane.

KK. "Phase 4 Yuba Work" shall mean improvements to the existing left (south) Yuba River levee upstream of the UPRR, including without limitation the Phase 4 Yuba Acceleration Work.

LL. "Potential Default" shall mean either a failure to implement the Financing Program identified in this First Amendment, or an inability by TRLIA, the County, and the Participants to provide funding for the Levee Improvement Program consistent with the Capital Call Schedule in effect at the time, or a cost increase to the Levee Improvement Program beyond the means of TRLIA and the Participants to fund, any of which may result in an inability to timely complete the Levee Improvement Program within the time schedule outlined in Exhibit C-1, attached hereto and made a part hereof.

MM. "TRLIA Levee Impact Fee" or "Levee Impact Fee" shall mean the impact fee for funding of the Levee Improvement Program adopted by the County on May 16, 2006, including any and all applicable compounded interest and premiums outlined therein, as the Fee may be amended consistent with Section 9.F., below. The requirement for the Participants to pay the TRLIA Levee Impact Fee is satisfied through execution of and compliance by the Participants with this First Amendment.

NN. "UPRR" shall mean the Union Pacific Railroad property at the point located on Yuba River Project Levee Mile 0.92.

3. LEVEE IMPROVEMENT PROGRAM.
A. **Implementation of Program.** The County, TRLIA, and RD 784 agree to use best efforts to implement a program for the improvement of the levees protecting the Affected Area, including without limitation Phase 2 Work potential cost overruns, Phase 3 Work potential cost overruns, Phase 4 Work, Interim Levee O&M Support, and all associated technical, political, and legal work and development and implementation of funding options, including the O&M Plan, all as necessary or appropriate for continued development within the Affected Area, plus any amounts that may be awarded by a court of competent jurisdiction for work funded pursuant to the Second Funding Agreement or this First Amendment, and costs of the Final Fair Share Funding Study, as discussed in Section 16.A., and all payments and reimbursements to be made pursuant to the Study (all, collectively the "Levee Improvement Program").

B. **Best Efforts Regarding Cost and Timing.** In implementing the Levee Improvement Program, the County, TRLIA, and RD 784 shall use their best efforts to complete the Levee Improvement Program in the shortest time reasonably possible and at the lowest cost possible, in light of the desired schedule and in accordance with public contracting requirements of state and local law, provided, that such efforts shall be consistent with reasonable flood engineering standards and lead to levee certification and accreditation; and provided further, that TRLIA shall have no obligation to execute any construction or other contract in furtherance of the Levee Improvement Program until such time as it finds that the necessary funds are available to fully satisfy its obligations under any such contract.

C. **Estimated Cost of Levee Improvement Program.** The Parties agree that Exhibit C-2, which is attached hereto and by this reference made a part hereof, identifies the estimated total cost for the Levee Improvement Program and is based on the best available information at the time of execution of this First Amendment. The estimated total cost is comprised of $361.1 million for construction and all soft costs (design, engineering, legal, bond issuance, environmental permitting, accounting, etc) and $14.73 million for contingency. These estimates were developed based upon actual costs incurred and by estimates developed by Kleinfelder Inc., MBK Engineers, BRI, HDR, and GEI based on the Problem Identification Report, TRLIA Phase 4, Feather River and Yuba River Left Bank Levees, Reclamation District 784, Yuba County, California, prepared by Kleinfelder Inc., dated February 20, 2006 as amended by the GEI Summary of Alternatives, Phase 4 Feather River Levee Costs (Alternative I - Levee Strengthening), dated July 25, 2006, and as further clarified within the TRLIA prepared supplemental materials for the State's Early Implementation Program grant, submitted on October 3, 2007.

4. **FUNDING OVERVIEW FOR LEVEE IMPROVEMENT PROGRAM.**

A. **Original Participants.** This First Amendment provides a maximum of $30 million in total Capital Call Amounts (as defined in Section 6.A.(1) below) towards the Levee Improvement Program from the Original Participants as they exist on the Effective Date. However, the Parties acknowledge that these Original Participants on the Effective Date will provide less than $30 million if additional Participants become Original Participants through the Open Enrollment process under Section 20.Q.
B. **County of Yuba.** By this First Amendment, the County is required to advance a maximum of $23.3 million of County Levee Improvement Funds toward the Levee Improvement Program, as provided in Section 11.

C. **State of California.** This First Amendment is based upon a maximum grant award from the State of California in the amount of $138.51 million from the Department of Water Resources' Early Implementation Program towards the Levee Improvement Program.

D. **Miscellaneous Revenue.** This First Amendment also acknowledges other miscellaneous revenue sources towards the Levee Improvement Program. Those miscellaneous sources include, but are not limited to, Federal Emergency Management Agency funds, leaseback on lands acquired from farming operations, Proposition 13 grants, funds provided by RD 784 or other State or local entities, other sources that may be secured by TRLIA, and other funds not otherwise identified under this First Amendment (collectively, "County In Lieu Funds"). County In Lieu Funds are available for use by the County to reduce or defer the County's advance funding obligation as provided in Section 11.

E. **Cash Flow Schedule.** The timing and amount of all payment obligations contained in the Capital Call Schedule are based upon the cash flow needs for the Levee Improvement Program ("Cash Flow Schedule"). TRLIA shall have the sole right to amend the Cash Flow Schedule to reflect the actual monthly needs of the Levee Improvement Program.

F. **Summary of Effect of Other Revenues on Financial Obligation of County and Participants.** Different sources of revenue, other than the advanced funding being provided by the Original Participants and the County, are handled differently in different time periods of the Financing Program. The purpose of this Section 4.F. is to summarize the treatment of those revenues. To the extent that the language of this Section 4.F. conflicts with other Sections of this First Amendment, the other Sections shall control.

1. **Revenues from Participants That Join During Open Enrollment.** As more fully explained in Section 20.Q., revenues available to the Levee Improvement Program from Participants that elect to become Original Participants during the Open Enrollment Periods shall be applied 50%/50% to the obligations of the County and to the obligations of the Original Participants that execute this First Amendment before the Open Enrollment Period and shall substitute for revenues that would otherwise be required from those Original Participants and the County, with the effect of reducing the County's advance funding obligation and spreading the Original Participants' $30 million obligation across more Participants.

2. **Revenues from Deferred or Future Participants That Join After Open Enrollment.**
   a. As more fully explained in Section 8.C.(2)b., revenues available to the Levee Improvement Program from Deferred and Future Participants that elect to join the Financing Program after the initial Open Enrollment Period shall first be used for the benefit of Homes by Towne.
   b. As more fully explained in Section 8.C.(2)c., after revenues used for the benefit of Homes by Towne, revenues available to the Levee Improvement Program from
Deferred and Future Participants that elect to join the Financing Program are split 50/50 as between the County, on the one hand, and the Participants, on the other hand.

c. As more fully explained in Section 8.C.(3), the 50% portion of Deferred or Future Participant revenues that are allocated to the Participants shall first be used for the benefit of Western Pacific Housing, Inc. and K.B. Home, and shall thereafter be used for all Participants generally, all as provided in detail in Section 8.C.(3).

(3) Revenues from Impact Fees not within the Affected Area. As more fully explained in Section 8.D. revenues received by the County from Impact Fees outside of the Affected Area and also not in the Plumas Zone (as that term is defined in Section 8.D.) shall be credited to the County and available for use by the County as County In Lieu Funds or to repay funds advanced by the County. All revenues received by the County from Impact Fees outside of the Affected Area but still within the Plumas Zone shall be applied to provide priority repayment to anyone that elects to cover Levee Improvement Program cost increases or Capital Calls not made by a defaulting Participant, or generally 50/50 to the County and Participants if no such priority repayment is required.

(4) Revenues from the Creation of a Community Facilities District or Benefit Assessment District Under Section 12. As more fully explained in Section 12.B., funds net of issuance costs raised through a community facilities district or the capital component of a benefit assessment district from the Participants' land shall offset, on a dollar for dollar basis, the Participants' Capital Call obligation as provided on the Capital Call Schedule; or, as further provided in Section 12, may result in a reimbursement of all or a portion of a Participant's Capital Calls in certain circumstances. Funds net of issuance costs raised through a community facilities district or the capital component of a benefit assessment district not from the Participants' land shall offset, on a dollar for dollar basis, the County's advanced funding obligation as provided on the Capital Call Schedule.

(5) Revenues from CFD 2006-1. Prior to Completion of the Levee Improvement Program, revenues from special tax payments under CFD 2006-1 shall offset the Capital Call obligation of the Participant who placed the special tax payment requirement under CFD 2006-1 on the relevant property. After Completion of the Levee Improvement Program revenues from special tax payments under CFD 2006-1 shall be pledged to the redemption of the Builder Bonds, or any Private Placement Bonds and any Conventional Bonds, associated with the relevant property.

G. Effect of Cost Savings. To the greatest extent allowed under grants received by TRLJA for the Levee Improvement Program, all cost savings for the Levee Improvement Program shall accrue to the benefit of the County, not to the Participants, with the goal of reducing the County Levee Improvement Funds to be advanced by the County.

5. RELATIONSHIP BETWEEN THIS FIRST AMENDMENT AND PRIOR FUNDING AGREEMENTS FOR LEVEE IMPROVEMENT PROGRAM.

A. Agreement Amended, Restated, and Superseded. Except as otherwise provided in this Section 5, this First Amendment shall amend, restate, and supersede the Second
Funding Agreement. The Second Funding Agreement from and after the Effective Date of this First Amendment shall be of no further force or effect as to the Parties to this First Amendment. This First Amendment shall not have any effect on the rights and obligations of the parties to the Second Funding Agreement that elect to not execute this First Amendment.

B. **Provisions Applicable to Towne Development.** Based on the Fair Share Funding Study, dated July 24, 2006, completed by Economic and Planning Systems, Inc., the Parties agree that Towne Development of Plumas Lake, LLC is owed money based on overpayments pursuant to the 2005 Advanced Funding Agreement. The Parties further agree that notwithstanding the provisions of the 2005 Advanced Funding Agreement, the overpayment by Towne Development of Plumas Lake, LLC shall be addressed as set forth in Section 8.C.(2)b. and Exhibit M.

C. **Provisions Applicable to KB Home Sacramento and Western Pacific Housing, Inc.**

(1) Notwithstanding any other provision of this First Amendment, and as more fully expressed in section 8.C. of this First Amendment, the Participants that funded a Deferred Participant Obligation pursuant to the Second Funding Agreement prior to the execution of this First Amendment as described in Recital X (i.e., KB Home and Western Pacific Housing, Inc.) shall maintain their repayment position and receive a priority in repayment of funds available to the Participants as described in Section 8.C.

(2) The Impact Fee Bonds to be issued to KB Home and Western Pacific Housing, Inc. for Deferred Levee Obligation paid pursuant to the Second Funding Agreement shall be issued under this First Amendment at the same time as the first Impact Fee Bonds are issued under Section 7.C. Interest on the bonds for KB Home and Western Pacific Housing, Inc. shall be calculated at the rate provided under this First Amendment and shall accrue as of the Effective Date of this First Amendment.

D. **Release of CFD 2004-1 Liens.** TRLA agrees to take any remaining actions within 60 days of the Effective Date as are necessary to release any lien of CFD 2004-1 applicable to the property of the Participants.

E. **Building Permits Under 2005 Advanced Funding Agreement.** All building permits paid for under the 2005 Advanced Funding Agreement shall, upon proper application to the County, be immediately issued by the County without effect on the number of building permits issued under Section 6.B.(1) of this First Amendment.

6. **OBLIGATIONS OF PARTICIPANTS.**

A. **Capital Calls.**

(1) *Capital Call Amounts Generally.*

a. As more fully explained in Section 6.A.(3) of this First Amendment, each Participant shall advance the Capital Call Amount to the Participant Levee Improvement Fund (as defined in Section 13 below) for the Levee Improvement Program. The
joint advanced funding obligation under this First Amendment of the Original Participants signing as of the Effective Date (which includes their portion of the remaining Levee Obligation ($22.4 million) and a portion of the Deferred Participant Obligation ($7.6 million)), shall not exceed $30 million dollars. The Participants' ultimate obligation to the Levee Improvement Program (the Final Par Amount) will eventually be determined pursuant to Section 16 of this First Amendment.

b. It shall be the obligation of the Participant Escrow Committee to communicate with the various Participants so that sufficient funds are available to transfer to TRLIA for each Capital Call; provided, that this obligation shall not result in any liability on the part of the Participant Escrow Committee should the Committee be unsuccessful in accumulating the necessary funds.

c. The initial pro forma schedule of each Participant's Capital Call Amounts is displayed in Exhibit E, attached hereto and made a part hereof. Exhibit E is based on the list of Original Participants and the initial Capital Call Schedule. If any Deferred or Future Participants elect to become an Original Participant during the Open Enrollment Period provided for under Section 20.Q. of this First Amendment, or become a Participant at any other time, the Participant Escrow Committee shall commence the preparation of an updated Proforma showing revised Capital Call Amounts and shall promptly transmit the updated Proforma to the County and TRLIA. The updated Proforma once approved by a majority of a quorum of the Participant Escrow Committee, and transmitted to the County and TRLIA, shall replace the Proforma contained in Exhibit E.

d. The Capital Calls for each Participant shall consist entirely of Levee Obligation payments, until such time as the Levee Obligation for each Participant is fully satisfied. Following such satisfaction, the remaining portion of the current Capital Call not completely funded by Levee Obligation, and all future Capital Calls, shall consist only of Deferred Participant Obligation. The Levee Obligation shall be paid as discussed below in Section 7.B. The Deferred Participant Obligation shall be paid as discussed below in Section 7.C.

e. Participants in the Financing Program are no longer subject to the standard terms of the TRLIA Levee Impact Fee. Once a Deferred or Future Participant is included as a Participant in the Financing Program, the Deferred or Future Participant is no longer subject to the standard terms of the TRLIA Levee Impact Fee.

(2) Initial $5.1 Million Capital Call.

a. Within 5 business days of the Effective Date of this First Amendment, each Participants shall transfer its portion of the remaining $5.1 million of the Second Capital Call under the Second Funding Agreement to the Participant Levee Improvement Fund for funding the Levee Improvement Project.

b. The Participants shall further transfer the $5.1 million from the Participant Levee Improvement Fund to a third-party trustee jointly selected by the County and TRLIA within 5 days of demonstration by TRLIA of the following criteria: (1) passage of the
30-day challenge or referendum period on the approval by the County Board of Supervisors of the ordinance approving each of the Development Agreements required under Section 9.E. of this First Amendment or the period which runs until 30 days after the Notice of Determination under CEQA is filed, which ever is later; (2) issuance of all required permits by the State Reclamation Board for the construction of the Feather River Setback Levee; (3) an executed Funding Agreement Between the State of California Department of Water Resources and the Three Rivers Levee Improvement Authority for the Feather River Levee Improvement Project, or its equivalent, providing for the State's share of funding for the Feather River Setback Levee in the approximate amount of $138 million; (4) there being no restrictions, moratorium or de facto moratoriums on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County (collectively, a "Moratorium"); and (5) the receipt of audited financial statements from TRLIA, which requirement has been deemed satisfied as of the Effective Date of this First Amendment.

(3) Process for Remaining Capital Calls.

a. TRLIA shall be obligated to keep the Participant Escrow Committee informed of the state of the Levee Improvement Program, including estimated and actual schedule and costs, so as to allow the Committee to assure available funds for the Levee Improvement Program through the Capital Call process. In order to satisfy this information obligation, TRLIA shall, on or before the third Friday of each month, forward to the Committee a packet of information including: (i) the Monthly TRLIA Report provided to the State Reclamation Board on the Levee Improvement Program, (ii) the current Cash Flow Schedule showing the projected revenues and expenses of the Levee Improvement Program, (iii) a list of any pending change orders that have not yet been finalized, and (iv) a verification by TRLIA that the Capital Calls reflected in the then-current Capital Call Schedule are still required in the amount and on the schedule noted.

b. During the Capital Call Period, the Participant Escrow Committee may request, at any time, but not more often than once per month, confirmation of the County's continued intent to provide advance funding as provided under this First Amendment. Upon receipt of such a request, the County shall respond providing such requested confirmation within three business days. The Parties acknowledges that it will take an affirmative vote of its Board of Supervisors to not provide the advanced funding required under this First Amendment.

c. Satisfaction of the conditions of Section 6.A.(2)b. shall be a condition precedent to the Participants' Capital Call obligation under this Section 6.A.(3). Upon satisfaction of these conditions, and those in Section 15.B.(1), funds collected from the Capital Call shall be transferred to TRLIA.

d. If TRLIA makes a change to the Capital Call Schedule the Participant Escrow Committee shall commence the preparation of an updated Proforma showing each Participant's share of the Levee Obligation and Deferred Participant Obligation so as to allocate each remaining Capital Call as between the then-existing Participants. The updated
DRAFT OF FEBRUARY 5, 2008

Proforma, once approved by a majority of a quorum of the Participant Escrow Committee and transmitted to the County and TRLIA, shall replace the Proforma contained in Exhibit E.

e. The Participant Escrow Committee shall notify all Participants of their required Capital Calls at least 30 days prior to the day that the Participant Escrow Committee is required to provide notice to TRLIA of the availability of funds under 6.A.(3)f. below. The Participant Escrow Committee shall require that each Participant deposit into the Participant Levee Improvement Fund the required Capital Call at least 15 days prior to the day that the notice is to be provided to TRLIA. For example, for a Capital Call that is to be made for July of any year, the Participant Escrow Committee shall notify the Participants by June 1 that the required Capital Call shall be deposited into the Participant Levee Improvement Fund by June 15.

f. By the last day of each month preceding any month in which a Capital Call is to be made, the Participants Escrow Committee shall deliver notice to TRLIA that it holds funds in the Participant Levee Improvement Fund to then be disbursed as provided for in Section 15. For example, for a Capital Call that is to be made for July of any year, the Participant Escrow Committee shall notify TRLIA by June 30 that the funds are available. The notice shall also include the Participants who made Capital Calls and the amounts paid by each of those Participants.

(4) Effect of Potential Default of Levee Improvement Program under Second Implementation Agreement upon a Participant that continues to make Capital Calls. In the event of a Potential Default, all Participants shall be subject to the Curative Actions imposed, as set forth in Section 19.B., regardless of any individual Participant's satisfaction of its payment under a given Capital Call. There shall be no lifting of the Curative Action until the given Capital Call is made for the aggregate amount required by the Participants.

(5) Failure of one or more Participants to make their portion of a Capital Call. The failure of one or more Participants to make a Capital Call required under this First Amendment shall not increase the financial obligation of the remaining Participants hereunder. Participants who fail to timely deposit the required Capital Calls shall immediately be transferred to Deferred Participant status and lose all of the benefits of being a Participant under this First Amendment, subject to reinstatement, all as provided for in this Section.

a. The Participants each acknowledges that in a circumstance where a Participant fails to make a Capital Call TRLIA may no longer have sufficient funding to complete the Levee Improvement Program and the various Curative Actions required under this First Amendment and the Second Implementation Agreement may go into effect.

b. Where an individual Participants fails to make a Capital Call, the County Board of Supervisors, in its sole discretion, may (i) suspend or revoke all discretionary entitlements, including tentative maps and the Development Agreement provided for in this First Amendment, or that Participant obtained prior to or after the Effective Date (except as to building permits already issued), (ii) not approve final maps applied for by that Participant, (iii) suspend issuing new building permits to that Participant, even as to those building permits for which funding may already have been provided by that Participant through previous advanced
funding obligations, and (iv) proceed with any other remedies for specific performance of the payment of Capital Calls provided for under this First Amendment and the Second Implementation Agreement including Arbitration under Section 20 and default under the Development Agreement to be provided under Section 9(E).

c. Any Participant that fails to make a required Capital Call shall have the right to cure the failure by providing the required Capital Call to TRLIA within 30 days of the date upon which the Capital Call was due. While the penalties listed in Section 6(A)(5)b. shall be applied to such a Participant immediately upon such failure to make the payment, the penalties shall no longer be applied to the Participant following that Participant's curing of the failure, provided such failure is cured within the required 30 days.

(6) **Effect of Moratorium on Capital Calls.** Notwithstanding any other provision of this First Amendment, in the event of any Moratorium, Participants shall be excused from all funding obligations under this First Amendment until such time as the Moratorium has been lifted. For any moratorium longer than 120 days, TRLIA shall be required to determine that the Levee Improvement Program is not in default under Section 19 before any further Capital Calls are due from the County or Participants.

(7) **Issuance of Bonds for Capital Calls Made.** At the time the Participant Escrow Committee notifies TRLIA that funds have been placed in the Participant Levee Improvement Fund to satisfy a Capital Call, the Participant Escrow Committee may request that TRLIA issue Builder Bonds for the payment of Levee Obligation, or issue Impact Fee Bonds for the payment of Deferred Participant Obligation, for payments for which Bonds have not already been issued, consistent with the requirements of Exhibit N and Exhibit O, which written request shall identify the respective Participants for whom Bonds are to be issued, and the respective Levee Obligation and/or Deferred Participant Obligation amounts applicable to such Participants. TRLIA or the County, as relevant, shall issue such Bonds on or before 120 days from the receipt of a written notice from the Participant Escrow Committee that funds have been transferred to TRLIA. Interest to be accrued under the Bonds shall begin to accrue on the date that funds have been transferred to TRLIA.

(8) **No Bonds Following Capital Call Period.** Notwithstanding any other provision of this First Amendment, TRLIA shall have no obligation to issue any Builder Bonds or Impact Fee Bonds after the Capital Call Period has ended, except with respect to any Capital Calls made during the Capital Call Period, and then only as required by Section 6.A.(7) above.

B. **Final Map and Building Permit Authorizations.**

(1) **Permits Issued and Maps Recorded After Payments Made.** Except as provided in Section 6.A.(4) & (5) above, and Section 19 below, any Participant that satisfies its payment obligation at the time of each Capital Call shall be authorized to record final maps for all or a part of its property and to have a certain proportional number of building permits issued immediately upon request. Exhibit I, attached hereto and incorporated herein by reference, outlines the assumed initial building permit authorizations, assuming the Capital Calls remaining; however, the Parties understand and agree that the information contained in Exhibit I may need to be updated at each Capital Call.
(2) Computation of Authorized Building Permits. TRLIA, in consultation with the Participant Escrow Committee, shall compute the number of building permits that can be released to a Participant as a result of these Capital Calls, based on the payment requirements for future residential development. The payment for each dwelling unit shall be equivalent to the sum of the total projected Capital Calls assigned to each Participant, divided by the total remaining residential units within the Participant's project, as reflected on Exhibit I.

(3) Crediting for Payments Made. As residential building permits are issued, a Participant shall be credited for all amounts paid under previous Capital Calls by such Participants, so additional payments by that Participant at the time of building permit issuances shall only occur once all of these Capital Call credits have been expended. If all of the credits from previous Capital Calls have been expended on a series of dwelling units and payments are now required in order to obtain additional building permits, the payments made at that point for the additional dwelling unit building permits shall be credited towards the Participant's share of any future Capital Calls.

(4) Example of Payments. An example of how a Participant might pay its payments is outlined in Exhibit J, attached hereto and incorporated herein by reference.

(5) Transferability of Building Permit Authorizations. All building permit authorizations shall run with the land, such that building permits shall only be transferable to the purchaser of the underlying land. Building permit authorizations shall not be transferable as between Participants, except in the event of a sale of a portion of a Participant's property to a subsequent purchaser, who shall then become a Participant hereunder, as provided for under Section 18 of this First Amendment. Transfers of building permit authorizations under this subsection (5) shall not be effective until the transferring Participant and the new Participant provide to the County notice of such transfer of the building permit authorizations to the new Participant, using the form contained in Exhibit K, attached hereto and made a part hereof, and records the form as to the property being purchased.

(6) Building Permits Issued in Error. If the County issues a building permit in error pursuant to this First Amendment, such that the issuance of the building permit is inconsistent with the Participant's building permit authorizations provided in this Section 6.B. and Exhibit I hereto, or certifications provided by the Participant or other information, the County shall, within 10 days of discovering the error, contact the Participant to whom the building permit was issued in error and inform that Participant of the invalidity of the issued building permit. So long as the Participant is not in breach of any material term of this First Amendment and has timely deposited its share of all Capital Calls then required hereunder, such Participant, to preserve the right to use such permit, may pay the then Levee Impact Fee for such erroneously issued building permit within ten (10) days of its receipt of such notice, which payment shall be credited against the Participant's next Capital Call required hereunder. Unless the Levee Impact Fee is timely paid by Participant, any Participant issued a building permit in error hereby (i) waives any and all right to claim a vested right to that building permit or the residence to be constructed pursuant to that building permit, and (ii) releases, waives, and abandons any and all claims, demands, rights, causes of action, and proceedings it may now or hereafter have against the County arising out of the erroneously issued building permit. The
Participant shall cooperate with the County to return the erroneously issued building permit unless the then Levee Impact Fee is timely paid as provided for above.

7. ADDITIONAL PARTICIPANT OBLIGATIONS.

A. Community Facilities Districts.

(1) CFD 2006-1. TRLIA and some of the Original Participants established CFD 2006-1 to include property of some of the Participants, with each such Participant being assigned its own zone ("Tax Zone") and CFD special tax rates within the respective Tax Zone. The Rate and Method of Apportionment for each Tax Zone of CFD 2006-1 established the terms of the special tax levy for such Tax Zone and defined the "Maximum Annual Special Tax" applicable to such Tax Zone.

(2) CFD 2006-2. Some of the Original Participants in CFD 2006-1 requested, and TRLIA and County agreed, to establish a separate overlay CFD on such Original Participants' properties, called CFD 2006-2.

(3) Future CFDs. Nothing in this First Amendment shall prevent a Participant, Deferred Participant, or Future Participant from requesting the establishment of CFDs for their properties, with any such CFD to be subject to approval by TRLIA or the County, in their respective sole and absolute discretion, and the satisfaction of other requirements of applicable law.

B. Payment of Levee Obligation; Description of Builder Bonds.

(1) Whenever a Participant needs to respond to a Capital Call, it will be able to contribute its Levee Obligation to the Participant Levee Improvement Fund by:

a. Paying cash; or

b. If the Participant owns property within CFD 2006-1 or another CFD created in furtherance of this First Amendment, paying cash (with later purchase of Builder Bonds), with written instructions to convert the cash to Builder Bonds at the next sale of Builder Bonds consistent with Section 6.A.(7) and Exhibit N.

c. Any combination of (a) or (b), above, in the Participant's sole discretion, assuming there is sufficient tax rate capacity for (b), above.

(2) Notwithstanding Section 7.B.(1), Private Placement Bonds and Conventional Bonds (as defined below) may be sold to satisfy the Levee Obligation portion of Capital Calls, or as may be allowed under another CFD created in furtherance of this First Amendment, but only if criteria discussed in Exhibit P are satisfied and investors are identified, which exhibit is hereby incorporated herein as if fully reprinted in this First Amendment. Where such Private Placement Bonds or Conventional Bonds are issued to satisfy the Levee Obligation portion of a Capital Call, all appropriate references in this First Amendment to Builder Bonds shall be construed to instead refer to the Private Placement Bonds or Conventional Bonds.
(3) The amount of Builder Bonds to be issued under Section 7.B.(1)b. above, taking into account Builder Bonds that have heretofore been issued and other CFD or assessment district debt on the property, shall be limited by the 1.8% property tax rate ceiling allowed against property included within that Participant's final maps, based on the projected average residential sales price, as determined by an independent third party appraisal consultant or in such other manner as approved by the County in its sole discretion. For any Builder Bonds issued, Participants shall each pay the issuance costs attributable to the Builder Bonds for their respective Tax Zones. However, the cost of issuance shall be considered a cost of the Levee Improvement Program when performing the Final Fair Share Funding Study as provided in Section 16. Notwithstanding the foregoing, TRLIA will consider in its sole discretion requests by Participants to provide CFD financing in excess of such 1.8% property tax rate, subject to such terms and conditions as TRLIA and the Participants agree (including paydown of special taxes to the level permitted under TRLIA's adopted debt policies).

(4) Other terms applicable to the issuance of Builder Bonds are contained in Exhibit N, which exhibit is hereby incorporated herein as if fully reprinted in this First Amendment, and in Section 6.A.(8).

C. Payment of Deferred Participant Obligation; Description of Impact Fee Bonds. Each Participant will be required to fund its share of the Deferred Participant Obligation, as set forth in Exhibit E, as may be amended from time to time; provided, that if any Original Participant becomes a Deferred Participant, each Participant's share of the Deferred Participant Obligation shall not increase beyond the amount allocated to each Original Participant as of the Effective Date. In exchange for this payment, Participant shall receive, at its request, Impact Fee Bonds issued by TRLIA, which shall be repaid in accordance with Section 8.C. and Section 17.A. as Deferred Participants and Future Participants pay their Catch-up Capital Calls, or their TRLIA Levee Impact Fee when they record a final map. Terms applicable to the issuance of Impact Fee Bonds are contained in Exhibit O, which exhibit is hereby incorporated herein as if fully reprinted in this First Amendment. The cost of issuance shall be considered a cost of the Levee Improvement Program when performing the Final Fair Share Funding Study as provided in Section 16.

D. Flood Insurance. Each Participant shall provide, at no cost to all new residents (including the initial sale by the Participant and all subsequent resales) of homes constructed by such Participant within the Affected Area since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee Improvement Program or until December 31, 2010 (whichever occurs first). The County and TRLIA will reasonably cooperate in assisting Participants to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Affected Area to be provided to Participants. The renewals and subsequent issuance of flood insurance provided by the Participants shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

E. Notice Requirements to New and Existing Homeowners. Participants shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Affected Area:
At the time of execution of a sales contract for a new home within the Affected Area, Participant shall distribute an informational packet prepared by TRLIA under Section 9.R. on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment sheet that they have received the packet and are aware of the flood risks associated with the Affected Area.

At the time of closing on a new home within the Affected Area, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Participant (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Affected Area.

Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Affected Area an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Participants on steps that such purchasers may take to reduce the risk of flooding to homes within the Affected Area, such as being aware of the County’s pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Participant shall reasonably assist TRLIA to provide such information packets.

OBLIGATION APPLICABLE TO DEFERRED AND FUTURE PARTICIPANTS; USE OF REVENUES FROM DEFERRED AND FUTURE PARTICIPANTS.

A. Deferred Participant’s Obligations. Until all County or TRLIA debt relating to the Levee Improvement Program has been repaid, and all Participants’ payments have been paid down to the Final Par Amount (which list of conditions is not intended to provide a priority of repayment), as set forth in Section 16, below, prior to the issuance of any building permits to a Deferred Participant, a Deferred Participant shall first become a Participant by executing this First Amendment. Whether prior to or after the time period listed in the previous sentence, a Deferred Participant does not need to become a Participant in order to record a final map.

(1) Payment Options at Map Recordation.
   a. During the Capital Call Period.
      (i) Full Payment Option.

         1) A Deferred Participant may pay its entire then existing Levee Obligation applicable to the property included within a final map in cash at the time of recordation of that final map. The size of the payment for the Levee Obligation shall be based on the acreage included within the final map, multiplied by the then current amount of the TRLIA Levee Impact Fee per acre.

         2) To the extent that this payment represents an acceleration in that Deferred Participant’s Levee Obligation component of the Catch-up Capital
Calls when the Deferred Participant becomes a Participant, the subsequent Capital Call will be reduced in size, with a credit being given for the amount of Participant's Levee Obligation payments made to date. For example, if a Deferred Participant records a final map on Day 1 that consists of 60% of the dollar amount of its total projected Levee Obligation and pays that amount, then that Deferred Participant shall have no further obligation to pay the Levee Obligation component of its Capital Calls until it has exhausted the credits against future Capital Calls for all of its accelerated payments. (Future Capital Calls will be required prior to issuance of building permits to assure payment of the Participants' share of Deferred Participant Obligation.) The Participant's next required Levee Obligation payment shall occur when payments are required for the last 40% of that Participant's total Levee Obligation.

(ii) Partial Payment Option.

1) A Deferred Participant can choose to become a Participant at any time prior to final map recordation and pay its Catch-up Capital Call. This can be accomplished by annexing into a CFD created under this First Amendment, creating an individual Tax Zone and purchasing Builder Bonds and Impact Fee Bonds in order to become current on its Levee Obligation and its share of Deferred Participant Obligation, respectively; or

2) A Deferred Participant may also become a Participant by making cash payments at any time prior to recordation of a final map to cover its Catch-up Capital Call (both the Levee Obligation component and its share of the Deferred Participant Obligation).

b. After the Capital Call Period.

(i) Full Payment Option. If a Deferred Participant records a final subdivision map after the completion of the Capital Call Period, it shall be required to make its Levee Obligation payment for the entire final map at the time of recordation of such final map.

(ii) Partial Payment Option. Following the Capital Call Period if a Deferred Participant becomes a Participant it shall be required to make its entire Levee Obligation payment at the time of recordation of each phased final map for such map. In addition, to accelerate repayment of funds advanced by the County and the Participants, each Deferred Participant shall also pay at the same time an advance of a portion of its Levee Obligation for the remainder of its final maps, equal to the Levee Obligation paid on the final map just recorded. (For example, if a Deferred Participant executes this First Amendment after the third anniversary and seeks to record the first 10 acre phase of its new 100 acre map, the Deferred Participant would pay the Levee Obligation for the first 10 acre phase, and would pay a further advance equal to the Levee Obligation on its first 10 acre phase.) Each Deferred Participant shall continue to make such advance payments upon the recordation of each phased final map, until the total amount paid by the Deferred Participant in Levee Obligation and advance payments is equal to the total Levee Obligation that was and is to be due on all final maps to be recorded by the Deferred Participant.
(2) Requirements for Issuance of a Building Permit. In order for a Deferred Participant to pull a building permit, it will need to become a Participant by taking all actions required under this First Amendment including but not limited to executing this First Amendment, making the Catch-up Capital Call payment as required, and making subsequent Capital Calls as required.

a. During the Capital Call Period.

(i) Those Deferred Participants who have selected the Section 8.A.(1)a.(i) option (full payment option during Capital Call Period) will also have to pay their share of the Deferred Participant Obligation component of their Catch-up Capital Call in order to pull building permits.

(ii) No matter which alternative a Deferred Participant has selected to become a Participant, there shall be a 12-month (365 day) delay on the issuance of building permits after the date on which it becomes a Participant through the payment of the full Catch-up Capital Call, as set forth in the Implementing Ordinance.

(iii) The 12-month (365 day) delay on issuance of building permits shall be enforced for all Deferred Participants until the earlier of (a) such time that all remaining Impact Fee Bonds have been paid off in full, or (b) three years after the certification of the levee improvements.

b. After the Capital Call Period.

(i) So long as the payments made by a Deferred Participant under Section 8.A.(1) above satisfy two times the Deferred Participant's Levee Obligation for the phased map in which the building permits are to be issued (subject to the actual maximum to be paid by the Deferred Participant calculated as the Levee Obligation times the total number of acres in the entire final map), there are no further costs to be paid by the Deferred Participant associated with the issuance of the building permits.

(ii) No matter which alternative a Deferred Participant has selected to become a Participant, there shall be a 12-month (365 day) delay on the issuance of building permits after the date on which it becomes a Participant, as set forth in the Implementing Ordinance.

(iii) The 12-month (365 day) delay on issuance of building permits shall be enforced for all Deferred Participants until the earlier of (a) such time that all remaining Impact Fee Bonds have been paid off in full, or (b) three years after the certification of the levee improvements.

(3) Termination of the Obligation to Pay Deferred Participant Obligation Requirement. Notwithstanding the above, Deferred and Future Participants shall no longer be required to pay Deferred Participant Obligation after the Capital Call Period.

(4) Annexing into CFD 2006-1 or a new CFD. All Deferred Participants may choose to annex into CFD 2006-1 or a CFD to be created under this First Amendment so long as
the annexation is completed prior to the issuance of their first building permit within a tentative map, and prior to the end of the Capital Call Period. Notwithstanding the above, if a Deferred Participant only owns a portion of its tentative map prior to the issuance of its first building permit within the tentative map, it shall only be able to annex the portion of such tentative map that it owns in fee.

B. Future Participants Obligations. Until all County or TRLIA debt relating to the Levee Improvement Program has been repaid, reimbursements for all Excess Levee Payments have been funded, and all Participants' payments have been paid down to the Final Par Amount, as set forth in Section 16, below, prior to the recordation of a final map by a Future Participant, a Future Participant shall first become a Participant by executing this First Amendment.

(1) Provisions Applicable to Map Recordation During the Capital Call Period But After Open Enrollment Under Section 20.Q.(4).

a. All Future Participants shall be required to become Participants upon recording their first phased final map. At that point, a Future Participant shall pay cash for the entire Catch-Up Capital Call due at the time of recordation of the first phased final map and in order to accelerate repayment of funds advanced by the County and the Participants, each such Future Participant shall also pay at the same time an advance of a portion of its Catch-Up Capital Call for the remainder of final map equal to the Catch-Up Capital Call paid on the first phased map, provided, that the Future Participant shall not be required to pay more than the product of the Catch-Up Capital Call times the number of gross developable acres in the total final map. The Future Participant may elect to annex its entire tentative map into CFD 2006-1 or a new CFD to be created under this First Amendment and purchase Builder Bonds for the portion of its Catch-Up Capital Call that pays its Levee Obligation and purchase Impact Fee Bonds for the portion of its Catch-Up Capital Call that pays its share of Deferred Participant Obligations.

b. There shall be a 12-month delay on the issuance of building permits after the date on which a Future Participant has become a Participant through the payment of the full Catch-up Capital Call, as set forth in the Implementing Ordinance. This delay on building permit issuances shall be enforced for all Future Participants until the earlier of (a) such time that all remaining Impact Fee Bonds have been paid off in full, or (b) three years after the certification of the levees constructed as part of the Levee Improvement Program.

(2) Provisions Applicable to Map Recordation After the Capital Call Period.

a. The Future Participant shall be required to pay the entire Impact Fee payment at the time of recordation of each phased final map for such map. In addition, to accelerate repayment of funds advanced by the County and the Participants, each Future Participant shall also pay at the same time an advance of a portion of its Impact Fee for the remainder of its final map, equal to the Impact Fee paid on the final phased map just recorded provided, that the Future Participant shall not be required to pay more than the product of the Impact Fee times the number of gross developable acres in the total final map.

b. There shall be a 12-month delay on the issuance of building permits after the date on which a Future Participant has become a Participant through the
payment of its Levee Obligations, as set forth in the Implementing Ordinance. This delay on building permit issuances shall be enforced for all Future Participants until the earlier of (a) such time that all remaining Impact Fee Bonds have been paid off in full, or (b) three years after the certification of the levees constructed as part of the Levee Improvement Program.

(3) *Termination of Deferred Participant Obligation Requirement.* Once the Capital Call Period is completed, or all Impact Fee Bonds have been paid in full, whichever is earlier, there shall be no more Deferred Participant Obligations collected from Future Participants.

C. *Uses of Revenue Collected From Deferred Participants and Future Participants Through Their Catch-Up Capital Calls.*

(1) **Sources of Deferred or Future Participants Revenue.** As stated previously under Section 8.A., upon recording a final map, each Deferred Participant shall be required to pay the Levee Obligation applicable to the real property included in that final map, or it may become a Participant and pay a Catch-up Capital Call that covers the Levee Obligation, as well as its share of the Deferred Participant Obligation. As stated previously under Section 8.B., upon recording a final map, each Future Participant shall be required to pay the Levee Obligation applicable to the real property included in that final map, or it may become a Participant and pay a Catch-up Capital Call that covers the Levee Obligation, as well as its share of the Deferred Participant Obligation.

(2) **Application of Levee Obligation and Deferred Participant Obligation Revenues in Certain Time Periods.** All revenues received as described in Section 8.C.(1) shall be applied in the following order, which order is graphically illustrated in Exhibit:

a. Revenue received during an Open Enrollment Period under Section 20.Q. of this First Amendment shall be applied as discussed in Section 20.Q.

b. After the initial Open Enrollment Period, revenues received shall first be credited to the benefit of Homes by Towne, as provided in this Section 8.C.(2)b. due to the priority repayment position held by Homes by Towne under the Second Funding Agreement. Revenues credited to the benefit of Homes by Towne shall first be set aside to cover any remaining Capital Calls to be paid by Homes by Towne as provided in Exhibit E. Once sufficient funds are set aside to cover any remaining Capital Calls to be paid by Homes by Towne, revenues shall be used to completely repay the $336,218 plus interest owed to Homes by Towne as illustrated in Exhibit M, minus any funds set aside to cover any remaining Capital Calls to be paid by Homes by Towne.

c. All revenues received after repayment to Homes by Towne as described in Section 8.C.(2)b. shall be allocated to the County, on the one hand (as described in Section 8.C.(4) below), and to the Participants, on the other (as described in Section 8.C.(3) below), in a 50/50 ratio. (For example, if a Deferred or Future Participant joins the Program during the Capital Call Period bringing an additional $3 million in revenues, and Homes by Towne has already been fully repaid, then $1.5 million of the new revenues would be allocated as County In Lieu Funds and $1.5 million in revenues would be used to cover future Capital
Calls of the Participants, or if no future Capital Calls exist, would be used to begin to repay the Participants.) If at any point in time the County has been repaid for all funds advanced for the Deferred Participant Obligation by the County, funds still available for repayment shall be used to repay the Participants as provided in Section 8.C.(3) below. If at any point in time the Participants have been repaid for all funds advanced for the Deferred Participant Obligation by the Participants, funds still available for repayment shall be used to repay the County as provided in Section 8.C.(4) below.

d. Following repayment of both the County and the Participants, any remaining revenues shall be made available to TRLIA and RD 784 for operation, maintenance, and reconstruction of the flood protection facilities.

(3) Order of Application of Revenues to Participants. Where funds are available to repay the Participants (other than as to the obligations discussed in Sections 8.C.(2)b.), and except as provided in Section 8.C.(3)h., the funds shall be used in the following order:

a. First shall be used to set aside on behalf of KB Home and Western Pacific Housing amounts to cover any remaining Capital Calls of KB Home and Western Pacific Housing, up to the $462,941 owed to KB Home and $2,114,160 owed to Western Pacific Housing, Inc. as illustrated in Exhibit [Exhibit] in a proportion equal to the amount owed to each of them. If there are no remaining Capital Calls owed by KB Home and Western Pacific Housing, or if the remaining Capital Calls are less than the amounts owed to KB Home and Western Pacific Housing, revenues shall be used to repay any amount owed to KB Home and Western Pacific Housing, minus any amounts set aside to cover Capital Calls of KB Home and Western Pacific Housing.

b. Second, if revenues are still available during the Capital Call Period, revenues shall be set aside to cover the remaining Capital Calls of the Participants in a proportion equal to the amount owed to each of them. Where such funds are used to cover Capital Calls, the Participants shall not receive Impact Fee Bonds or Builder Bonds for those funds.

c. Third, to repay Impact Fees Bonds, the proceeds of which will be used to repay the Original Participants or their transferees.

d. Fourth, to repay certain Builder Bonds, or portions thereof, the proceeds of which will be used to repay Original Participants (or their transferees) for such bonds which were believed at the time of issuance to pay for Levee Obligation, but which, as a result of the Final Fair Share Funding Study, can be determined to have actually been for the payment of Deferred Participant Obligation. Such amounts shall be known as "Excess Levee Payments," which shall mean payments made beyond the Final Par Amount, as discussed under Section 16, below (see Exhibit H for an example).

e. Fifth, to repay Impact Fee Bonds, the proceeds of which will be used to repay Deferred Participants and Future Participants who became Participants prior to the Deferred Participant or Future Participant whose revenues are being used to provide repayment.
These payments shall be made first for the Impact Fee Bonds owned by Deferred Participants and Future Participants who became Participants in the first year of the Financing Program, then to Deferred Participants and Future Participants who became Participants in the second year of the Financing Program, etc.

f. Sixth, to reimburse Participants for "Excess Builder Bond Payments," which shall mean any Builder Bonds that have not yet been remarketed to the public (see Exhibit H for an example). Reimbursements under this Section 8.C.(3)f. shall be paid first to the Original Participants, then to Deferred Participants and Future Participants who became Participants in the first year of the Financing Program, then to Deferred Participants and Future Participants who became Participants in the second year of the Financing Program, etc.

g. Seventh, to reimburse any Participants who, prior to the Effective Date of this First Amendment, moved from a Participant status to a Deferred Participant status.

h. Eighth, to reimburse any Participants who, following the Effective Date of this First Amendment, moves from a Participant status to a Deferred Participant status.

(4) Use of Revenues by County. If revenues are available to the County during the Capital Call Period, such revenues shall be considered County In Lieu Funds. Following the Capital Call Period, such revenues shall be used to repay the County for all Deferred Participant Obligation paid, including all funds advanced from all sources, including costs of issuance, capitalized interest, and financing charges, but not including any Levee Impact Fees, or grants dedicated to the Levee Improvement Program, or other County In Lieu Funds.

(5) Timing for Impact Fee Bond Redemption and Repayment. All payments on Impact Fee Bonds due to Participants who own Impact Fee Bonds shall be distributed at least semi-annually.

D. Revenues From Impacts Fees Outside of the Affected Area.

(1) Revenues from Impact Fees Outside of the Affected Area and also not in the Plumas Zone. All revenues received by the County from Impact Fees outside of the Affected Area and also not in the Plumas Zone (as that term is defined in the Implementation Ordinance referenced in Recital Q) shall be credited to the County and available for use as provided in Section 8.C.(4).

(2) Revenues from Impact Fees Outside of the Affected Area But Still Within the Plumas Zone. All revenues received by the County from Impact Fees outside of the Affected Area but still within the Plumas Zone shall be applied as provided in this Section 8.D.(2).

a. Except as otherwise provided in Section 8.D.(2)b., all revenues received from Impact Fees outside of the Affected Area but still within the Plumas Zone shall be held until the end of the Capital Call Period and then shall be split and used for repayment as between the County and the Participants as provided in Section 8.C.(2).c.

b. In the event that the County or a Participant, or a group of them, provides funding beyond that required in this First Amendment to cover increases in costs of the
Levee Improvement Program or to cover the share of a defaulting funding party, the revenues received from Impact Fees outside of the Affected Area but still within the Plumas Zone shall be available for priority repayment to the party or parties that provides funding beyond that required in this First Amendment. In the event that such funds are used as priority repayment to the County, and then the County brings a successful arbitration action against a defaulting party, the County shall not be entitled to both sources of revenues as such would constitute double recovery.

9. **OBLIGATIONS OF TRLIA, RD 784 AND COUNTY.**

A. **Permanent Operations and Maintenance Funding.** TRLIA, County and RD 784 have developed a plan for the operations and maintenance of the RD 784 levees, including developing a long-term and adequate funding source that does not exceed $100 per year per residential parcel (collectively, the "O&M Plan") so as to meet the levee certification requirements of FEMA and Prop. 13 funding requirements of the State of California.

B. **Evacuation and Prehazard Mitigation Program.** County commits to continue to use reasonable diligence to inform residents within the Affected Area, including portions of RD 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

C. **Condition for New, Extended and Amended Tentative Subdivision and Parcel Maps.** County shall condition tentative maps for all Future Participants and new maps or extensions or amendments to existing maps for Deferred Participants so that Future Participants and Deferred Participants are required to assume the obligations of Participants hereunder by executing this First Amendment and to pay the amounts required to be paid hereunder upon final map recordation, and thereafter, all of these Future Participants and Deferred Participants shall be subject to the same obligations imposed on Participants under Section 6. The County shall ensure that Deferred Participants and Future Participants become Participants as provided in Section 8.A. and 8.B. above.

D. **Accounting, Auditing and Reporting.**

(1) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program. To this end, TRLIA shall retain an outside consulting firm to keep records, prepare monthly reports with content reasonably acceptable to the County and the Participant Escrow Committee, and assist in administration of all funds received for the Levee Improvement Program. TRLIA shall deliver such reports to the County and the Participant Escrow Committee within 5 business days of the reports being finalized, except as such reports may be privileged or confidential under the Public Records Act. TRLIA shall also provide the reports set forth below in Section 15.B. monthly to the Participant Escrow Committee. The Participant Escrow Committee shall provide all such reports from TRLIA to the Participants upon receipt.

(2) The Participants have the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of the TRLIA and County
pertaining to the Levee Improvement Program, as pertinent to the purposes of this First Amendment.

(3) County shall quarterly, and annually at the completion of each fiscal year, have prepared and deliver to all Parties, a statement of the receipt and disposition of all Impact Fee revenue, Assessment District revenues, Community Facilities District revenues, and other miscellaneous revenues collected by the County for the Levee Improvement Program. The preparation of such statements shall constitute reimbursable expenses of the Levee Improvement Program.

E. Development Agreement; County Impact Fees.

(1) In consideration for the Original Participants' commitment to advance fund a portion of the costs of the Levee Improvement Program as provided herein, County agrees to negotiate and present to the Board of Supervisors a Development Agreement that, for a period of 8 years following the Effective Date of this First Amendment: (1) will prevent any increases by the County to the TRLIA Levee Impact Fee from being applied to the Original Participants; (2) will prevent any new development impact fees or exactions that may be enacted by County from being applied to the Original Participants; and (3) will prevent any changes to the existing Capital Facilities Fees (as such term is defined in Section 13.15 of the Yuba County Ordinance Code set forth in County Ordinance 1369, adopted May 2, 2006) from being applicable to the Original Participants, except that Participants agree to be subject to 50% of any increase to the Traffic Impact (Road Improvements) Fee, which is part of the County Public Facilities Fee, so long as the fee increase is for an identified project and based on an approved nexus study. The Development Agreement shall provide for a 20 year map life for the current approved tentative maps owned by the Original Participants, measured from the Effective Date of the First Amendment. Any other terms of the Development Agreement shall be acceptable to both the County and the Participants.

(2) Participants acknowledge that if a Participant fails to make a required Capital Call, or fails to perform any provision under this First Amendment, subject to a 30-day cure period, the Development Agreement for that Participant shall be terminated by the County, in its sole discretion.

(3) The County agrees that if it provides a development agreement to a Deferred or Future Participant within eight years of the Effective Date of this First Amendment in exchange for the payment of Levee Impact Fees or other fees to be paid under this First Amendment, and the new development agreement has terms that are better (i.e., more generous or longer) than those provided to the Original Participants pursuant to Section 9.E.(1), the County shall within 90 days offer to the Original Participants an amendment to their development agreements to provide to the Original Participants development agreements that contain the terms offered to the Deferred or Future Participant; provided, that the County may not execute a Development Agreement with terms inconsistent with Section 15.B.(1)f. of this First Amendment; provided further, that the obligation to amend the development agreement shall only apply to projects with comparable land uses (for example, if an Original Participant has a development agreement in regard to a residential project, and a Deferred Participant later obtains a development agreement in regard to a commercial project, the Original Participant shall
not have a right to an amendment of its development agreement for that residential property, but shall be entitled to an amendment of its development agreement if it rezones to a commercial property).

(4) Original Participants acknowledge that certain clarifying amendments are required to the development agreements that were approved on January 22, 2008 in satisfaction of Section 9.E.(1) in order to exempt from locking certain fees which are collected by the County on behalf of other public agencies. Therefore, Original Participants commit to work in good faith with the County to amend the development agreements.

F. Modifications to the TRLIA Levee Impact Fee.

(1) Within 120 days following the later of the Effective Date of this First Amendment or the grant award under Section 4.C. of this First Amendment, the County shall update the studies that support the TRLIA Levee Impact Fee, and take all actions required to assure the continued ability to impose the TRLIA Levee Impact Fee. In updating the studies, the County shall approve an amount, including appropriate contingencies and finance costs, for the TRLIA Levee Impact Fee to assure timely repayment of all funds advanced by the County, repayment of all Impact Fee Bonds, and reimbursements to Participants for all payments in excess of the Final Par Amount, as set forth in Section 8.C.(3) above.

(2) The County shall continue to require Deferred Participants, Future Participants and landowners of property covered by the TRLIA Levee Impact Fee, but outside of the Affected Area, to pay the TRLIA Levee Impact Fee at least until all Impact Fee Bonds have been paid or redeemed, reimbursements for all Excess Levee Payments have been funded and all Participants' payments have been reduced to the Final Par Amount, as set forth in Section 16, below.

(3) The County, TRLIA and the Participants agree that all amounts paid by the Participants, Deferred Participants and Future Participants under this First Amendment shall be used solely to fund the Levee Improvement Program or as otherwise specified in this First Amendment, and shall not be used or loaned to fund any other infrastructure improvements or costs not associated with the Levee Improvement Program.

G. Maintenance of List of Participants and Bond Owners. TRLIA shall be responsible for keeping and updating a list of all Participants, Deferred Participants and Future Participants, including Deferred Participants and Future Participants who become a Participant. In addition, TRLIA shall maintain a list of all owners of outstanding Builder Bonds and Impact Fee Bonds, and all payments made thereon. The Participant Escrow Committee shall cooperate and assist TRLIA in meeting this obligation.

H. Additional Obligations of TRLIA.

(1) Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.
(2) **Preparation of Informational Packets.** TRLIA shall prepare and update informational packets to be distributed to new home purchases the Participants under section 7.E.(1).

(3) **Review of Levee Improvement Program Design Engineering.** TRLIA agrees to facilitate peer review of the Levee Improvement Program design engineering and use of value-engineering, so as to maximize efficacy and decrease the cost of the Levee Improvement Program.

(4) **Availability of Cash Flow.** Until such time as State funds are available to TRLIA, TRLIA will fund the State's share of the required cash flow reflected in the Cash Flow Schedule through a credit line, grant anticipation note, or other mechanism.

(5) **Cooperation in Regard to Federal Reimbursement.** TRLIA shall reasonably cooperate in any future efforts by the Participants to obtain reimbursement from the federal government for funds provided by the Participants under the 2005 Advanced Funding Agreement, the Second Funding Agreement, or this First Amendment, provided that such cooperation shall be at the expense of the Participants that request the same and not detrimental to the Levee Improvement Program.

(6) **Availability of Information to the Participants.** TRLIA shall have a good faith obligation to keep the Participants informed regarding the progress of the Levee Improvement Program through the inclusion of up to three Participant representatives at the TRLIA Management Committee Meetings.

I. **Deferral of Countywide Capital Facilities Fees.** County agrees that all countywide capital facility and development impact fees, including roads fees, otherwise paid by Original Participants at the issuance of building permit, shall instead be deferred and paid at the time of the final inspection made prior to occupancy. Except as to any fees not otherwise locked by Section 9.E. above, Original Participants agree to pay such fee amounts then in effect at the time of the final inspection, unless they were previously paid by an Original Participant.

J. **Processing of Building Permits and Plot Plans By County; Fees.**

(1) **Building Permits.** County shall make best efforts to process and approve within 30 days all building permits for approved master plans requested by Original Participants, provided that the Original Participants submit to the County all required materials, including building and plot plans, and pay all required fees, at the time of the request. No building permits issued to Original Participants shall expire prior to 18 months from the date issued, and all such building permits shall be automatically extended for a further 12 month period.

(2) **Plot Plans.** County shall make best efforts to process and approve within 30 days all plot plans submitted by Original Participants, provided that a request for a revised floor plan or elevation shall (i) be submitted at least 30 days prior to the first inspection, and (ii) include changes that are based upon an approved master plan. Any revised submittal which results in an increase in square footage shall be accompanied by any required payment for the difference between the amount previously paid and the amount now due based upon the increase
of square footage. Any revised submittal which results in a decrease in square footage shall not be entitled to a refund of fees.

10. **TRLIA OBLIGATIONS IN REGARD TO BOND SALE.**

A. **Issuance of Builder Bonds.** Assuming execution of required disclosures, certificates and agreements by Participants as set forth herein, TRLIA shall promptly issue Builder Bonds upon deposit of sums, for each issue of Builder Bonds, into the bond escrow established by TRLIA.

B. **Issuance of Private Placement and Conventional Bonds.** TRLIA shall use its best efforts to effectuate the earliest repayment to holders of Builder Bonds of any Capital Call Amounts through the issuance of Private Placement Bonds or Conventional Bonds. Participants shall cooperate with TRLIA in such effort. In order to promote the sale of Private Placement Bonds and Conventional Bonds to outside parties prior to the completion of the Levee Improvement Program, TRLIA shall agree to use its best efforts to identify investors and consider the use of call protection for such Bonds, or other bondholder incentives such as tax exempt interest rates. The terms for such issuance are contained in Exhibit P. The cost of issuance shall be considered a cost of the Levee Improvement Program when performing the Final Fair Share Funding Study as provided in Section 16.

11. **COUNTY FUNDING.**

A. **County Levee Improvement Funds.** Except as to any offset as a result of revenues attributable to the Open Enrollment Period under Section 20.Q., the County is obligated to advance fund up to a maximum of $23.3 million. Those funds shall be made available by the County, from sources as described in Section 11.B. below, to TRLIA as required under the then-current Capital Call Schedule ("County Levee Improvement Funds").

B. **Sources of County Levee Improvement Funds.** The County may satisfy its advanced funding obligation from any source available to it, including but not limited to, issuance of Certificates of Participation ("COPs"), its General Fund, its reserves, or other long or short term borrowing, all in the sole discretion of the County. County agrees to pay its issuance costs for such COPs or other debt. However, the cost of issuance, and all capitalized interest and financing charges, shall be considered a cost of the Levee Improvement Program when performing the Final Fair Share Funding Study as provided in Section 16. The County may, as more specifically provided in Section 11.D. below, reduce or defer the County's advance funding obligation through the use of County In Lieu Funds.

C. **Advancing of Funds.** By the last day of each month preceding any month in which the Capital Call Schedule shows an advance to be made by the County, the County shall disburse such County Levee Improvement Funds to TRLIA, unless sufficient revenues have already been provided to the Levee Improvement Program through County In Lieu Funds.

D. **County In Lieu Funds.** This First Amendment explicitly contemplates the County's use of County In Lieu Funds to reduce or defer the County's advance funding obligation. Use of such County In Lieu Funds to meet the timing of funding contained in the Capital Call Schedule is allowed. However, if such County In Lieu Funds are used to satisfy that
timing of funding, but additional revenues are later required by TRLIA to allow for Completion of the Levee Improvement Program, the County shall still be required to provide those funds necessary up to a maximum of $23.3 million (except as offset by Section 20.Q.) toward the Levee Improvement Program separate from the County In Lieu Funds. This requirement shall not apply to funds that are credited to the County from the Open Enrollment Periods provided for under this First Amendment. If County In Lieu Funds are able to meet the requirements of funding for Completion of the Levee Improvement Program, the County shall not have any advance funding obligation. As provided for in Section 8.C.(4), the County shall not be reimbursed by the TRLIA for County In Lieu Funds contributed to the Levee Improvement Program.

12. CONSIDERATION OF THE CREATION OF A COMMUNITY FACILITIES DISTRICT AND/OR BENEFIT ASSESSMENT DISTRICT.

A. **Good Faith Effort Toward District Creation.** The Parties agree that a community facilities district ("CFD") and/or a benefit assessment district ("AD") can be mutually beneficial to all Parties by creating additional revenue streams to repay funds advanced and reduce future payments and provide additional security. Therefore, the Parties commit to work in good faith to pursue the formation of a CFD and/or an AD which provides such benefits. If such districts are never created, or the creation of such districts do not raise sufficient revenue to completely offset the funds to be advanced by the Participants and the County, the Participants and the County still remain responsible to advance the necessary funding as provided in this First Amendment. Any CFD and AD bonds issued will be subject to the County land secured debt policies, as may be amended from time to time, and the then-current underwriting standards. The costs of bond issuance for any such CFD and AD bonds shall be split according to benefit received (i.e. offset to funding obligation). However, the cost of issuance shall be considered a cost of the Levee Improvement Program when performing the Final Fair Share Funding Study as provided in Section 16.

B. **Use of Revenues From District.** The Parties further agree that any funds raised from the creation of a CFD or the capital component of an AD shall substitute for funds or Capital Calls required to be paid by the Participants or the County consistent with the Capital Call Schedule. The Parties agree that net funds raised through a CFD or the capital component of an AD from the Participants' land shall offset, on a dollar for dollar basis, the Participants' Capital Call obligation as provided on the Capital Call Schedule. In the event that any CFD proceeds or the capital component of an AD attributable to any Participant's property exceeds any then-remaining Capital Call obligation of such Participant, TRLIA shall, upon the issuance of the CFD or AD bonds, promptly reimburse the excess to the applicable Participant. Any net funds raised through a CFD or the capital component of an AD not on the Participants' land shall offset, on a dollar for dollar basis, the County's obligation to provide County Levee Improvement Funds. The Parties further agree that any additional fees generated by the capital component of an AD attributable to lands within the AD converting from a lower value use to a higher value use (for example, undeveloped lands obtaining entitlements) (hereinafter referred to as "Excess AD Capital Revenues") shall be treated as revenues from Deferred and Future Participants after the Open Enrollment Period, and thus available to repay the County and Participants. The Parties also understand that such Excess AD Capital Revenues result in additional revenues into the Financing Program which may result in the Impact Fee being adjusted downward over time.
13. PARTICIPANT LEVEE IMPROVEMENT FUND.

A. Establishment of Fund. The Participant Escrow Committee shall establish with an escrow holder approved by the Participant Escrow Committee (the "Escrow Holder") a fund for the purpose of holding the Capital Call Amounts provided by Participants, and making the Capital Call Amounts available for TRLIA to use towards the costs and expenses of the Levee Improvement Program (the "Participant Levee Improvement Fund").

B. Investment of Participant Levee Improvement Funds. Escrow Holder shall invest the funds held in a manner in which funds are earning income, the capital is preserved, and Escrow Holder has all needed funds available upon 5 days notice. Investments shall be limited to government securities, cash, corporate bonds that are rated AAA, and FDIC-insured certificates of deposit. Escrow Holder shall limit investments to those which allow for the prompt conversion of such investments to cash so that funds are available when disbursements are required under Section 15.A. of this First Amendment.

C. Maintenance of Fund. Any costs incurred in the maintenance of the Participant Levee Improvement Fund by Escrow Holder shall be paid for out of the moneys contained within the Participant Levee Improvement Fund; provided, that the Participant Escrow Committee shall use its best efforts to work with the Escrow Holder to minimize such costs.

D. Record of Participant Payments. The Participant Escrow Committee shall provide TRLIA with a record of payments made by each of the Participants within five (5) days of any payment, and shall provide TRLIA a monthly update of the funds, including interest, contained within the account.

14. PARTICIPANT ESCROW COMMITTEE.

A. Composition of Committee. There is hereby constituted a Participant Escrow Committee consisting of a representative of each of the Original Participants. The Participant Escrow Committee shall be chaired by the representative from KB Home Sacramento, Inc., or by that representative's designee. If a member of the Participant Escrow Committee is not, for any reason, the representative of a current Participant under this First Amendment, such member shall no longer be eligible as a member of the Participant Escrow Committee. In such event, the remaining members may mutually select another Participant, which shall designate a representative to fill the vacancy left on the Participant Escrow Committee.

B. Procedure for Operation of Committee. All actions under this First Amendment required to be taken, or allowed to be taken, by the Participant Escrow Committee shall be taken only where at least five (5) members of the Committee are participating in a meeting of the Committee and then only upon a majority vote of those participating members. The meetings of the Participant Escrow Committee shall be open to all Participants. Notice of all meetings of the Participant Escrow Committee shall be provided by the chair via e-mail to a representative of each Participant and, where practicable, the notice shall be sent at least 5 business days prior to the meeting. The Executive Director of TRLIA may choose to be included in the meetings of the Participant Escrow Committee. The Participant Escrow Committee shall
operate in good faith, and may only consider and act upon issues pertaining to the Levee Improvement Program.

C. Release and Waiver of Claim Against Participant Escrow Committee. Participants hereby release, waive, and abandon any and all claims, demands, rights, causes of action, and proceedings they may now or hereafter have against the Participant Escrow Committee and its members arising out of this First Amendment, except where such claims, demands, rights, causes of action, and proceedings arise out of the intentional, willful, fraudulent, or reckless misconduct of the committee or its members. Each of the Participants has been advised by counsel regarding, and hereby expressly waives, any protection or benefit provided by California Civil Code section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

15. DISBURSEMENTS FROM PARTICIPANT LEVEE IMPROVEMENT FUND.

A. Request for Disbursement.

(1) The Participant Escrow Committee shall work with the Escrow Holder to assure that the Escrow Holder understands the timing and amount of expected Capital Calls and is prepared to provide disbursement of those Capital Calls consistent with the Cash Flow Schedule.

(2) If a bond issuance will occur, the process and timing set forth in Section 6.A.(7) of this First Amendment shall apply.

(3) When a portion of the Participant Levee Improvement Fund is required to satisfy a Capital Call, the Participant Escrow Committee shall provide adequate notice to the Escrow Holder, along with the authorization to release funds. Upon satisfaction of the requirements set forth in Section 15.B(1), the Participant Escrow Committee shall disburse funds from the Levee Escrow Fund to TRLIA.

(4) Upon such authorization, Escrow Holder shall immediately disburse from the Participant Levee Improvement Fund to TRLIA the amount requested.

(5) Once the funds are disbursed to TRLIA, the Participants' rights to recover such funds shall be limited to those mechanisms contained in Section 17 of this First Amendment.

B. Participant Escrow Committee Authorization of Payment From Participant Levee Improvement Fund.

(1) TRLIA and the Participants agree that the Capital Call Amounts have been established to allow TRLIA to perform the work of the Levee Improvement Program. Therefore, the Parties agree that except as provided in Section 15.B.(2), the Participants may not withdraw
funds from the Participant Levee Improvement Fund without the written authorization the County and TRLIA. The Participant Escrow Committee shall authorize the disbursement of funds to TRLIA from the Participant Levee Improvement Fund upon satisfaction of all of the following conditions:

a. The Levee Improvement Program is not in Potential Default at the time of the disbursement.

b. The Capital Call is consistent with the then-current Capital Call Schedule.

c. No Moratorium exists at the time of the disbursement.

d. As described in Section 11, the County has provided all funding required of it to date consistent with the Capital Call Schedule, from whatever source (including County In Lieu Funding), to the Levee Improvement Program and the County has affirmatively responded to any request made by the Participant Escrow Committee to confirm the County's intent to provide funding for the next payment.

e. The monthly information required to be provided by TRLIA under Section 6.A.(2) of this First Amendment has been provided.

f. The County has not entered into an agreement with any Deferred or Future Participant with terms that negatively affect the following aspects of this First Amendment: (i) the amount that shall be paid for the Levee Improvement Program by Deferred or Future Participant; (ii) the timing of payments by a Deferred or Future Participant, although payments may be accelerated beyond the timing contained in this First Amendment; (iii) the way in which and order in which monies paid by Participants are to be repaid; (iv) the benefits to be received by Original Participants through a development agreement; and (v) the 12-month delay in the issuance of building permits under Section 8.B.

(2) Where monies are deposited by Participants into the Participant Levee Improvement Fund and then not transferred to TRLIA because the Participant Escrow Committee concludes that the conditions of Section 15.B.(1) are not satisfied, after a 5 business day period for TRLIA and/or the County to take such actions necessary to meet the conditions of Section 15.B.(1), the Participants may bring an action to arbitrate under Section 20.N.(3) to seek the return to Participants of such monies. Notwithstanding the foregoing, where the TRLIA Executive Director determines that the County has failed to provide all funding required of it to date, and the County fails to remedy such failure within the 5 business period for cure provided within this Section 15.B.(2), the Participant Escrow Committee shall be entitled to instruct the Escrow Holder to return funds from the Participant Levee Improvement Fund to the Participants.

16. DETERMINATION OF ULTIMATE PARTICIPANT OBLIGATIONS.

The purpose of this Section 16 is to establish the ultimate obligations of each of the Participants in regard to the Levee Improvement Program.
A. **Final Fair Share Funding Study.** In order to determine the final cost of the Levee Improvement Program, TRLIA shall conduct a Final Fair Share Funding Study within six months of the certification of the levees consistent with the Levee Improvement Program.

   (1) Without limitation, the study shall assess the total costs that are required to reach certification of the improved levees consistent with the Levee Improvement Program. The cost of issuance of all debt and bonds issued under this First Amendment (but not debt and bonds issued prior to the Effective Date) shall be considered a cost of the Levee Improvement Program when performing the Study.

   (2) The study shall evaluate what properties (not owned by the Participants) benefit from the Levee Improvement Program and which may be required to contribute towards the funding of the Levee Improvement Program.

   (3) The study shall consider the amounts necessary to provide for the reimbursement of the County for the payment of County Levee Improvement Funds, reimbursement of Participants that paid the Capital Call Amounts as provided for herein and/or, other payments which otherwise are due reimbursements pursuant to the terms of this First Amendment. The study shall not include, as a reimbursement for the County, any County In Lieu Funds.

B. **Final Par Amount Calculation at Certification of Levee Improvement Program.**

   (1) TRLIA shall determine the Final Par Amount through the Final Fair Share Funding Study. The Final Par Amount shall be calculated as the equitable fair share allocated to each gross developable acre of land within the Affected Area for the Levee Improvement Program; however, due to the complexity of the calculations, the calculation will be based on the best available information, and the best attempt to accurately reflect said equitable fair share. For purposes hereof, "gross developable acre" shall mean generally all land within the Affected Area, excluding however any portions thereof planned for major roads, schools, drainage ways or park and open space use, as more specifically defined in the TRLIA Levee Impact Fee and as shown on the final map, if applicable.

   (2) County shall use the Final Par Amount to adjust the TRLIA Levee Impact Fee to determine the total amount of fee revenue that will be required to allow the Participants to receive reimbursement of the Capital Call Amounts paid for the Levee Improvement Program pursuant to Section 17 below.

   (3) In no event shall an Original Participant upon the Effective Date of this First Amendment be responsible for any amount beyond its portion of the $30 million to be provided under this First Amendment, unless agreed to by subsequent agreement.

C. **Exchange of Builder Bonds Reflecting Excess Levee Payments for Impact Fee Bonds.** Within 30 days following the calculation of the Final Par Amount, TRLIA shall provide notice to Participants with Builder Bonds reflecting Excess Levee Payments of a one time opportunity to exchange the portion of the Builder Bond reflecting outstanding Excess Levee Payments (as defined in Section 8.C.(3)d.) for Impact Fee Bonds, which exchange shall
have the effect of lowering the face value of the outstanding Builder Bonds. TRLIA shall provide a 60 day election period for the Participants to opt-in or opt-out of the exchange allowed by this Section 16.C. The exchange shall be done within 180 days of the calculation of the Final Par Amount.

17. REIMBURSEMENTS.

A. Establishment of Reimbursement Program. Participants and TRLIA agree that following the approval of the Fair Share Funding Study under Section 16 above, TRLIA shall provide reimbursement and repayment to the Participants pursuant to the order of revenue repayment contained in Section 8.C.(3) above so as to reimburse all Participants down to the Final Par Amount to the extent that any Participants' payments were higher than the Final Par Amounts allocable to Participants under the Final Fair Share Funding Study.


C. Timing of Return of Unspent Funds. Any funds collected from the Capital Call Amounts or other amounts paid into the Participant Levee Improvement Fund and not disbursed by the Participant Escrow Committee shall promptly be distributed by the Escrow Holder to the Participants that paid into the Participant Levee Improvement Fund on a pro-rata basis (based on amount of payment made by the Participant as a percentage of all payments made by all Participants), upon the occurrence of either of the two following conditions:

   (1) A determination shall have been made by TRLIA, in consultation with the Participant Escrow Committee, that the funds will not be needed for completion of the Levee Improvement Program; or

   (2) A determination shall have been made by TRLIA, in consultation with the Participant Escrow Committee, that the Levee Improvement Program should be terminated because of an unforeseen circumstance that makes the continuance of the Levee Improvement Program unreasonable, impracticable, or cost prohibitive.

18. ASSIGNMENT OF RIGHTS UNDER THIS FIRST AMENDMENT.

This First Amendment hereby fully incorporates Exhibit Q relating to the assignment of rights under this First Amendment as though fully reprinted herein.

19. POTENTIAL DEFAULT; CURATIVE ACTIONS.
A. Notice of Potential Default. In the event of a Potential Default as identified by TRLIA, TRLIA shall take the following steps to remedy the Potential Default and to inform the State Reclamation Board of the existence of the Potential Default:

(1) As soon as possible, but not more than 3 business days after identification of a Potential Default, TRLIA shall provide written notice to the County and the State Reclamation Board, via the Reclamation Board's General Manager, of the Potential Default. This notice shall include a description of the Potential Default and an assessment of the potential impact of the Potential Default, if not remedied, upon the completion schedule for the Levee Improvement Program. Thirty days following this notice by TRLIA the County shall, as soon as legally possible impose the Curative Action under Section 19.B., below. If and when such Potential Default is cured, the County shall remove the relevant Curative Action without need for State Reclamation Board action.

(2) After notice is provided to the State Reclamation Board, TRLIA and the Participants shall immediately work with the Reclamation Board staff to prepare a plan for corrective action. The plan shall promptly be presented to the State Reclamation Board at its next regularly or specially scheduled meeting, and the Reclamation Board shall consider the Potential Default and any plan provided.

B. Curative Actions to Address Potential Default. In the event of a Potential Default (not otherwise cured), and after receipt and consideration of the plan developed pursuant to Section 19.A.(2), above, the State Reclamation Board may request imposition, continuation, or removal of any of the following Curative Actions to address the Potential Default:

(1) Continue to monitor and consider action at future date.

(2) Require implementation of the plan for corrective action.

(3) Notify TRLIA and the County to stop recording final maps in the Affected Area.

(4) Notify TRLIA and the County to stop the issuance of building permits in the Affected Area.

(5) Other conditions as may be agreed to by the Parties.

C. Implementation of Curative Actions. Upon request by the State Reclamation Board, TRLIA and the County shall take all necessary steps to implement the Curative Action requested by the State Reclamation Board. In addition to the steps to be taken pursuant to the previous sentence, the County and TRLIA may implement any of the Curative Actions identified above, and other actions authorized by this First Amendment, but no other action, in order to address a Potential Default, even if not so requested by the State Reclamation Board.

20. ADDITIONAL PROVISIONS.

A. Governing Law and Venue. This First Amendment shall be governed by the laws of the State of California, without regard to conflicts of laws principles. Any action to
compel arbitration or to enforce an arbitrator's decision pursuant to Section 20.N. shall be brought in Sacramento Superior Court.

B. **Time is of the Essence.** For purposes of this First Amendment, time is of the essence.

C. **Effective Date.** This First Amendment shall become effective only upon its execution by County, RD 784, and TRLIA, and also by Original Participants of a sufficient number to raise $30 million from those same Original Participants (as evidenced by the delivery by the Original Participants of their executed copies of this First Amendment to TRLIA), and this First Amendment shall not be effective otherwise. The date upon which this condition is satisfied is hereby referred to as the "Effective Date."

D. **Term of this Agreement.** This First Amendment shall be in effect until such time as the Levee Improvement Program has been completed, the levees improved under the Levee Improvement Program are certified, and all payments made beyond Participants' Final Par Amount are forgiven by or repaid to the Participants.

E. **Entire Agreement; Amendment.** This First Amendment, and Exhibits A through M, attached hereto, constitute the entire First Amendment among the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings of the Parties regarding the subject matter hereof; provided, that this shall not affect the validity of the Second Implementation Agreement. This First Amendment may not be amended except by the mutual written consent of all of the Participants, RD 784, TRLIA and the County. Consent by any Original Participants who become Deferred Participants shall not be required for any amendments.

F. **Waiver.** Any provision of this First Amendment may be waived at any time by the Party entitled to the benefit thereof, but only by a writing signed by such Party stating that it waives such provision. No waiver of any of the provisions of this First Amendment shall constitute a waiver of any other provision nor shall any waiver constitute a continuing waiver.

G. **Severability.** If any provision of this First Amendment is held invalid or unenforceable, the other provisions of this First Amendment shall remain in full force and effect provided that the severance of the invalid or unenforceable provisions does not result in a material failure of consideration under this First Amendment to any party hereto.

H. **Headings.** The headings of this First Amendment are included for convenience only and shall not affect the construction or interpretation of the First Amendment.

I. **Counterparts.** This First Amendment may be executed in one or more counterparts, including facsimile, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

J. **Authority.** The undersigned certify that they are fully authorized by the Party or Parties whom they represent to enter into the terms and conditions of this First Amendment and able to legally bind such Party or Parties hereto.
K. **Interpretation.** This First Amendment shall be deemed to have been prepared equally by all of the Parties, and the First Amendment and its individual provisions shall not be construed or interpreted more favorably for any one Party on the basis that another Party prepared it.

L. **Notices.** All notices and other communications under this First Amendment shall be in writing and shall be deemed to have been duly given (1) on the date delivered by hand; (2) the next business day following the date sent by overnight delivery service or sent by facsimile; or (3) on the third business day after mailing if deposited in the U.S. mail to the following addresses:

(1) Any notice to be given to the County should be addressed as follows (or to such other address as County may specify from time to time):

County Administrator  
County of Yuba  
915 Eighth Street, Suite 115  
Marysville, California 95901-5273

With a copy to:

County Counsel  
County of Yuba  
915 Eighth Street, Suite 115  
Marysville, California 95901-5273

(2) Any notice to be given to RD 784 should be addressed as follows (or to such other address as RD 784 may specify from time to time):

Board of Directors  
Reclamation District 784  
1594 Broadway Ave  
Marysville, CA 95901

With a copy to:

District Counsel  
The Miller Building  
500 Olive Street, Suite 7  
Marysville, CA 95901  
Attn: Carl Lindmark

(3) Any notice to be given to TRLIA should be addressed as follows (or to such other address as RD 784 may specify from time to time):
M. Successors and Assigns.

(1) Successors and Assigns. The provisions of this First Amendment shall apply to, be binding upon, and inure to the benefit of, all successors and assigns of County, TRLIA, RD 784 and Participants in the same manner as if they were expressly named, except as to the right of a Participant to assign its reimbursement rights under this First Amendment. Upon the transfer of any property affected by this First Amendment, the transferor and transferee shall be jointly responsible for the payment of any Capital Calls and TRLIA or the County may elect to pursue arbitration under Section 20.N.(3) against either of them individually, or both of them jointly, in the event of failure to make a Capital Call. The County, TRLIA, and RD 784 may jointly execute a release waiving the right of arbitration as against the transferor, in which case the transferee shall be solely responsible for the payment of Capital Calls require after transfer of the property.

(2) Termination of Obligations. The provisions of this First Amendment shall automatically terminate and shall no longer apply to any land with a residence sold to a homeowner after the County's final inspection for that residence; provided, however, this shall not affect the requirements of Section 7.D. relating to flood insurance and Section 7.E.(3) relating to the quarterly information packets. The provisions of this First Amendment shall also automatically terminate for the Participants, unless otherwise extended in a writing of the Parties, after certification of the levees improved under the Levee Improvement Program; provided, however, this shall not affect the requirements of TRLIA and the County to continue to collect the Levee Impact Fees and any and all other amounts required hereunder and to reimburse the Participants as provided herein. The Parties agree to cooperate in executing any necessary
instrument to record the termination, and upon request of the Participants, the County shall immediately record notice of the termination once Phase 4 Work is completed.

N. Claims for Failure To Perform Under This First Amendment.

(1) Exclusive Remedy. Except as otherwise expressly provided herein, arbitration is the exclusive remedy for failure to perform under this First Amendment. The Parties hereby waive any rights that they may have to pursue litigation in State and Federal courts, except as provided in Section 20.N.(3)a. below. The Parties also agree that there shall not be any consequential or 3rd party damages awarded under arbitration, and thus damages shall be limited to the Capital Call Amount that was not made.

(2) Election of the County Board of Supervisors to not Make A Payment. The Parties waive and relinquish all rights to pursue damages and other rights of action against the County and agree there shall be no right of arbitration for a decision of the Board of Supervisors of the County to elect not to make a payment required under this First Amendment. The exclusive remedy of the Participants for such an election is provided under Section 15.B. of this First Amendment.

(3) Failure of Participant(s) to Make a Capital Call and Disputes Regarding the Transferring of Funds Under Section 15. The parties agree that any claim or controversy arising out of or relating to failure of a Participant to make a Capital Call under this First Amendment or regarding the transferring of funds under Section 15.B.(1) and 15.B.(2) shall be subject to binding arbitration. This provision is to be construed broadly to cover all types of potential legal or equitable (including provisional remedies) claims, including, but not limited to, those for breach, specific performance, and to interpret or enforce the terms of this Agreement.

a. The arbitrator's decision and award shall be final and binding on the Parties. The award shall be immediately enforceable, and Judgment entered. Any Party may request that the arbitration decision be confirmed pursuant to Code of Civil Procedure §§ 1285, 1286, and/or 1287.4.

b. To institute the arbitration proceeding, a Party must serve a written Notice of Claim and Intent to Arbitrate. This document may be served personally, by registered or certified mail, or by facsimile. The Notice shall identify claims being made and the damages alleged. The Notice shall specifically identify the amount of damages the party is seeking to recover.

c. The Parties expressly acknowledge that time to complete the arbitration is of the essence. It is the intent of the Parties to have the arbitration completed expeditiously. To that end, the Parties have agreed to the following time limitations:

(i) The respondent/defendant to the arbitration proceeding shall respond to the Notice of Claim and Intent to Arbitrate within three (3) business days of receipt. The response to the Notice shall only be to either admit or deny the claims and raise any affirmative defenses.
(ii) The arbitrator shall be agreed upon within five (5) business days of the Notice of Claim and Intent to Arbitrate.

(iii) The arbitration hearing shall occur within ten (10) business days of the Notice of Claim and Intent to Arbitrate. This time limitation may be extended by written agreement of the Parties or upon order of the arbitrator on a showing of good cause. However, the arbitration hearing cannot be extended for a total of more than twenty (20) business days.

(iv) To expedite the arbitration process, the Parties have pre-selected arbitrators. The pre-selected arbitrators are: Mike Schoenfeld, Lester Levy, Martin Quinn, Ken Mennemier, Gary Vinson, John Gallagher, Joe Ramsey, Russell Austin, and Andy Stroud. If the parties cannot agree on one of the pre-selected arbitrators, the arbitrator shall be determined by random drawing of the six pre-selected names. If for some reason that arbitrator is not available or is otherwise unable to serve, absent an agreement of the Parties, there shall be a random selection until an available arbitrator is chosen. If none of the arbitrators are able to serve, the arbitrator shall be selected by the Sacramento County Superior Court Arbitration Division from its panel of business/breach-of-contract arbitrators.

(v) The arbitration proceeding shall be conducted pursuant to California Code of Civil Procedure §§ 1282 - 1284.3, except to the extent this Arbitration Agreement provides otherwise. California Code of Civil Procedure § 1283.05 regarding the right to discovery and section 1282.6 to the extent it concerns issuances of subpoenas at a deposition are specifically excluded. The Parties waive the right to discovery; however, any Party may apply to the arbitrator to request limited discovery. The arbitrator may allow limited discovery upon a showing of good cause. In lieu of formal discovery, the Parties agree to exchange information as follows:

1) The Party instituting the arbitration proceeding shall provide to the respondent/defendant a list of all claims and causes of action alleged. The nature and basis of the damage claim must be identified. All documents which support the claims and causes of action shall be provided. This Initial Disclosure shall be made within two (2) business days of the selection of the arbitrator.

2) The respondent/defendant shall provide a written Second Disclosure which outlines all of its claims, defenses, and contentions it intends to rely upon or assert at the time of the arbitration. The respondent/defendant shall provide copies of all documents it claims supports any of its claims and defenses. This Second Disclosure must be provided within three (3) business days of the Initial Disclosure.

3) Within three (3) business days of the selection of the arbitrator, each Party shall provide a list of witnesses it intends to call at the time of the arbitration hearing. The witness list shall identify the person by name, address, and telephone number. The general substance of the witness' anticipated testimony shall be disclosed. If the person is being called as an expert, that person must be identified.
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(vi) The decision of the arbitrator shall be in writing. The decision shall be served on the parties within five (5) business days of completion of the arbitration hearing.

d. The expense of the arbitration shall be born equally by the Parties; however, the arbitrator may direct the non-prevailing party reimburse the prevailing party for the cost of the arbitration. The prevailing party to the arbitration is entitled to recover costs pursuant to Code of Civil Procedure §§ 1032 and 1033.5. The prevailing party will also have the right to recover reasonable attorney’s fees incurred.

e. Arbitration under Section 20.N.(3) is in addition to the rights and remedies available to the County and TRLIA under Section 19 - Potential Default; Curative Actions set forth therein. Section 20.N.(3) shall apply to a Participant until and unless the Participant substitutes for its obligation to make a Capital Call the ability of TRLIA to obtain equivalent net funds from the creation of a CFD or AD on the Participant’s property.

(4) Arbitration of Other Claims. All disputes arising out of this First Amendment other than in regard to Section 20.N.(2) & (3) shall be submitted to final and binding arbitration as provided for in this Subsection (4). The only right of action or claim that can be made by a Participant against the County shall be specific performance. The Participants shall have no right of action to recover damages against the County. A Party seeking to arbitrate such a dispute must notify the other Parties to the dispute in writing of its intent to arbitrate. Any such properly noticed claim for breach or enforcement of any provision of this First Amendment shall be submitted to binding arbitration through the American Arbitration Association in accordance with the National Rules for Commercial Disputes. Before arbitration commences, if the dispute is between one or more Participants (on the one hand) County, RD 784, and TRLIA (on the other hand) the Participants involved or named in the dispute shall jointly pay the American Arbitration Association half of the expected cost of the arbitration and the County, RD 784, and TRLIA shall jointly pay the other half of the expected cost of the arbitration. If the dispute is between Participants, then the Participants that are party to the dispute shall, before arbitration commences, pay equal shares of the entire expected cost of the arbitration. At the conclusion of the arbitration, the arbitrator may award the prevailing Party some or all of the arbitration costs, but no attorneys’ fees incurred in connection with the arbitration, shall be awarded. The decision of the arbitrator shall be final and conclusive, and the Parties waive the right to a trial de novo or appeal excepting only for the purpose of enforcing the arbitrator’s decision. The arbitrator shall have the power to require the payment of damages (excluding consequential damages and liability of third parties) and reformation of agreements.

O. Meet and Confer. The Parties desire to work together in an efficient manner to assure that the Levee Improvement Program progresses in a timely fashion. Toward that end, representatives and consultants of County, TRLIA and RD 784, shall meet and confer regularly with all interested Participant representatives to discuss the various components of the Levee Improvement Program, including but not limited to the following: (1) right-of-way and land acquisition; (2) fish and wildlife mitigation and permitting; (3) planning, engineering and design; (4) construction; (5) construction management; (6) projected timing; (7) projected costs; (8) additional studies; (9) matters related to state and federal regulation of the Affected Area, such as any applicable regulations of the State Reclamation Board, Department of Water Resources, and
Waiver and Release of Claims. As a condition of this First Amendment, all Participants release, waive, and abandon any and all claims, demands, rights, causes of action, and proceedings, they may now or hereafter have against the County, TRLIA, and RD 784, or their agents, officers, and employees, to attack, set aside, void or annul implementation of this First Amendment or Ordinance No. 06-439, as they may be amended. Each of the Participants has been advised by counsel regarding, and hereby expressly waives, any protection or benefit provided by California Civil Code section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Open Enrollment.

(1) Publication of Notice. After the Effective Date of this First Amendment the County shall publish a notice notifying all landowners in the Affected Area of the Financing Program and the opportunity to become an Original Participant. Such notice shall be published in a newspaper of general circulation in the Yuba County area, in accordance with Government Code Section 6064.

(2) Right to Join as Original Participant. The Parties shall allow any landowner that wishes to become an Original Participant within 60 days of the first publication of the notice described in subsection (1), above (the "Open Enrollment Period") the ability to elect to sign this First Amendment and make a Catch-up Capital Call and, thus, be considered an Original Participant pursuant to this First Amendment.

(3) Application of Revenue. Capital Call obligations pursuant to this First Amendment by any landowner that joins the Financing Program during the Open Enrollment Period and becomes an Original Participant shall be applied to reduce equally (50/50) the Participants' and County's obligation to fund the Deferred Participant Obligation, up to a cap of $15.2 million. Any amount raised from Deferred Participants joining during the Open Enrollment Period in excess of $15.2 million shall be available exclusively to reduce the County's funding obligation. For example, if a single Deferred Participant elects to become an Original Participant during the Open Enrollment Period and that previously Deferred Participant will fund $3 million to the Levee Improvement Program, then the County's need to advance Deferred Participant Obligation will be reduced by $1.5 million and the Original Participants as of the Effective Date will collectively have their need to advance Deferred Participant Obligation reduced by $1.5 million.

(4) Additional Open Enrollment Periods in Regard to Future Participants.

a. The County shall include as a condition of each tentative map approved for each Future Participant the right of the Future Participant, during the Capital Call
Period, to join as an Original Participant during a period of 60 days following passage of the 30-day challenge or referendum period on the approval by the County Board of Supervisors of the tentative map or the period which runs until 30 days after the Notice of Determination under CEQA is filed, which ever is later

b. Where such Future Participant elects to join during this further Open Enrollment Period, the revenues associated with joining shall be applied as provided in Section 20.Q. 3.

c. Where such Future Participant elects to join during this further Open Enrollment Period, the Future Participant shall be required pay a Catch-Up Capital Call for a minimum of 25 acres of its tentative map (or 20% of the total tentative map if the map is under 100 gross developable acres), and in order to accelerate repayment of funds advanced by the County and the Participants, each such Future Participant shall also pay at the same time an advance of a portion of its Catch-Up Capital Call for the remainder of its tentative map, equal to the Catch-Up Capital Call paid on the 25 acres (or 20% of the total tentative map if the map is under 100 gross developable acres).

(5) Effect of Election to Not Enroll. Any landowner that does not choose to join as an Original Participant prior to or during the Open Enrollment Period shall be subject to the requirements outlined for Deferred Participants and Future Participants, as applicable.

R. Memorandum of Agreement. The Parties shall execute a Memorandum of this Agreement in substantially the form attached hereto as Exhibit L, which Memorandum shall be recorded against the Affected Area in the official records of the County of Yuba and which may be removed when a parcel within the Affected Area is to be sold to a retail purchaser.

[SIGNATURES ON FOLLOWING PAGES]
IN WITNESS WHEREOF, the Parties agree to the provisions set forth herein as evidenced by the signature of their authorized representatives below:

Date: ______________________

COUNTY OF YUBA

Attest and witness:

By: ______________________

Chair, Board of Supervisors

Approved as to Form:

David G. Montgomery, County Counsel
Date: ______________________

Attest and witness:

By: ______________________

Chair

Approved as to Form:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

David G. Montgomery, General Counsel
Date: ______________________

Attest and witness:

By: ______________________

President

RECLAMATION DISTRICT 784

Approved as to Form:

Carl Lindmark, General Counsel
CRESLEIGH HOMES CORPORATION, a California corporation

Date: ____________________________
By: ______________________________
    Thomas Wong
    Vice President & General Manager

KB HOME SACRAMENTO, INC., a California corporation

Date: ____________________________
By: ______________________________
    John A. Barnhart
    Senior Vice President, Land Development

K. HOVNANIAN FORECAST HOMES, INC., a California corporation

Date: ____________________________
By: ______________________________
    Richard J. Balestreri
    Senior Vice President

LANDSOURCE HOLDING COMPANY, LLC, a California limited liability company

Date: ____________________________
By: ______________________________
    Name: __________________________
    Its: ____________________________
LENNAR RENAISSANCE, INC., a California corporation

By: __________________________________________
Larry Gualco
Vice President

MS RIALTO RIVER OAKS CA, LLC., a California limited liability company

By: __________________________________________
Name: ________________________________________
Its: __________________________________________

MERITAGE HOMES OF CALIFORNIA, INC., a California corporation

By: __________________________________________
Name: ________________________________________
Its: __________________________________________

PLUMAS LAKE HOLDINGS, LLC, a California limited liability company

By: __________________________________________
Name: ________________________________________
Its: __________________________________________
PLUMAS LAKE RIVERSIDE MEADOWS, a California limited partnership

Date: ____________________________
By: ______________________________
Name: ____________________________
Its: ______________________________

TOWNE DEVELOPMENT OF PLUMAS LAKE, LLC, a California limited liability company

Date: ____________________________
By: ______________________________
Jeffrey M. Pemstein
Regional Manager

WESTERN PACIFIC HOUSING, INC., a Delaware corporation

Date: ____________________________
By: ______________________________
Its: ______________________________
Note:
Residential structures in the North Arboga Study Area with finished floor elevations at or above 62.1" are deemed to not be within the Affected Area.

Affected Area
(certain lands within Plumas Lake Specific Plan and North Arboga study Area)
# EXHIBIT B

## LIST OF ORIGINAL PARTICIPANTS

<table>
<thead>
<tr>
<th>Project/Tract:</th>
<th>Riverside Meadows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Mathews Homes, Inc</td>
</tr>
<tr>
<td>Designation:</td>
<td>a California Corporation</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Gary Mancebo</td>
</tr>
<tr>
<td>Title:</td>
<td>Chief Financial Officer, Matthews Homes</td>
</tr>
<tr>
<td>Address:</td>
<td>3202 West March Lane, Suite A</td>
</tr>
<tr>
<td></td>
<td>Stockton, California 95219</td>
</tr>
<tr>
<td>Phone:</td>
<td>(209) 951-5444</td>
</tr>
<tr>
<td>Cell Phone:</td>
<td>(209) 992-0001</td>
</tr>
<tr>
<td>Authorized PLUMAS LAKE RIVERSIDE MEADOWS, LP</td>
<td>a California limited partnership</td>
</tr>
<tr>
<td>Signature:</td>
<td>Patrick Matthews</td>
</tr>
<tr>
<td></td>
<td>President</td>
</tr>
</tbody>
</table>

**Riverside Meadows Village 1**

All that real property situated in Yuba County, State of California described as follows:


**Riverside Meadows Village 2**

All that real property situated in Yuba County, State of California described as follows:


**Riverside Meadows Village 3 (unrecorded)**

All that real property situated in Yuba County, State of California described as follows:

Lot 3 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.
Riverside Meadows Village 4 (unrecorded)

All that real property situated in Yuba County, State of California described as follows:

Lot 4 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.

EXCEPTING THEREFROM all that portion of Lot 4 that lies within that map entitled "Tract map No. 2004-20 of Riverside Meadows Village 2".

Riverside Meadows Village 5 (unrecorded)

All that real property situated in Yuba County, State of California described as follows:

Lot 5 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.

TOGETHER WITH, all that portion of Lot 6 of said Map, described as follows:

COMMENCING at the most northerly corner of said Lot 5; thence from said POINT OF COMMENCEMENT along the northerly boundary line of said Lot 5, the following four (4) courses: 1) South 57°54'37" East 59.03 feet; 2) South 47° 34' 18" East 142.27 feet; 3) South 32°10'40" West 49.02 feet; and 5) South 56°12'09" East 123.59 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, continuing along the northerly boundary line of said Lot 5 the following two (2) courses: 1) along the arc of a curve to the left, with a radius of 620.00 feet, a central angle of 02°19'30", an arc length of 25.26 feet, and a chord bearing South 32°38'06" West 25.16 feet; and 2) South 58°31'39" East 38.00 feet; thence along the arc of a curve to the right, with a radius of 582.00 feet, a central angle of 02°19'30", an arc length of 23.62 feet, and a chord bearing North 32°38'06" East 23.61 feet; thence North 56°12'09" West 38.00 feet to the POINT OF BEGINNING.

Riverside Meadows Village 6 (unrecorded)

Lot 6 as shown on that map entitled "Tract Map No. 2003-0007, Riverside Meadows Large Lot Map", filed in Book 77 of Maps, Pages 44 through 49, situate in the County of Yuba, State of California.

EXCEPTING THEREFROM, all that portion of said Lot 6, described as follows:

COMMENCING at the most northerly corner of said Lot 5; thence from said POINT OF COMMENCEMENT along the northerly boundary line of said Lot 5, the following four (4) courses: 1) South 57°54'37" East 59.03 feet; 2) South 47° 34' 18" East 142.27 feet; 3) South 32°10'40" West 49.02 feet; and 5) South 56°12'09" East 123.59 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, continuing along the northerly boundary line of said Lot 5 the following two (2) courses: 1) along the arc of a curve to the left,
DRAFT OF FEBRUARY 5, 2008

with a radius of 620.00 feet, a central angle of 02°19'30", an arc length of 25.26 feet, and a chord bearing South 32°38'06" West 25.16 feet; and 2) South 58°31'39" East 38.00 feet; thence along the arc of a curve to the right, with a radius of 582.00 feet, a central angle of 02°19'30", an arc length of 23.62 feet, and a chord bearing North 32°38'06" East 23.61 feet; thence North 56°12'09" West 38.00 feet to the POINT OF BEGINNING.

TOGETHER WITH, all that portion of Lot 7 of said Map, described as follows:

COMMENCING at the corner common to Lots 6, 7, and 8 as shown on said Map; thence from said POINT OF COMMENCEMENT, along the northerly boundary line of said Lot 6, the following two (2) courses: South 76°20'07" West 180.88 feet; and 2) West 41.01 feet to the POINT OF BEGINNING; thence continuing along said northerly boundary line the following three (3) courses: West 50.30 feet; 2) North 22°43'32" West 128.14 feet; and 3) along the arc of a curve to the right, having a radius of 182.00 feet, a central angle of 01°28'42", an arc length of 4.70 feet and a chord bearing North 68°00'49" East 4.70 feet; thence South 21°14'50" East 128.08 feet; thence South 89°19'22" East 49.04 feet to the POINT OF BEGINNING.

Riverside Meadows Village 7 (unrecorded)

Lot 7 as shown on that map entitled "Tract Map No. 2003-0007, Riverside Meadows Large Lot Map", filed in Book 77 of Maps, Pages 44 through 49, situate in the County of Yuba, State of California.

EXCEPTING THEREFROM, all that portion of Lot 7, described as follows:

COMMENCING at the corner common to Lots 6, 7, and 8 as shown on said Map; thence from said POINT OF COMMENCEMENT, along the northerly boundary line of said Lot 6, the following two (2) courses: South 76°20'07" West 180.88 feet; and 2) West 41.01 feet to the POINT OF BEGINNING; thence continuing along said northerly boundary line the following three (3) courses: West 50.30 feet; 2) North 22°43'32" West 128.14 feet; and 3) along the arc of a curve to the right, having a radius of 182.00 feet, a central angle of 01°28'42", an arc length of 4.70 feet and a chord bearing North 68°00'49" East 4.70 feet; thence South 21°14'50" East 128.08 feet; thence South 89°19'22" East 49.04 feet to the POINT OF BEGINNING.
Parcel Identification Information

<table>
<thead>
<tr>
<th>Project/Tract:</th>
<th>Three Rivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Plumas Lake Holdings, LLC</td>
</tr>
<tr>
<td>Designation:</td>
<td>a California limited liability company</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Gerry Kamilos and Robert Cassano</td>
</tr>
<tr>
<td>Title:</td>
<td>Managing members</td>
</tr>
<tr>
<td>Address:</td>
<td>11249 Gold County Boulevard, Suite 190 Gold River, California 95670</td>
</tr>
<tr>
<td>Phone:</td>
<td>(916) 851-9300</td>
</tr>
<tr>
<td>Fax:</td>
<td>(916) 851-9353</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:gnkamilos@kamilos.com">gnkamilos@kamilos.com</a> <a href="mailto:rcassano@cassanocompanies.com">rcassano@cassanocompanies.com</a></td>
</tr>
</tbody>
</table>

Authorized Signature: PLUMAS LAKE HOLDINGS, LLC a California limited liability company

Robert J. Cassano
Managing Member

Gerry N. Kamilos
Managing Member

Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows

TRACT ONE:

Lots 18, 25, 27 and 30 through 41 inclusive as shown on the Map entitled "Tract Map No. 2004-10, Rio Del Oro Village 6 Final Map" filed in the Office of the County Recorder of Yuba County, California on October 29, 2004 in Book 79 of Maps, at Pages 25 through 28, inclusive.


TRACT TWO:

Lots 1 through 80 inclusive as shown on the Map entitled "Tract Map No. 2004-11, Rio Del Oro Village 8 Final Map" filed in the Office of the County Recorder of Yuba County, California on October 29, 2004 in Book 79 of Maps, at Pages 29 through 34 inclusive.
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 3 through 8, 17 and 18 as said lots are shown on that certain Tract Map 93-560 of "RIVER OAKS" filed in the Office of the Recorder of Yuba County, California in Book 66 of Maps, Page 33.

EXCEPTING THEREFROM Lots 1 through 53, 73 through 107, 120 through 123, 126 through 151 and 153 through 156 as said lots are shown on that certain Map No. 2003-006 of "WOODSIDE VILLAGE UNIT 1" filed in said Recorder's Office in Book 77 of Maps, Page 22.

EXCEPTING THEREFROM Lots 15, 17, 18, 20 through 24 and 27 through 32 as said lots are shown on that certain Map No. 2003-40 of "WOODSIDE VILLAGE 2B" filed in said Recorder's Office in Book 82 of Maps, Page 35.

EXCEPTING THEREFROM Lots 34 through 47, 49 through 53, and 56 as said lots are shown on that certain Map No. 99-585 of "PLUMAS RANCH VILLAGE 5" filed in said Recorder's Office in Book 82 of Maps, Page 12.
Project/Tract: Draper Ranch North
Owner: Meritage Homes of California, Inc.
Designation: a California corporation
Contact Person: Dave Lange
Title: VP / Forward Planning
Address 1800 Sutter Street
Concord, California 94520
Phone: (916) 677-5903
Fax: (916) 677-5962

Authorized MERITAGE HOMES OF CALIFORNIA, INC., a California corporation
Signature:
By: ________________________________
Its: ________________________________

Parcel Identification Information

ALL THAT REAL PROPERTY SITUATE IN THE STATE OF CALIFORNIA, COUNTY OF YUBA, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL NO.1:

ALL THAT PORTION OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 4 EAST, MDB&M, LYING EAST OF THE EAST LINE OF THE RIGHT OF WAY OF THE SACRAMENTO NORTHERN RAILROAD.

EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT AN IRON PIN IN THE SOUTHWEST CORNER OF SECTION 8, TOWNSHIP 14 NORTH, RANGE 4 EAST, MDB&M, THENCE SOUTH 0° 30' WEST, 2655.8 FEET TO AN IRON PIN, THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 88° 22' WEST, 460.8 FEET TO THE EAST LINE OF THE RIGHT OF WAY OF THE SACRAMENTO-NORTHERN RAILROAD; THENCE SOUTH 17° 29' EAST, 1500 FEET ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD TO THE INTERSECTION OF THE COUNTY ROAD; THENCE NORTH 0° 38' EAST 1406.6 FEET UP THE CENTER OF THE COUNTY ROAD TO AN IRON PIN; THENCE SOUTH 88° 22' WEST, 27.0 FEET TO THE POINT OF BEGINNING.

PARCEL NO.2:


EXCEPTING THEREFROM LOTS 1 THROUGH 98 INCLUSIVE AND LOTS A AND B AS SHOWN ON THE MAP ENTITLED "DRAPER RANCH NORTH - PHASE 1", TRACT MAP NO. 2003-26,
DRAFT OF FEBRUARY 5, 2008

FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON SEPTEMBER 12, 2006 IN BOOK 85 OF MAPS, AT PAGES 33 THROUGH 41.

PARCEL NO.3:

LOTS 1 THROUGH 98 INCLUSIVE AS SHOWN ON THE MAP ENTITLED "DRAPER RANCH NORTH - PHASE I", TRACT MAP NO. 2003-26, FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON SEPTEMBER 12, 2006 IN BOOK 85 OF MAPS, AT PAGES 33 THROUGH 41.
<table>
<thead>
<tr>
<th><strong>Project/Tract:</strong></th>
<th>Wheeler Ranch Phase I, Unit 5</th>
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<tbody>
<tr>
<td><strong>Owner:</strong></td>
<td>Western Pacific Housing, Inc.</td>
</tr>
<tr>
<td><strong>Designation:</strong></td>
<td>a Delaware corporation</td>
</tr>
<tr>
<td><strong>Contact Person:</strong></td>
<td>Michael T. Meyer</td>
</tr>
<tr>
<td><strong>Title:</strong></td>
<td>Project Manager</td>
</tr>
<tr>
<td><strong>Address:</strong></td>
<td>11919 Foundation Place, Suite 200</td>
</tr>
<tr>
<td></td>
<td>Gold River, CA 95670</td>
</tr>
<tr>
<td><strong>Phone:</strong></td>
<td>(916) 294-6824</td>
</tr>
<tr>
<td><strong>e-Fax:</strong></td>
<td>(800) 570-3043</td>
</tr>
<tr>
<td><strong>Cell:</strong></td>
<td>(916) 870-8576</td>
</tr>
<tr>
<td><strong>Email:</strong></td>
<td><a href="mailto:mtmeyer@drcorton.com">mtmeyer@drcorton.com</a></td>
</tr>
</tbody>
</table>

**Authorized Signature:**
WESTERN PACIFIC HOUSING, INC.,
a Delaware corporation

By: ____________________________
Its: ____________________________

**Parcel Identification Information**

All that land situated in the State of California, County of Yuba and described as follows:

Lots 1 through 11, 43 through 67 and 103 inclusive as shown on the Map entitled "Tract Map No. 200-30 Wheeler Ranch Phase 1, Unit 5" filed in the Office of the County Recorder of Yuba County, California on February 22, 2005 in Book 82 of Maps, at Pages 1 through 11.
All that real property situated in Yuba County, State of California described as follows:

Unit 2: [Excluding lots sold]

APN NUMBERS: 014-661-001, 014-661-002, 014-661-003, 014-661-004, 014-661-005, 014-661-006, 014-661-007, 014-661-008, 014-661-009, 014-661-010, 014-661-011, 014-661-012, 014-661-013, 014-661-014, 014-661-015, 014-661-016, 014-661-017, 014-663-001, 014-663-002, 014-663-003, 014-663-004, 014-663-005, 014-671-001, 014-671-002, 014-671-003, 014-671-004, 014-671-005, 014-671-006, 014-671-007, 014-671-008, 014-671-009, 014-671-010, 014-671-011, 014-672-001, 014-672-002, 014-672-003, 014-672-004, 014-672-008, 014-672-009, 014-672-010, 014-672-011, 014-672-012, 014-672-013, 014-672-014, 014-672-015, 014-681-015, 014-681-018, 014-681-020, 014-681-021, 014-681-022, 014-681-023, 014-681-024, 014-682-001, 014-682-002, 014-682-003, 014-682-004, 014-682-005, 014-682-006, 014-682-009, 014-682-010, 014-682-011, 014-682-012, 014-682-013, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE 1, UNIT 2, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 1 TO 9, INCLUSIVE, YUBA COUNTY RECORDS.”

Unit 3: [Excluding lots sold]

APN NUMBERS: 014-691-001, 014-691-002, 014-691-004, 014-691-005, 014-691-006, 014-691-007, 014-691-008, 014-691-009, 014-692-001, 014-692-002, 014-692-003, 014-692-004, 014-692-005, 014-693-001, 014-693-002, 014-693-003, 014-693-004, 014-693-005, 014-693-006, 014-693-007, 014-693-008, 014-693-009, 014-693-010, 014-693-011, 014-693-012, 014-693-013, 014-693-014, 014-693-015, 014-693-016, 014-693-017, 014-693-018, 014-693-019, 014-693-020, 014-693-021, 014-693-022, 014-693-023, 014-693-024, 014-693-025, 014-693-026, 014-693-027, 014-694-001, 014-694-002, 014-694-003, 014-694-004, 014-694-005, 014-694-006, 014-694-007, 014-695-004, 014-695-005, 014-695-006, 014-695-007, 014-695-008, Exhibit B
DRAFT OF FEBRUARY 5, 2008

014-695-009, 014-695-010, 014-701-001, 014-701-002, 014-701-003, 014-701-004, 014-701-010, 014-701-011, 014-702-001, 014-702-002, 014-702-005, 014-702-006, 014-702-008, 014-702-009, 014-702-010, 014-702-011, 014-702-012, 014-711-001, 014-711-002, 014-711-003, 014-711-004, 014-712-004, 014-712-005, 014-712-006, 014-712-007, 014-712-008, 014-713-001, 014-713-004, 014-713-005, 014-713-006, 014-713-007, 014-713-008, 014-713-009, 014-713-010, 014-713-011, 014-713-012, 014-713-013, 014-713-014, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE 1, UNIT 3, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 10 TO 18, INCLUSIVE, YUBA COUNTY RECORDS.”

Unit 6: [Excluding lots sold]

APN NUMBERS: 014-721-001, 014-721-002, 014-721-003, 014-721-004, 014-721-005, 014-721-006, 014-721-017, 014-722-001, 014-722-002, 014-722-003, 014-722-004, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE 1, UNIT 6, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 19 TO 25, INCLUSIVE, YUBA COUNTY RECORDS.”

Unit 7 [Excluding lots sold]:

APN NUMBERS: 014-741-001, 014-741-002, 014-741-003, 014-741-004, 014-741-005, 014-741-006, 014-741-007, 014-741-008, 014-741-009, 014-741-010, 014-741-011, 014-742-001, 014-742-002, 014-742-003, 014-742-004, 014-742-005, 014-742-006, 014-742-007, 014-743-001, 014-743-002, 014-743-003, 014-743-004, 014-743-005, 014-743-009, 014-743-010, 014-751-001, 014-751-002, 014-751-003, 014-751-004, 014-751-005, 014-751-006, 014-751-007, 014-751-008, 014-751-009, 014-751-010, 014-752-001, 014-752-002, 014-752-003, 014-752-004, 014-752-005, 014-752-006, 014-752-007, 014-752-011, 014-752-012, 014-752-013, 014-753-001, 014-753-002, 014-753-003, 014-753-004, 014-753-005, 014-753-006, 014-753-007, 014-753-008, 014-753-009, 014-753-010, 014-753-011, 014-753-012, 014-753-013, 014-753-014, 014-753-016, 014-753-017, 014-753-019, 014-753-022, 014-754-001, 014-754-002, 014-754-003, 014-754-004, 014-754-005, 014-754-006, 014-754-007, 014-754-008, 014-754-009, 014-754-010, 014-754-011, 014-754-012, 014-754-013, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE 1, UNIT 7, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 26 TO 33, INCLUSIVE, YUBA COUNTY RECORDS.”
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 5 through 13, 44, 64 through 71, 93 through 102, 149, 178 through 183 inclusive as shown on the Map entitled "Tract Map No. 02-602, Hawes Ranch Estates" filed in the Office of the County Recorder of Yuba County, California on July 8, 2004 in Book 78 of Maps, at Pages 9 through 12 inclusive.

All that real property situated in Yuba County, State of California described as follows:

Lots 529 through 545, 791 through 805, inclusive as shown on the Map entitled "Tract Map No. 2004-57, Plumas Lake Phase 2B-1" filed in the Office of the County Recorder of Yuba County, California on February 9, 2007 in Book 87 of Maps, at Pages 7 through 9 inclusive.

Parcel 3, as said parcel is shown and so designated on Parcel Map No. 2004-09 for the Edwin F. Leak Marital Q-Tip Trust, filed in Book 77 of Maps, at pages 34 and 41 inclusive, Yuba County Records. EXCEPTING THEREFROM all that certain real property contained within the boundaries of Tract Map No. 2004-57 "Plumas Lake Phase 2B-1" filed in Book 87 of Maps, at Pages 7 through 9 inclusive, Yuba County Records.

APN 16-350-10

Exhibit B
All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 99, inclusive as shown on the Map entitled "Tract Map No. 95-570, River Oaks East Village I" filed in the Office of the County Recorder of Yuba County, California on August 2, 2006 in Book 85 of Maps, at Pages 15 through 19 inclusive.

EXCEPTING THEREFROM all oil, gas and other hydrocarbons and minerals now or at any time hereafter situate therein and thereunder, as reserved in deeds recorded January 31, 1974 in Book 568 Yuba County Office Records, at page 687, 691 and 694.
Project/Tract: River Oaks North
Owner: Lennar Renaissance, Inc.
Designation: a California corporation
Contact Person: Bob Shattuck
Address: 1075 Creekside Ridge Drive, Suite 110
Roseville, CA 95678
Phone: (916) 773-7471
Fax: (916) 773-4086
Email: Bob.Shattuck@lennar.com
Authorized MS Rialto River Oaks CA, LLC
Signature: a Delaware limited liability company

By: ____________________________
Its: ____________________________

Parcel Identification Information

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:

PARCEL A:

All that portion of Lot 28 as said Lot is shown and so designated on that certain "Tract Map 93-560 of River Oaks (a portion of Sections 4, 5, 7, 8, 9, 16 and 17, T 13N., R.4E., M.D.B. & M. and a portion of Section 33, T.14N. R.4E., M.D.B. & M.)" filed in the Office of the Recorder, County of Yuba, State of California in Book 66 of Maps, Pages 33 through 42, more particularly described as follows:

Beginning at an angle point on the easterly line of said Lot 28 which point bears the following two (2) courses from the northeast corner of said Lot 28: 1) South 08°50'40" East 404.00 feet, and 2) South 88°42'28" West 20.17 feet; thence from said point of beginning along said Easterly boundary line of said Lot 28 the following two (2) courses: 1) South 08°50'40" East 1,286.96 feet, and 2) South 81°09'20" West 70.00 feet; thence South 81°09'20" West 107.52 feet; thence North 15°28'14" West 16.71 feet; thence North 30°11'21" West 105.87 feet; thence North 43°15'45" West 105.87 feet; thence North 54°59'49" West 106.18 feet, thence North. 68°47'51" West 122.17 feet; thence North 21°12' 09" East 1:25 feet; thence along the arc of a curve to the right having a radius of 25.00 feet said arc being subtended by a chord bearing North 28°26'25" East 6.30 feet to a point of reverse curvature; thence along the arc of a curve to the left having a radius of 38.00 feet, said arc being subtended by a chord bearing North 23°47'51" West 65.47 feet to a point of reverse curvature; thence along the arc of a curve to the right having a radius of 25.00 feet, said arc being subtended by a chord bearing North 76°02'07" West 6.30 feet; thence North 68°47'51" West 175.48 feet; thence along the arc of a curve to the right having a radius of 482.00 feet, said arc being subtended by a chord bearing North 34°25'12" West 544.32 feet;
thence North 00°02'33" West 410.28 feet; thence North 88°42'28" East 809.53 feet to the point of beginning.

PARCEL B:

Lots 27 and 28 as said Lots are shown and so designated on that certain "Tract Map 93-560 of River Oaks (a portion of Sections 4, 5, 7, 8, 9, 16 and 17, T. 13N., R.4E., M.D.B. & M. and a portion of Section 33, T. 14N., R.4E., M.D.B. & M.)" filed in the Office of the Recorder, County of Yuba, State of California in Book 66 of Maps, Pages 33 through 42.

EXCEPTING THEREFROM all that portion of said Lots 27 and 28 lying northerly of the following described line:

Beginning at an angle point on the easterly boundary line of said Lot 28 which point bears South 08°50'40" East 404.00 feet from the northeast corner of said Lot 28; thence from said point of beginning South 88°42'28" West 911.68 feet to a point on the West boundary line of said Lot 27 and being the point of ending.

ALSO EXCEPTING THEREFROM all that portion of said Lot 28 more particularly described as follows:

Beginning at an angle point on the easterly line of said Lot 28 which point bears the following two (2) courses from the northeast corner of said Lot 28: 1) South 08°50'40" East 404.00 feet, and 2) South 88°42'28" West 20.17 feet; thence from said point of beginning along said easterly boundary line of said Lot 28 the following two (2) courses: 1) South 08°50'40" East 1,286.96 feet, and 2) South 81°09'20" West 70.00 feet; thence South 81°09'20" West 107.52 feet; thence North 15°28'14" West 16.71 feet; thence North 30°11'21" West 105.87 feet; thence 43°15'45" West 105.87 feet; thence North 54°59'49" West 106.18 feet; thence North 68°47'51" West 122.17 feet; thence North 21°12'09" East 1.25 feet; thence along the arc of a curve to the right having a radius of 25.00 feet said arc being subtended by a chord bearing North 28°26'25" East 6.30 feet to a point of reverse curvature; thence along the arc of a curve to the left having a radius of 38.00 feet, said arc being subtended by a chord bearing North 23°47'51" West 65.47 feet to a point of reverse curvature; thence along the arc of a curve to the right having a radius of 25.00 feet, said arc being subtended by a chord bearing North 76°02'07" West 6.30 feet; thence North 68°47'51" West 175.48 feet; thence along the arc of a curve to the right having a radius of 482.00 feet, said arc being subtended by a chord bearing North 34°25'12" West 544.32 feet; thence North 00°02'33" West 410.28 feet; thence North 88°42'28" East 809.53 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion of the land conveyed to the State of California in the Grant Deed recorded April 23, 2003 as Instrument No. 200306405 of Official Records.

APN: 022-050-006 (Affects: Parcel A) and 022-050-007 (Affects: Parcel B)
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 104, inclusive as shown on the Map entitled "Rio Del Oro Village 15 Final Map", Tract Map No. 2004-41, filed in the Office of the County Recorder of Yuba County, California on December 22, 2005 in Book 84 of Maps, at Pages 19 through 26 inclusive, as modified by the Certificate of Correction recorded January 10, 2006 as Instrument No. 2006R-000496 of Official Records.

Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 227, excluding lots sold, as shown on the Map entitled "Rio Del Oro Village 14 Final Map", Tract Map No. 2004-19, filed in the Office of the County Recorder of Yuba County, California on August 25, 2004 in Book 78 of Maps, at Pages 36 through 43 inclusive.

DRAFT OF FEBRUARY 5, 2008

EXHIBIT C-1

TIMING ESTIMATES FOR
LEVEE IMPROVEMENT PROGRAM

Exhibit C-1
EXHIBIT C-2

CASH FLOW SUMMARY

[To Be Inserted.]
DRAFT OF FEBRUARY 5, 2008

EXHIBIT D

INITIAL CAPITAL CALL SCHEDULE
The attached TRLIA Participant Landowner Funding Pro Forma (Exhibits E-1 and E-2) assumes no funding is made available for the Levees from any source other than the 13 Original Participants. It is possible that some Deferred Participants may join the Financing Program prior to the completion of the Levees, and that some Private Placement or Conventional Bonds may be sold to outside parties within this time period.

Column 3 lists the Levee Obligations of the individual Participants, based on their acreage holdings on February 21, 2005. The attached Proforma gives credit for any advance payment fees paid pursuant to the 2005 Advanced Funding Agreement and the Second Funding Agreement, as executed on April 19, 2005 and August 29, 2006, respectively.

As 13 of the Participants and 9 of the Deferred Participants have already paid a total of $46,670,850 in advance funding fees (see Column 9), those Projects have been credited for their individual payments, leading to the reduced remaining obligation in Columns 4 and 8.
### Exhibit E-1
TRLIA Participant Landowner Pro Forma Overview

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| Total: Southern Zone Participants |             | $67,531,577 8,080,567 112,189,304 | $12,288,567 8,347,103 214,436,801 | $114,78,748,5 133,837.4 564,380 223,278,166 | $1,044,044 230,023,838 116,226,228 112,226,228 |

[1] Towne paid a total of $2,675,544 in advanced funding. A reimbursement plus interest accrued up until the time the levee impact fees are issued will be reimbursed according to the terms in Exhibit M. [2] Project Acres and Acres Remaining are as of the best information available at the time of printing. In the event errors in the Project Acres and Remaining Acres are discovered, the proforma will be recalculated. [3] Ryland Homes entered into the program during open enrollment of the Second Funding Agreement and subsequently became a Deferred Participant. [4] KB Home's Levee payment was applied as follows: $151,250 for Hawes Ranch and $1,340,253 for Plumas Lake Cobblestone in December 2006, $460,833 for Hawes Ranch and $295,625 for Cobblestone in March 2007. [5] Western Pacific Housing fulfilled their entire obligation pursuant to the Second Funding Agreement.
### Exhibit E-2

**Participant Landowner Funding Pro Forma $30 Million in Forward Capital Calls**

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<th>(B) Prior Advance Funding</th>
<th>(C) Actual Awp-06 Payment</th>
<th>(D) Qual Enrollment Payments</th>
<th>(E) Advance Funding Paid</th>
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<th>(G) Proposed 1st Funding Payment</th>
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**NOTE:** The figures represented do not distinguish between Levee Obligation and Pro-Rata Deferred Obligation.

[1] As of the date this pro forma was drafted, Lakeport and Rio Del Oro have become deferred participants. [2] Payments made prior to Second Funding Agreement. [3] In escrow, per May 2007 Capital Call.

---

By March 31, 2009, $17.7 million of the $25 million contributed by 53 landowners had been paid out, according to the State Water Resources Control Board.

By the end of 2009, the cost of the project had escalated to approximately $25.5 million, with $19.2 million of that amount already paid out. By the end of 2010, the total cost of the project had reached $31 million, with $22 million of that amount paid out.
EXHIBIT F

[INTENTIONALLY OMITTED.]
EXHIBIT G

LIST OF CERTAIN RISKS ASSOCIATED
WITH PURCHASE OF BUILDER BONDS

Risk Factors – In General:

Purchasers of Builder Bonds may consider several risk factors associated with land
secured debt issued for the funding of programs such as the Levee Improvement Program. In
addition to the traditional considerations associated with debt arising from real estate
development (i.e., adequate water, sewer, streets, schools, and other infrastructure requirements)
four specific risks that would be subject to evaluation by purchasers of the Builder Bonds:

Design Risk

Typically, lenders (including holders of bonds secured by liens against real property)
require that all design elements of a project be completed. They want to know that the design is
of a standard and thoroughness acceptable to regulatory agencies. It is through this requirement
(among others) that the underlying collateral value of the property securing the debt is
influenced. Design work for the final phase of the required levee improvements may be a year
away, or more.

Construction & Completion Risk

If a project's construction has not yet been completed, lenders want assurances that it will
be completed, in order to insure sufficiency of the value of the properties that are securing the
bonds, or to insure greater probability that development impact fees will be realized.
Construction risk may be mitigated by investment grade sureties, guaranteed maximum
contracts, efficacy insurance, etc.

Another factor related to project completion is the availability of sufficient funding to
build 100% of the required levee improvements, as a levee system's efficacy only occurs once all
of the necessary levees have been constructed.

Certification Risk

Investors will require that the proposed levees, if designed and constructed to established
FEMA standards, will be certified by FEMA, the Army Corps of Engineers or a qualified design
engineer as contemplated in the engineering contracts being undertaken by TRLIA. Due to the
current status of levee design and construction, and the uncertainty of future actions by
regulatory agencies, there is some uncertainty regarding this certification risk. While this risk
can be mitigated once design is completed and the Army Corps of Engineers accepts the design
as meeting FEMA standards, it is unclear as to how much uncertainty may remain at that point
since certification may be a subsequent event to the sale of some of the debt financing such
improvements.
Re-mapping Risk

FEMA can remap the project area and place it in the 100-year flood plain, essentially eliminating the ability to build new improvements on some or all of the property. This is a risk that could be present, at least temporarily, even if the other risks discussed above are mitigated or eliminated.

This risk can be mitigated by the combined efforts of the Landowners, TRLIA, and the State of California to achieve an A99 flood mapping designation, which would allow construction to continue while the levee improvements are being completed. The potential and timing of an A99 mapping designation is currently unclear.

Additional factors of risk are identified in Exhibit P, paragraph 5.

Conclusion

TRLIA and the Participants both understand that the four specific risks cited above will not be eliminated prior to the issuance of debt associated with the property under development.
I. Excess Levee Payment

The Excess Levee Payment equals the difference between the average Levee Obligation per acre paid by a Participant through its Capital Calls, and the Final Par Amount determined by TRLIA through the Final Fair Share Funding Study. For example, under the terms of the TRLIA Financing Proforma included in Exhibit E, Matthews Homes is scheduled to pay $12,849,776 in Levee Obligations through advance funding, funding provided as per the First Amendment and its five additional Capital Calls, or $73,934.27 per acre. Let's assume that when TRLIA determines its Final Par Amount, the inclusion of thousands of additional residential dwelling units into the Final Fair Share Funding Study generates a Final Par Amount of $55,000 per acre. The Excess Levee Payment would equal $73,934.27 minus $55,000, or $18,934.27 per acre.

II. Excess Builder Bonds

Meritage Homes, an Original Participant, currently owns a 105.8 acre project named Draper Ranch North. Based on the Special Taxes that Meritage elected to levy on the future homeowners, Meritage will be able to support a conversion bond issuance of $8,385,000 in March 2009. This issuance will yield approximately $7,250,372 in proceeds to retire builder bonds that Meritage has been issued in previous capital calls.

Although, it is not expected at this time, there is a possibility that a reduction in sales prices, modified unit counts, increased issuance costs, increased interest rates, or a delayed conversion bond issuance date will reduce the amount of expected special tax revenue to support the conversion bond issuance.

Assume that after making all of the required capital calls, Meritage is holding the expected $7,250,372 amount in builder bonds in March 2009, but that a conversion issuance is not possible for another six months. During those six months, the builder bonds will accrue $290,015 in interest for a total of $7,540,387 in outstanding builder bonds as of September 2009. If all other factors are held equal for the September 2009 bond issuance, there will only be $7,250,372 available to convert the builder bonds to current interest bonds. Because there is not enough bonding capacity, the remaining $290,015 in builder bonds will be destroyed and Meritage will not be allowed to receive a reimbursement for that amount from conversion proceeds.
## Exhibit I

### Building Permit Authorizations

<table>
<thead>
<tr>
<th>Southern Zone Builders</th>
<th>Assumed Project</th>
<th>Remaining Units Aug-08</th>
<th>Accrued BP's for Aug-08 Call</th>
<th>Actual Aug-08 BP's</th>
<th>Proposed Dec-07 BP’s</th>
<th>Add’l BP’s</th>
<th>Proposed May-08 BP’s</th>
<th>Proposed Jun-08 BP’s</th>
<th>Proposed Aug-08 BP’s</th>
<th>Proposed Sep-08 BP’s</th>
<th>Proposed Oct-08 BP’s</th>
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</thead>
<tbody>
<tr>
<td>Cassano / Kamilos</td>
<td>Rio Del Oro 6 &amp; 8</td>
<td>87</td>
<td>39</td>
<td>5</td>
<td>0</td>
<td>13</td>
<td>4</td>
<td>12</td>
<td>6</td>
<td>5</td>
<td>3</td>
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<td>Cresleigh</td>
<td>Creekside Plumas Ranch</td>
<td>130</td>
<td>30</td>
<td>13</td>
<td>0</td>
<td>25</td>
<td>6</td>
<td>25</td>
<td>12</td>
<td>11</td>
<td>8</td>
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<td>Cresleigh</td>
<td>Woodside</td>
<td>448</td>
<td>111</td>
<td>45</td>
<td>0</td>
<td>85</td>
<td>25</td>
<td>88</td>
<td>89</td>
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<td>Western Pacific Housing</td>
<td>Wheeler Ranch (Units 4 &amp; 5)</td>
<td>51</td>
<td>53</td>
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<td>38</td>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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<td>K Hovnanian (Forecast)</td>
<td>Wheeler Ranch (Units 2, 3, 6 &amp; 7)</td>
<td>277</td>
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<td>14</td>
<td>38</td>
<td>22</td>
<td>19</td>
<td>10</td>
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<td>KB Home</td>
<td>Hawes Ranch</td>
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<td>28</td>
<td>15</td>
<td>38</td>
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<td>NA</td>
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<td>KB Home</td>
<td>Plumas Lake Cobblestone</td>
<td>555</td>
<td>55</td>
<td>101</td>
<td>0</td>
<td>105</td>
<td>29</td>
<td>155</td>
<td>47</td>
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<td>20</td>
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<td>Lakemont Homes (Arboga)</td>
<td>Feather Glen Phase 1</td>
<td>210</td>
<td>70</td>
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<td>Lennar Renaissance</td>
<td>River Oaks East</td>
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<td>94</td>
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<td>0</td>
<td>41</td>
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<td>Lennar US Homes</td>
<td>Rio Del Oro (Village 15)</td>
<td>60</td>
<td>60</td>
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<td>0</td>
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<td>Matthews Homes</td>
<td>Riverside Meadows</td>
<td>541</td>
<td>73</td>
<td>74</td>
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<td>106</td>
<td>35</td>
<td>122</td>
<td>56</td>
<td>51</td>
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<td>Meritage Homes - Draper North</td>
<td>Draper Ranch North</td>
<td>426</td>
<td>118</td>
<td>64</td>
<td>0</td>
<td>97</td>
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<td>51</td>
<td>33</td>
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<td>Rio Del Oro</td>
<td>Rio Del Oro (Danna 70)</td>
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<td>NA</td>
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<td>NA</td>
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<tr>
<td>Rio Del Oro Farms #2</td>
<td>Rio Del Oro (Village 15)</td>
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<td>8</td>
<td>24</td>
<td>0</td>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>Ryland Homes Townes</td>
<td>Thoroughbred Acres</td>
<td>445</td>
<td>87</td>
<td>44</td>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>Rio Del Oro</td>
<td>Rio Del Oro (Village 14)</td>
<td>80</td>
<td>61</td>
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<td>0</td>
<td>7</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>2</td>
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<tr>
<td>Subtotal - Southern Zone Participants</td>
<td></td>
<td>3,150</td>
<td>810</td>
<td>363</td>
<td>53</td>
<td>590</td>
<td>158</td>
<td>562</td>
<td>254</td>
<td>228</td>
<td>112</td>
</tr>
</tbody>
</table>

* The number of building permits that will be authorized at the time of the capital call.

[1] Percentage of revised obligation that the county has received after the complete payment of each capital call.

---

Exhibit I
EXHIBIT J

BUILDING PERMIT AUTHORIZATIONS -- EXAMPLE

The following is an example of how the building permit authorization and credits for Capital Calls will work:

As an example, Cassano Kamilos, as listed on the attached EXHIBIT E, might pay its payments as follows:

a. Cassano Kamilos shall be required to pay $1,073,014 including funding provided since August 2006 and five additional Capital Calls (see column 19). With 48 dwelling units remaining (87 less 39 building permits authorized for prior funding) as of August 2006, the payment per unit would be $1,073,014 divided by 48, or $22,354.46 per unit. With a July 2008 Capital Call of $265,146 (see column 14), Cassano Kamilos will receive authorization to pull building permits for 12 homes without paying any additional payments. Under the unlikely circumstance that they pulled 17 building permits prior to the next scheduled Capital Call in August 2008, Cassano Kamilos would have to pay $22,354.46 for each of the 5 excess residential building permits as they pulled those building permits, or $111,772 in additional payments. The $111,772 would be credited against Cassano Kamilos’s August 2008 Capital Call, so instead of paying $134,371 in August 2008 (see column 15), Cassano Kamilos would only pay $22,599.

b. Cassano Kamilos would be credited for an additional 6 building permits as a result of the August 2008 Capital Call payment of $134,371 ($134,371 divided by $22,354), and would not need to make any more payments until the September 2008 Capital Call unless it needed to pull more than 6 building permits prior to September 2008.

c. This same crediting system continues on through the last two Capital Calls.
NOTICE OF TRANSFER OF BUILDING PERMIT AUTHORIZATION
AND ACCEPTANCE OF SUCH TRANSFER

This Notice of Transfer of Building Permit Authorization and Acceptance of Such Transfer ("Notice") is filed on behalf of _______________________, the transferring owner of real property, and _______________________, the transferring option holder (if applicable) (collectively, "Transferor"), and _______________________, the receiving owner of real property, and _______________________, the receiving option holder (if applicable) (collectively, "Transferee").

1. Pursuant to Section 6.B. of that certain Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements (the "Agreement"), which Agreement was recorded in the official records of Yuba County on ______________ as Document No. ______________, Transferor and Transferee desire to effectuate a transfer of building permit authorizations under Section 6.B. of the Agreement.

2. Under the Agreement, Transferor holds an authorization of ______ building permits to be used for the ______________ Project, a description of which is hereby attached as Exhibit 1.

3. To date, Transferor has been issued _______________________. Of the remaining building permit authorizations, Transferor now hereby transfers to Transferee an authorization for ______________________ to be used at Transferee's ______________ Project, a description of which is hereby attached as Exhibit 2. Pursuant to this transfer, Transferor acknowledges that it has given up all rights and claims to the authorization of building permits herein transferred.

4. Transferee hereby accepts the transfer of an authorization for ______ building permits. In so doing, Transferee agrees to satisfy any and all obligations for receiving such building permit authorizations as may exist under the Agreement.

5. This Notice shall not be recorded until received and executed by the Director of the Department of Community Development as follows:

Exhibit K
THE DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT HAS RECEIVED PROPER NOTICE OF THIS TRANSFER CONSISTENT WITH SECTION 6.B. OF THE AGREEMENT.

COUNTY OF YUBA

By: ____________________________
    Director, Department of Community Development

Date: ____________________________

Signature Pages to Follow

Exhibit K
2
IN WITNESS WHEREOF, the Transferor and Transferee agree to the provisions set forth in this Notice as evidenced by the signature of their authorized representatives below:

TRANSFEROR (transferring real property owner)

By: __________________________
Name: __________________________
Title: __________________________
Date: __________________________

ACKNOWLEDGMENT

State of California

County of _______________________

On ____________ before me, ________________________
(here insert name and title of the officer)

personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________

(Seal)

Exhibit K
TRANSFEROR (transferring option holder, if applicable)

By: ________________________________

Name: ______________________________

Title: ______________________________

Date: ______________________________

ACKNOWLEDGMENT

State of California

County of _________________________

On _______________ before me, ________________________________, (here insert name and title of the officer)

personally appeared ________________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ________________________________

(Seal)
TRANSFEREE (receiving real property owner)

____________________________

By: ____________________________

Name: __________________________

Title: __________________________

Date: __________________________

ACKNOWLEDGMENT

State of California

County of ________________

On _________________ before me, ____________________________,

(here insert name and title of the officer)

personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature __________________________

(Seal)
DRAFT OF FEBRUARY 5, 2008

TRANSFEREE (receiving option holder, if applicable)

By: ____________________________

Name: __________________________

Title: ____________________________

Date: ____________________________

ACKNOWLEDGMENT

State of California

County of ________________

On ________________ before me, ____________________________, (here insert name and title of the officer)

personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________

(Seal)

Exhibit K
MEMORANDUM OF FIRST AMENDMENT TO SECOND AGREEMENT FOR ADVANCED FUNDING AND REIMBURSEMENT OF COSTS FOR LEVEE IMPROVEMENTS

This is a Memorandum ("Memorandum") of that certain First Amendment to the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements ("First Amendment"), dated for convenience as of November 29, 2007, by and among the County of Yuba, a political subdivision of the State of California ("County"), Reclamation District 784, a Reclamation District formed under Water Code sections 50000 et seq. ("RD 784"), the Three Rivers Levee Improvement Authority, a joint powers authority created by the County and RD 784 ("TRLIA"), and the Participants (as that term is defined below).

"Participants", are those persons or entities listed on Exhibit B, attached hereto and made a part hereof, all of which have executed the First Amendment on or before the Effective Date of the First Amendment.

1. Participants intend to develop homes on certain land located within the area generally known as the Plumas Lake Specific Plan and the North Arboga Study Area (the "Affected Area") situated in the unincorporated area of Yuba County as shown on Exhibit A and as identified in the legal descriptions set forth in Exhibit B, which are both attached hereto and by reference made a part hereof.

2. County, RD 784, TRLIA and Participants entered into the First Amendment to formalize certain conditions proposed to and accepted by the State Reclamation Board allowing for the lifting of the building permit limitation for 2006, as set forth in the Second Implementation Agreement (as defined in the Agreement) and to implement a Financing Program for the improvement of the levees protecting the Affected Area, including portions of RD 784, including Phase 2 Work, Phase 3 Work, Phase 4 Work and all associated technical,
legal work and development of funding options, all as necessary for continued development within the Affected Area (collectively, the "Levee Improvement Program").

5. This Memorandum is made upon all the terms and conditions in the First Amendment relating to the Affected Area and all of said terms and conditions are incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, the Parties agree to the provisions set forth herein as evidenced by the signature of their authorized representatives below:
COUNTY OF YUBA

by: ____________________________
Chair, Board of Supervisors

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

by: ____________________________
Chair

RECLAMATION DISTRICT 784

by: ____________________________
President

Carl Lindmark, General Counsel
DRAFT OF FEBRUARY 5, 2008

CRESLEIGH HOMES CORPORATION, a California corporation

Date: ________________
By: ____________________________
   Thomas Wong
   Vice President & General Manager

KB HOME SACRAMENTO, INC., a California corporation

Date: ________________
By: ____________________________
   John A. Barnhart
   Senior Vice President, Land Development

K. HOVNANIAN FORECAST HOMES, INC., a California corporation

Date: ________________
By: ____________________________
   Richard J. Balestreri
   Senior Vice President

LANDSOURCE HOLDING COMPANY, LLC, a California limited liability company

Date: ________________
By: ____________________________
   Name: _________________________
   Its: ____________________________

Exhibit L
4
LENNAR RENAISSANCE, INC., a California corporation

Date: ______________________

By: ________________________

Larry Gualco
Vice President

MS RIALTO RIVER OAKS CA, LLC, a California limited liability company

Date: ______________________

By: ________________________

Name: ________________________
Its: ________________________

MERITAGE HOMES OF CALIFORNIA, INC., a California corporation

Date: ______________________

By: ________________________

Name: ________________________
Its: ________________________

PLUMAS LAKE HOLDINGS, LLC, a California limited liability company

Date: ______________________

By: ________________________

Robert J. Cassano
Managing Member

Exhibit L
5
PLUMAS LAKE RIVERSIDE MEADOWS, a California limited partnership

Date: ____________________________
By: ______________________________
Name: ____________________________
Its: ______________________________

TOWN DEVELOPMENT OF PLUMAS LAKE, a California limited liability company

Date: ____________________________
By: ______________________________
Jeffrey M. Pemstein
Regional Manager

WESTERN PACIFIC HOUSING, INC., a Delaware corporation

Date: ____________________________
By: ______________________________
Name: ____________________________
Its: ______________________________
DRAFT OF FEBRUARY 5, 2008

State of California

County of __________________________

On ___________________ before me, _____________________________.

(personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________

(Seal)

* * * * *

ACKNOWLEDGMENT

State of California

County of __________________________

On ___________________ before me, _____________________________.

(personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________

(Seal)

Exhibit L

7
Note:
Residential structures in the North Arboga Study Area with finished floor elevations at or above 62.1' are deemed to not be within the Affected Area.
DRAFT OF FEBRUARY 5, 2008

EXHIBIT B

LIST OF ORIGINAL PARTICIPANTS

Project/Tract: Riverside Meadows
Owner: Mathews Homes, Inc.
Designation: a California Corporation
Contact Person: Gary Marcebo
Title: Chief Financial Officer, Matthews Homes
Address: 3202 West March Lane, Suite A
Stockton, California 95219
Phone: (209) 951-5444
Cell Phone: (209) 992-0001

Authorized Signature: PLUMAS LAKE RIVERSIDE MEADOWS, LP
a California limited partnership

Patrick Matthews
President

Parcel Identification Information

Riverside Meadows Village I

All that real property situated in Yuba County, State of California described as follows:


Riverside Meadows Village 2

All that real property situated in Yuba County, State of California described as follows:


Riverside Meadows Village 3 (unrecorded)

All that real property situated in Yuba County, State of California described as follows:

Lot 3 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.

Riverside Meadows Village 4 (unrecorded)

Exhibit B to Exhibit L
All that real property situated in Yuba County, State of California described as follows:

Lot 4 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.

EXCEPTING THEREFROM all that portion of Lot 4 that lies within that map entitled "Tract map No. 2004-20 of Riverside Meadows Village 2".

Riverside Meadows Village 5 (unrecorded)

All that real property situated in Yuba County, State of California described as follows:

Lot 5 as shown on the Map entitled "Tract Map No. 2003-07 of Riverside Meadows Large Lot Map", filed in the Office of the County Recorder of Yuba County, California on March 24, 2004 in Book 77 of Maps, at Pages 44 through 49.

TOGETHER WITH, all that portion of Lot 6 of said Map, described as follows:

COMMENCING at the most northerly corner of said Lot 5; thence from said POINT OF COMMENCEMENT along the northerly boundary line of said Lot 5, the following four (4) courses: 1) South 57°54'37"East 59.03 feet; 2) South 47° 34' 18" East 142.27 feet; 3) South 32°10'40" West 49.02 feet; and 5) South 56°12'09" East 123.59 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, continuing along the northerly boundary line of said Lot 5 the following two (2) courses: 1) along the arc of a curve to the left, with a radius of 620.00 feet, a central angle of 02°19'30", an arc length of 25.26 feet, and a chord bearing South 32°38'06" West 25.16 feet; and 2) South 58°31'39" East 38.00 feet; thence along the arc of a curve to the right, with a radius of 582.00 feet, a central angle of 02°19'30", an arc length of 23.62 feet, and a chord bearing North 32°38'06" East 23.61 feet; thence North 56°12'09" West 38.00 feet to the POINT OF BEGINNING.

Riverside Meadows Village 6 (unrecorded)

Lot 6 as shown on that map entitled "Tract Map No. 2003-0007, Riverside Meadows Large Lot Map", filed in Book 77 of Maps, Pages 44 through 49, situate in the County of Yuba, State of California.

EXCEPTING THEREFROM, all that portion of said Lot 6, described as follows:

COMMENCING at the most northerly corner of said Lot 5; thence from said POINT OF COMMENCEMENT along the northerly boundary line of said Lot 5, the following four (4) courses: 1) South 57°54'37"East 59.03 feet; 2) South 47° 34' 18" East 142.27 feet; 3) South 32°10'40" West 49.02 feet; and 5) South 56°12'09" East 123.59 feet to the POINT OF BEGINNING; thence from said POINT OF BEGINNING, continuing along the northerly boundary line of said Lot 5 the following two (2) courses: 1) along the arc of a curve to the left, with a radius of 620.00 feet, a central angle of 02°19'30", an arc length of 25.26 feet, and a chord
bearing South 32°38'06" West 25.16 feet; and 2) South 58°31'39" East 38.00 feet; thence along
the arc of a curve to the right, with a radius of 582.00 feet, a central angle of 02°19'30", an arc
length of 23.62 feet, and a chord bearing North 32°38'06" East 23.61 feet; thence North
56°12'09" West 38.00 feet to the POINT OF BEGINNING.

TOGETHER WITH, all that portion of Lot 7 of said Map, described as follows:

COMMENCING at the corner common to Lots 6, 7, and 8 as shown on said Map; thence from
said POINT OF COMMENCEMENT, along the northerly boundary line of said Lot 6, the
following two (2) courses: South 76°20'07" West 180.88 feet; and 2) West 41.01 feet to the
POINT OF BEGINNING; thence continuing along said northerly boundary line the following
three (3) courses: West 50.30 feet; 2) North 22°43'32" West 128.14 feet; and 3) along the arc of
a curve to the right, having a radius of 182.00 feet, a central angle of 01°28'42", an arc length of
4.70 feet and a chord bearing North 68°00'49" East 4.70 feet; thence South 21°14'50" East
128.08 feet; thence South 89°19'22" East 49.04 feet to the POINT OF BEGINNING.

Riverside Meadows Village 7 (unrecorded)

Lot 7 as shown on that map entitled "Tract Map No. 2003-0007, Riverside Meadows Large Lot
Map", filed in Book 77 of Maps, Pages 44 through 49, situate in the County of Yuba, State of
California.

EXCEPTING THEREFROM, all that portion of Lot 7, described as follows:

COMMENCING at the corner common to Lots 6, 7, and 8 as shown on said Map; thence from
said POINT OF COMMENCEMENT, along the northerly boundary line of said Lot 6, the
following two (2) courses: South 76°20'07" West 180.88 feet; and 2) West 41.01 feet to the
POINT OF BEGINNING; thence continuing along said northerly boundary line the following
three (3) courses: West 50.30 feet; 2) North 22°43'32" West 128.14 feet; and 3) along the arc of
a curve to the right, having a radius of 182.00 feet, a central angle of 01°28'42", an arc length of
4.70 feet and a chord bearing North 68°00'49" East 4.70 feet; thence South 21°14'50" East
128.08 feet; thence South 89°19'22" East 49.04 feet to the POINT OF BEGINNING.
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows

TRACT ONE:

Lots 18, 25, 27 and 30 through 41 inclusive as shown on the Map entitled "Tract Map No. 2004-10, Rio Del Oro Village 6 Final Map" filed in the Office of the County Recorder of Yuba County, California on October 29, 2004 in Book 79 of Maps, at Pages 25 through 28, inclusive.


TRACT TWO:

Lots 1 through 80 inclusive as shown on the Map entitled "Tract Map No. 2004-11, Rio Del Oro Village 8 Final Map" filed in the Office of the County Recorder of Yuba County, California on October 29, 2004 in Book 79 of Maps, at Pages 29 through 34 inclusive.


Exhibit B to Exhibit L
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 3 through 8, 17 and 18 as said lots are shown on that certain Tract Map 93-560 of "RIVER OAKS" filed in the Office of the Recorder of Yuba County, California in Book 66 of Maps, Page 33.

EXCEPTING THEREFROM Lots 1 through 53, 73 through 107, 120 through 123, 126 through 151 and 153 through 156 as said lots are shown on that certain Map No. 2003-006 of "WOODSIDE VILLAGE UNIT 1" filed in said Recorder's Office in Book 77 of Maps, Page 22.

EXCEPTING THEREFROM Lots 15, 17, 18, 20 through 24 and 27 through 32 as said lots are shown on that certain Map No. 2003-40 of "WOODSIDE VILLAGE 2B" filed in said Recorder's Office in Book 82 of Maps, Page 35.

EXCEPTING THEREFROM Lots 34 through 47, 49 through 53, and 56 as said lots are shown on that certain Map No. 99-585 of "PLUMAS RANCH VILLAGE 5" filed in said Recorder's Office in Book 82 of Maps, Page 12.
Parcel Identification Information

ALL THAT REAL PROPERTY SITUATE IN THE STATE OF CALIFORNIA, COUNTY OF YUBA, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL NO.1:

ALL THAT PORTION OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 4 EAST, MDB&M, LYING EAST OF THE EAST LINE OF THE RIGHT OF WAY OF THE SACRAMENTO NORTHERN RAILROAD.

EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT AN IRON PIN IN THE SOUTHWEST CORNER OF SECTION 8, TOWNSHIP 14 NORTH, RANGE 4 EAST, MDB&M, THENCE SOUTH 0° 30' WEST, 2655.8 FEET TO AN IRON PIN, THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 88° 22' WEST, 460.8 FEET TO THE EAST LINE OF THE RIGHT OF WAY OF THE SACRAMENTO NORTHERN RAILROAD; THENCE SOUTH 17° 29' EAST, 1500 FEET ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD TO THE INTERSECTION OF THE COUNTY ROAD; THENCE NORTH 0° 38' EAST 1406.6 FEET UP THE CENTER OF THE COUNTY ROAD TO AN IRON PIN; THENCE SOUTH 88° 22' WEST, 27.0 FEET TO THE POINT OF BEGINNING.

PARCEL NO.2:


EXCEPTING THEREFROM LOTS 1 THROUGH 98 INCLUSIVE AND LOTS A AND B AS SHOWN ON THE MAP ENTITLED "DRAPER RANCH NORTH - PHASE I", TRACT MAP NO. 2003-26, Exhibit B to Exhibit L
FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON SEPTEMBER 12, 2006 IN BOOK 85 OF MAPS, AT PAGES 33 THROUGH 41.

PARCEL NO.3:

LOTS 1 THROUGH 98 INCLUSIVE AS SHOWN ON THE MAP ENTITLED "DRAPER RANCH NORTH - PHASE I", TRACT MAP NO. 2003-26, FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON SEPTEMBER 12, 2006 IN BOOK 85 OF MAPS, AT PAGES 33 THROUGH 41.
Parcel Identification Information

All that land situated in the State of California, County of Yuba and described as follows:

Lots 1 through 11, 43 through 67 and 103 inclusive as shown on the Map entitled "Tract Map No. 200-30 Wheeler Ranch Phase 1, Unit 5" filed in the Office of the County Recorder of Yuba County, California on February 22, 2005 in Book 82 of Maps, at Pages 1 through 11.
DRAFT OF FEBRUARY 5, 2008

Project/Tract: Wheeler Ranch Phase Ia
Owner: K. Hovnanian Forecast Homes, Inc.
Designation: a California corporation
Contact Person: Frances Knight
Title: Vice President Land Planning
Address: 1375 Exposition Blvd, Ste 300
Sacramento, California 95815
Phone: (916) 920-0200
Fax: (916) 920-0379
Email: fknight@khov.com

Authorized K. HOVNNANIAN FORECAST HOMES, INC., a California corporation
Signature: Richard J. Balestreri
Senior Vice President

Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Unit 2: [Excluding lots sold]

APN NUMBERS: 014-661-001, 014-661-002, 014-661-003, 014-661-004, 014-661-005, 014-661-006, 014-661-007, 014-661-008, 014-661-009, 014-661-010, 014-661-011, 014-661-012, 014-661-013, 014-661-014, 014-661-015, 014-661-016, 014-661-017, 014-663-001, 014-663-002, 014-663-003, 014-663-004, 014-663-005, 014-671-001, 014-671-002, 014-671-003, 014-671-004, 014-671-005, 014-671-006, 014-671-007, 014-671-008, 014-671-009, 014-671-010, 014-671-011, 014-672-001, 014-672-002, 014-672-003, 014-672-004, 014-672-008, 014-672-009, 014-672-010, 014-672-011, 014-672-012, 014-672-013, 014-672-014, 014-672-015, 014-681-015, 014-681-018, 014-681-020, 014-681-021, 014-681-022, 014-681-023, 014-681-024, 014-682-001, 014-682-002, 014-682-003, 014-682-004, 014-682-005, 014-682-006, 014-682-009, 014-682-010, 014-682-011, 014-682-012, 014-682-013, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED "TRACT MAP NO. 2004-33 WHEELER RANCH PHASE 1, UNIT 2, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 1 TO 9, INCLUSIVE, YUBA COUNTY RECORDS."

Unit 3: [Excluding lots sold]

APN NUMBERS: 014-691-001, 014-691-002, 014-691-004, 014-691-005, 014-691-006, 014-691-007, 014-691-008, 014-691-009, 014-692-001, 014-692-002, 014-692-003, 014-692-004, 014-692-005, 014-692-006, 014-692-007, 014-692-008, 014-692-009, 014-692-010, 014-692-011, 014-692-012, 014-692-013, 014-692-014, 014-692-015, 014-692-016, 014-692-017, 014-692-018, 014-692-019, 014-692-020, 014-692-021, 014-692-022, 014-692-023, 014-692-024, 014-692-025, 014-692-026, 014-694-001, 014-694-002, 014-694-003, 014-694-004, 014-694-005, 014-694-006, 014-694-007, 014-694-008, 014-694-009, 014-694-010, 014-694-011, 014-694-012, 014-694-013, Exhibit B to Exhibit L
014-695-009, 014-695-010, 014-701-001, 014-701-002, 014-701-003, 014-701-004, 014-701-010, 014-701-011, 014-702-001, 014-702-002, 014-702-005, 014-702-006, 014-702-008, 014-702-009, 014-702-010, 014-702-011, 014-711-001, 014-711-002, 014-711-003, 014-711-004, 014-712-004, 014-712-005, 014-712-006, 014-712-007, 014-712-008, 014-713-001, 014-713-004, 014-713-005, 014-713-006, 014-713-007, 014-713-008, 014-713-009, 014-713-010, 014-713-011, 014-713-012, 014-713-013, 014-713-014, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE I, UNIT 3, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 10 TO 18, INCLUSIVE, YUBA COUNTY RECORDS.”

Unit 6: [Excluding lots sold]

APN NUMBERS: 014-721-001, 014-721-002, 014-721-003, 014-721-004, 014-721-005, 014-721-006, 014-721-017, 014-722-001, 014-722-002, 014-722-003, 014-722-004, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE I, UNIT 6, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 19 TO 25, INCLUSIVE, YUBA COUNTY RECORDS.”

Unit 7 [Excluding lots sold]:

APN NUMBERS: 014-741-001, 014-741-002, 014-741-003, 014-741-004, 014-741-005, 014-741-006, 014-741-007, 014-741-008, 014-741-009, 014-741-010, 014-741-011, 014-742-001, 014-742-002, 014-742-003, 014-742-004, 014-742-005, 014-742-006, 014-742-007, 014-743-001, 014-743-002, 014-743-003, 014-743-004, 014-743-005, 014-743-006, 014-743-009, 014-743-010, 014-751-001, 014-751-002, 014-751-003, 014-751-004, 014-751-005, 014-751-006, 014-751-007, 014-751-008, 014-751-009, 014-751-010, 014-752-001, 014-752-002, 014-752-003, 014-752-004, 014-752-005, 014-752-006, 014-752-007, 014-752-011, 014-752-012, 014-752-013, 014-753-001, 014-753-002, 014-753-003, 014-753-004, 014-753-005, 014-753-006, 014-753-007, 014-753-008, 014-753-009, 014-753-010, 014-753-011, 014-753-012, 014-753-013, 014-753-014, 014-753-016, 014-753-017, 014-753-019, 014-753-022, 014-754-001, 014-754-002, 014-754-003, 014-754-004, 014-754-005, 014-754-006, 014-754-007, 014-754-008, 014-754-009, 014-754-010, 014-754-011, 014-754-012, 014-754-013, INCLUSIVE, AS SHOWN ON THAT MAP ENTITLED “TRACT MAP NO. 2004-33 WHEELER RANCH PHASE I, UNIT 7, FILED FOR RECORD ON FEBRUARY 2, 2005 IN BOOK 81 PAGES 26 TO 33, INCLUSIVE, YUBA COUNTY RECORDS.”

Exhibit B to Exhibit L
**Parcel Identification Information**

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 5 through 13, 44, 64 through 71, 93 through 102, 149, 178 through 183 inclusive as shown on the Map entitled "Tract Map No. 02-602, Hawes Ranch Estates" filed in the Office of the County Recorder of Yuba County, California on July 8, 2004 in Book 78 of Maps, at Pages 9 through 12 inclusive.

All that real property situated in Yuba County, State of California described as follows:

Lots 529 through 545, 791 through 805, inclusive as shown on the Map entitled "Tract Map No. 2004-57, Plumas Lake Phase 2B-1" filed in the Office of the County Recorder of Yuba County, California on February 9, 2007 in Book 87 of Maps, at Pages 7 through 9 inclusive.

Parcel 3, as said parcel is shown and so designated on Parcel Map No. 2004-09 for the Edwin F. Leak Marital Q-Tip Trust, filed in Book 77 of Maps, at pages 34 and 41 inclusive, Yuba County Records. EXCEPTING THEREFROM all that certain real property contained within the boundaries of Tract Map No. 2004-57 "Plumas Lake Phase 2B-1 filed in Book 87 of Maps, at Pages 7 through 9 inclusive, Yuba County Records.

APN 16-350-10
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 99, inclusive as shown on the Map entitled "Tract Map No. 95-570, River Oaks East Village 1" filed in the Office of the County Recorder of Yuba County, California on August 2, 2006 in Book 85 of Maps, at Pages 15 through 19 inclusive.

EXCEPTING THEREFROM all oil, gas and other hydrocarbons and minerals now or at any time hereafter situate therein and thereunder, as reserved in deeds recorded January 31, 1974 in Book 568 Yuba County Office Records, at page 687, 691 and 694.
DRAFT OF FEBRUARY 5, 2008

Project/Tract: River Oaks North
Owner: Lennar Renaissance, Inc.
Designation: a California corporation
Contact Person: Bob Shattuck
Address: 1075 Creekside Ridge Drive, Suite 110
          Roseville, CA 95678
Phone: (916) 773-7471
Fax: (916) 773-4086
Email: Bob.Shattuck@lennar.com
Authorized 
Signature: MS Rialto River Oaks CA, LLC
           a Delaware limited liability company
By: ____________________________
    ____________________________
Its: ____________________________

Parcel Identification Information

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:

PARCEL A:

All that portion of Lot 28 as said Lot is shown and so designated on that certain "Tract Map 93-560 of River Oaks (a portion of Sections 4, 5, 7, 8, 9, 16 and 17, T 13N., R.4E., M.D.B. & M. and a portion of Section 33, T.14N. R.4E., M.D.B. & M.)" filed in the Office of the Recorder, County of Yuba, State of California in Book 66 of Maps, Pages 33 through 42, more particularly described as follows:

Beginning at an angle point on the easterly line of said Lot 28 which point bears the following two (2) courses from the northeast corner of said Lot 28: 1) South 08°50'40" East 404.00 feet, and 2) South 88°42'28" West 20.17 feet; thence from said point of beginning along said Easterly boundary line of said Lot 28 the following two (2) courses: 1) South 08°50'40" East 1,286.96 feet, and 2) South 81°09'20" West 70.00 feet; thence South 15°28'14" West 16.71 feet; thence South 30°11'21" West 105.87 feet; thence South 43°15'45" West 105.87 feet; thence North 54°59'49" West 106.18 feet, thence North 68°47'51" West 122.17 feet; thence North 21°12' 9" East 125 feet; thence along the arc of a curve to the right having a radius of 25.00 feet said arc being subtended by a chord bearing North 28°26'25" East 6.30 feet to a point of reverse curvature; thence along the arc of a curve to the left having a radius of 38.00 feet, said arc being subtended by a chord bearing North 23°47'51" West 65.47 feet to a point of reverse curvature; thence along the arc of a curve to the right having a radius of 25.00 feet, said arc being subtended by a chord bearing North 76°02'07" West 6.30 feet; thence North 68°47'51" West 175.48 feet; thence along the arc of a curve to the right having a radius of 482.00 feet, said arc being subtended by a chord bearing North 34°25'12" West 544.32 feet; thence North 00°02'33" West 410.28 feet; thence North 88°42'28" East 809.53 feet to the point of beginning.

Exhibit B to Exhibit L
13
PARCEL B:

Lots 27 and 28 as said Lots are shown and so designated on that certain "Tract Map 93-560 of River Oaks (a portion of Sections 4, 5, 7, 8, 9, 16 and 17, T. 13N., R.4E., M.D.B. & M. and a portion of Section 33, T. 14N., R.4E., M.D.B. & M.)" filed in the Office of the Recorder, County of Yuba, State of California in Book 66 of Maps, Pages 33 through 42.

EXCEPTING THEREFROM all that portion of said Lots 27 and 28 lying northerly of the following described line:

Beginning at an angle point on the easterly boundary line of said Lot 28 which point bears South 08°50'40" East 404.00 feet from the northeast corner of said Lot 28; thence from said point of beginning South 88°42'28" West 911.68 feet to a point on the West boundary line of said Lot 27 and being the point of ending.

ALSO EXCEPTING THEREFROM all that portion of said Lot 28 more particularly described as follows:

Beginning at an angle point on the easterly line of said Lot 28 which point bears the following two (2) courses from the northeast corner of said Lot 28: 1) South 08°50'40" East 1,286.96 feet, and 2) South 81°09'20" West 70.00 feet; thence South 81°09'20" West 107.52 feet; thence North 15°28'14" West 16.71 feet; thence North 30°11'21" West 105.87 feet; thence North 43°15'45" West 105.87 feet; thence North 54°59'49" West 106.18 feet; thence North 68°47'51" West 122.17 feet; thence North 21°12'09" East 1.25 feet; thence along the arc of a curve to the right having a radius of 25.00 feet said arc being subtended by a chord bearing North 28°26'25" East 6.30 feet to a point of reverse curvature; thence along the arc of a curve to the left having a radius of 38.00 feet, said arc being subtended by a chord bearing north 23°47'51" West 65.47 feet to a point of reverse curvature; thence along the arc of a curve to the right having a radius of 25.00 feet, said arc being subtended by a chord bearing North 76°02'07" West 6.30 feet; thence North 68°47'51" West 175.48 feet; thence along the arc of a curve to the right having a radius of 482.00 feet, said arc being subtended by a chord bearing North 34°25'12" West 544.32 feet; thence North 00°02'33" West 410.28 feet; thence North 88°42'28" East 809.53 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion of the land conveyed to the State of California in the Grant Deed recorded April 23, 2003 as Instrument No. 200306405 of Official Records.

APN: 022-050-006 (Affects: Parcel A) and 022-050-007 (Affects: Parcel B)
Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 104, inclusive as shown on the Map entitled "Rio Del Oro Village 15 Final Map", Tract Map No. 2004-41, filed in the Office of the County Recorder of Yuba County, California on December 22, 2005 in Book 84 of Maps, at Pages 19 through 26 inclusive, as modified by the Certificate of Correction recorded January 10, 2006 as Instrument No. 2006R-000496 of Official Records.

Parcel Identification Information

All that real property situated in Yuba County, State of California described as follows:

Lots 1 through 227, excluding lots sold, as shown on the Map entitled "Rio Del Oro Village 14 Final Map", Tract Map No. 2004-19, filed in the Office of the County Recorder of Yuba County, California on August 25, 2004 in Book 78 of Maps, at Pages 36 through 43 inclusive.

EXHIBIT M

REVISED JULY 2006 FAIR SHARE FUNDING STUDY (Funding Study) REIMBURSEMENT AMOUNTS

Per the Funding Study, the following table illustrates the principal amount of reimbursements due to Homes by Towne ("Towne") as of July 1, 2006, under the 2005 Advanced Funding Agreement for their Rio Del Oro (Village 14) Project.

Table 1
Reimbursement Calculation
Three Rivers Levee Improvement Authority

<table>
<thead>
<tr>
<th>Land Owner</th>
<th>Project</th>
<th>Levee Obligation Per Funding Study</th>
<th>Total Funding Per Funding Study</th>
<th>Principal Amount Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Label</td>
<td>A</td>
<td>B</td>
<td>C = B - A</td>
<td></td>
</tr>
<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro - Vill 14</td>
<td>$2,339,326</td>
<td>$2,675,544</td>
<td>$336,218</td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td>$336,218</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: EPS Revised July 2006 Fair Share Funding Study, Phase IV Funding Agreement ProForma

Per the Funding Study and the 2005 Advanced Funding Agreement, interest is due on the Principal Amount of Reimbursement at 7.5% per annum based upon the amount of time that has passed from the date that Towne funded beyond its obligation until the reimbursement is settled. Per the Funding Study, the date that Towne made deposits into escrow that exceeded its obligation of $2,339,326 was November 29, 2005, and, hence, interest began to accrue on that date.

All parties to this First Amendment hereby acknowledge and agree that TRLIA will settle reimbursements due to Towne under the 2005 Advanced Funding Agreement as follows: (a) Towne will assign to Three Rivers the reimbursement that would be due to Towne under the 2005 Advanced Funding Agreement, in exchange for which (b) TRLIA will issue to Towne senior priority payment Levee Impact Fee Bonds in an amount equal to the principal amount of reimbursements due Towne plus interest accrued as of the date the subject bonds are issued (the "Senior Levee Impact Fee Bonds"). The Senior Levee Impact Fee Bonds shall be in a senior priority repayment position to all other Levee Impact Fee Bonds issued as described in this Agreement. Without limiting the foregoing, all disbursements and applications of proceeds under Section 8.C(2)(c) of this First Amendment shall be directed to the redemption of Senior Levee Impact Fee Bonds held by Towne.
The total reimbursement due to Towne under the 2005 Advanced Funding Agreement is to include the interest on the principal amount. On a compounded monthly basis, the interest earned that yields an effective 7.5% per annum is 0.6045%. Pursuant to this Agreement, Levee Impact Fee Bonds are expected to be issued in October of 2006, but may be delayed based on timing of second capital call. For example, if Impact Fee Bonds are issued in October of 2006, it will be 11 months after the date that Towne's payments under the 2005 Advanced Funding Agreement exceeded its Levee Obligation.

The total reimbursement due to Towne at the time the Senior Levee Impact Fee Bonds will be assigned in exchange for Towne's rights to reimbursement under the 2005 Advanced Funding Agreement is calculated as follows, assuming an October issue of Senior Levee Impact Fee Bonds (the interest component would be increased for any additional months beyond October that it takes to issue Levee Impact Fee Bonds):

\[
\text{Principal Amount Reimbursement} \times (1+0.006045)^{11} = \text{Total Reimbursement} \\
$336,218 \times (1+0.006045)^{11} = $359,263
\]

The total interest due to Towne would be $23,045 based upon Levee Impact Fee Bonds being available in October of 2006.

Based upon the foregoing, Towne will receive $359,263 in Senior Levee Impact Fee Bonds if they had been issued in October of 2006.

Upon completion of the issuance and delivery to Towne of Senior Levee Impact Fee Bonds in exchange for the assignment of the reimbursement to TRLIA, the reimbursement amount due to Towne per the 2005 Advanced Funding Agreement will be settled and there will be no additional reimbursement obligations by TRLIA to Towne. Towne shall have no obligation to assign to TRLIA Towne's rights to reimbursement under the 2005 Advanced Funding Agreement until such time as the Senior Levee Impact Fee Bonds are ready to be issued to Towne.

As a participant to this Agreement, Towne will have all of the obligations and privileges of an Original Participant, including without limitation the obligation to fund capital calls for the amount of Deferred Participant Obligation outlined in the Final ProForma per Exhibit and as may be amended by Participant Escrow Committee as the Financing Program moves forward.
TERMS APPLICABLE TO BUILDER BONDS

(1) The annual compounded tax-exempt interest rate on all Builder Bonds shall be 300 basis points above the 5-Year Treasury Yield Curve Rate, commonly referred to as "Constant Maturity Treasury" rates ("5 Year CMT") in effect at the time of issuance, as may be identified in Section H.15 of the Federal Reserve System statistical releases, which can be located at http://www.federalreserve.gov/releases/h15/data.htm, but not more than 12% per annum. The Builder Bonds may be sold at a lower rate by TRLIA if a buyer other than a Participant is identified.

(2) The Builder Bonds are expected to be issued as 30 year (nominal maturity) Capital Appreciation Bonds that will accrue interest but will not require periodic payments of such interest until maturity or redemption. Interest on the Builder Bonds will be compounded semi-annually. Interest computation on the Builder Bonds will be on a "30/360" basis, consisting of twelve equal months of thirty days each, and a year of 360 days. Accrued interest from date of issue to date of retirement or redemption will be added to the payment obligation due at retirement or redemption, as the case may be.

(3) Builder Bonds are subject to mandatory redemption on any date at their accreted value, without prepayment premium, from any source of funds. Such redemption may be refunded through Private Placement Bonds or through conventional bonds ("Conventional Bonds"). From time to time, the Participant Escrow Committee shall coordinate with the Participants to determine the Tax Zones for which the sale of Private Placement Bonds or Conventional Bonds would be currently appropriate. If the total amount of such bonds suitable for sale equals $3,000,000 or more, the Participant Escrow Committee shall prepare a list of the specific Tax Zones proposed to secure these bond issues of Private Placement Bonds or Conventional Bonds, and shall forward such list to TRLIA. This list shall be reviewed by TRLIA, which shall make best efforts to pursue the sale of each of the proposed bonds that satisfy the issuance criteria discussed in Exhibit P.

(4) TRLIA will require call option flexibility with calls on specified dates, payable at the accreted value without prepayment penalty. It is expected that calls of the Builder Bonds could be made in increments as small as $5,000.

(5) Builder Bonds are proposed to be sold in $500,000 minimum denominations (and multiples of $1 above that, except for those Participants whose total purchase is less than $500,000, in which case the Builder Bond would be in the denomination of the particular Participant's total purchase).

(6) Builder Bonds will be issued accompanied by a "traveling" "sophisticated-investor-letter" which would limit the transferability of the bonds to future owners of property subject to the special tax, or to such investors that may be approved by TRLIA. Builder Bonds

Exhibit N
shall also be transferable to affiliates of Participants, future property owners within each Tax Zone as successors to Participants, or to affiliates of these future property owners.

(7) There will be no obligation on TRLIA to foreclose on any Participant’s property securing the payment of special taxes pledged to the payment of Builder Bonds.

(8) For any Tax Zone, it is possible that some Private Placement Bonds, and even some Conventional Bonds, will be issued before all of the Capital Calls have been exercised, in which case they will be used to refund Builder Bonds, in some cases even before the scheduled dates of the remaining Capital Calls. Once all outstanding Builder Bonds have been refunded or repaid, net proceeds of Private Placement Bonds or Conventional Bonds will be credited toward any future Capital Calls. Under these circumstances, Participants will not need to pay all of their future Capital Calls, nor will they need to purchase all of their projected Builder Bonds.

(9) The amount of Private Placement Bonds or Conventional Bonds that may be sold within a Tax Zone will be a function of the Maximum Annual Special Tax rates set for that Tax Zone, as well as the interest rates in the municipal bond market at the time of each bond sale. If the amount of Private Placement Bonds or Conventional Bonds ultimately supported by a Tax Zone is less than the total amount of Builder Bonds issued for that Tax Zone, unless the Participant for such property can amend, subject to County approval, the rate of special taxes within its Tax Zone to support such Bonds consistent with the 1.8% property tax rate ceiling, the excess Builder Bonds (the "Excess Builder Bonds") shall not be redeemable, and shall be extinguished. Of the Builder Bonds purchased by a property owner or its successors and affiliates within a Tax Zone, the last Builder Bonds purchased shall be declared to be the Excess Builder Bonds in cases where the annual special taxes do not support all of the outstanding Builder Bonds. For example, if a Participant purchases $2,000,000 in Builder Bonds and such Bonds accrete in value to $3,000,000, however the annual special tax rates ultimately set for that property can only support $1,800,000 in payments, then the accreted value of the last $1,200,000 purchased would be the Excess Builder Bonds.

(10) For Participants that are willing to provide individual collateral (e.g., a letter of credit), TRLIA will use reasonable efforts to seek willing investors for a variable rate or fixed rate interest bond issue in the conventional marketplace in lieu of issuing Builder Bonds.

(11) Participants acknowledge that the issuance of Builder Bonds has certain risks associated that are outlined generally in Exhibit G, attached hereto and incorporated herein by reference.

Participants acknowledge that to the extent that their Tax Zone does not have remaining tax capacity within the 1.8% maximum percentage threshold, the Levee Component of their remaining Capital Calls will have to be made in cash payments to the Participant Levee Improvement Fund, and Participants may be required to mitigate any remaining obligations to special districts, such as the Olivehurst Public Utility District or school district, through cash payments.
EXHIBIT O

TERMS APPLICABLE TO IMPACT FEE BONDS

(1) The annual compounded tax-exempt interest rate on the Impact Fee Bonds shall be 400 basis points above the then current 5 year CMT in effect at the time of issuance, but not more than 12% per annum. The Impact Fee Bonds may be sold by TRLIA at a lower rate if a buyer other than a Participant is identified.

(2) Impact Fee Bonds are proposed to be sold in $500,000 minimum denominations (and multiples of $1 above that, except for those Participants whose total purchase is less than $500,000, in which case the Impact Fee Bond would be in the denomination of the particular Participant's total purchase).

(3) TRLIA will require call premiums during the first three years after the purchase of Impact Fee Bonds, based on the requirements associated with the TRLIA Levee Impact Fee. It is expected that calls of the Impact Fee Bonds could be made in increments as small as $5,000, other than in connection with redemption under Section 8.C.(1)b.

(4) Impact Fee Bonds will be issued accompanied by a "traveling" sophisticated investor letter. Impact Fee Bonds shall be transferable only to affiliates of Participant, future property owners within each Tax Zone as successors to Participant, or to affiliates of these future property owners.

(5) The Impact Fee Bonds are expected to be issued as 30 year (nominal maturity) Capital Appreciation Bonds that will accrue interest but will not require periodic payments of such interest until maturity or redemption. Interest on the Impact Fee Bonds will be compounded semi-annually. Interest computation on the Impact Fee Bonds will be on a "30/360" basis, consisting of twelve equal months of thirty days each, and a year of 360 days. Accrued interest from date of issue to date of retirement or redemption will be added to the principal due at retirement or redemption, as the case may be.
ISSUANCE OF PRIVATE PLACEMENT AND CONVENTIONAL BONDS.

(1) Participants may request that TRLIA issue Private Placement Bonds and Conventional Bonds on behalf of one or more Tax Zones owned by that Participant.

(2) For Participants that are willing to provide individual collateral (e.g., a letter of credit), TRLIA will use reasonable efforts to seek willing investors for a variable rate or fixed rate interest bond issue in the conventional marketplace in lieu of issuing Builder Bonds, without satisfying the terms of Section 3 (except subparagraphs b. and i. shall apply in any event) and 4 (except subparagraphs b.(i), b.(ix), b.(x), b.(xi) and b.(xiii) shall apply in any event).

(3) **Private Placement Bonds.** Terms under which Private Placement Bonds for a Tax Zone may be issued are listed below; however, neither the County nor TRLIA can guarantee that a buyer will exist even if the following criteria are satisfied:

   a. Purchasers of such Private Placement Bonds shall be "qualified institutional investors" as such term is defined in Subsection (a) of Rule 144A of the Securities Act of 1933 or "accredited investors" as such term is defined in Subsection (a) of Rule 501 of Regulation D under the Securities Act of 1933;

   b. There shall exist no default under this First Amendment by the Participant whose property is included in such Tax Zone, and no delinquency in the payment of ad valorem or special taxes within Yuba County.

   c. The EIR for the Phase 4 Work is approved and certified, with no legal challenge pending.

   d. Bonds for the Tax Zone are supported by at least a 3:1 value-to-lien ratio in accordance with all provisions of Section (4)a. below. Parcels of undeveloped land within such Tax Zone with a 2:1 value-to-lien ratio, or lower, shall not be included for purposes of determining land values or tax revenue capacity;

   e. California Debt Issuance Advisory Committee (CDIAC) compliant appraisal has been provided;

   f. Annual tax levy in effect and customary foreclosure covenant on the Participant's property;

   g. Customary reserve fund(s) established;

   h. The Private Placement Bonds shall have $100,000 face value denominations (to preclude owners from re-offering portions of the bonds) and such bonds shall be in certificated (not book-entry) form; and
i. The Participants complete questionnaires and provide sufficient data for TRLIA to compile and deliver a suitable initial disclosure document to the targeted investor(s); there is an agreement in place with TRLIA to enable it to fully comply with continuing disclosure requirements; TRLIA has reason to believe that it will be furnished all required customary 10(b)-5 opinions and certificates required to close the offering; and the sale of the bonds is accompanied by a "traveling" investment letter and occurs through a registered broker dealer.

(4) Conventional Bonds. For Conventional Bonds to be issued for a Tax Zone, one of the following conditions must be met within such Tax Zone:

a. The standards established within the then current TRLIA's adopted Goals and Policies for Land Secured Financings; or

b. Improved land value to public lien ratio must be at least 3 to 1, and supported by an as-built appraisal plus all of the following criteria must be satisfied:

   (i) there are no delinquent taxes on any parcels owned by Participants in the Tax Zone;

   (ii) the combined total of the projected assigned special taxes on all parcels in a Tax Zone are equal to or greater than 110% of projected gross (not net) debt service of the proposed Private Placement Bonds and Conventional Bonds (at peak level, if escalated) for the next year, based on projected interest rates for the Bonds;

   (iii) special taxes on developed (final mapped) property will provide at least 50% of the projected debt service requirement for the next fiscal year on the proposed Conventional Bonds and Private Placement Bonds;

   (iv) the special tax revenues for undeveloped parcels with a land value to public lien ratio of less than 2 to 1 shall not be included for purposes of calculation of the 110% coverage factor;

   (v) no impediment to development exists from restrictions imposed by agencies such as FEMA, the State Reclamation Board or any other agency having jurisdiction over the levees and levee-related matters;

   (vi) a customary reserve fund(s) established;

   (vii) the Conventional Bonds shall be in "standard" (i.e., $5,000) denominations;

   (viii) the Conventional Bonds shall be structured so as to pay periodic interest;

   (ix) special taxes required to amortize the debt, when combined with overlapping ad valorem property taxes, other special taxes or assessments, and other property taxes, are limited to 1.8% of the projected average residential sales price for properties

   Exhibit P

2
included in each final map in the Tax Zone, and shall provide minimum coverage levels of 110% of projected debt service requirements;

(x) typical validity and tax exemption opinions of counsel are provided;

(xi) standard initial disclosures shall be provided (with typical comfort letters and opinions) and shall be accompanied by appropriate ongoing disclosure agreement(s);

(xii) such other material features as the several underwriters for such Conventional Bonds may require to establish suitability for intended offerees; and

(xiii) The Participants complete questionnaires and provide sufficient data for TRLIA to compile and deliver a suitable initial disclosure document to the targeted investor(s); there is an agreement in place with TRLIA to enable it to fully comply with continuing disclosure requirements; TRLIA has reason to believe that it will be furnished all required customary 10(b)-5 opinions and certificates required to close the offering.

c. To the extent Conventional Bonds have not yet been issued, TRLIA shall use its best efforts to issue Conventional Bonds secured by building permit lots

(5) Builder Bonds Status in the Event of Issuance of Private Placement Bonds or Conventional Bonds. IN THE EVENT OF A SALE OF A PRIVATE PLACEMENT BOND OR CONVENTIONAL BOND, THE LIEN OF ANY REMAINING BUILDER BONDS SHALL BE SUBORDINATE TO THE PRIVATE PLACEMENT BOND OR THE CONVENTIONAL BOND AND SUCH LIEN AND OBLIGATION TO PAY THE BUILDER BOND WILL BE EXTINGUISHED IN THE EVENT OF A DEFAULT AND FORECLOSURE AGAINST THE PROPERTY SECURING SUCH PRIVATE PLACEMENT BOND OR CONVENTIONAL BOND.
EXHIBIT Q

Assignment of Rights Under this Agreement.

A. Assignment of Rights Generally

(1) Assignment of Rights Generally. Except as provided in Section B below, the Participant's rights and burdens under this Agreement shall run with the portions of the Participant's land for which a building permit for construction of a single family home has not been issued and which portions are not common area for any common interest development established in connection with the development of such homes, such that the rights and burdens shall be transferred to any purchaser of such portions of the Participant's land.

(2) Assignment of Rights Upon Sale. Upon the sale or transfer of all or any portion a Participant's property (except for sales of single family lots or common areas), the Participant and such purchaser shall execute an assignment and assumption agreement, in form and content satisfactory to TRLIA and the Participant Escrow Committee, pursuant to which the purchaser shall assume the rights and obligations of a Participant under this First Amendment with respect to the property purchased and any credits attributable thereto. Such agreement shall acknowledge any transfer of Builder Bonds to purchaser if any such transfer shall have been made.

B. Assignment of Right to Reimbursement.

(1) Assignment of Right. Participant's rights to receive any reimbursements under this First Amendment are personal, and thus Participant may assign such rights under this First Amendment to an assignee, subject to and in accordance with the terms of this Section B. All assignments of the right to reimbursement pursuant to this Section shall be subject to TRLIA's prior written consent, which consent shall not be unreasonably withheld or delayed; provided, that TRLIA shall consent to any assignment which (i) represents the entire reimbursement amount owed to the Participant, or (ii) is for an amount equal to or greater than $100,000.

(2) Acknowledgement of Agreement; Assumption and Release. In addition to the approval of TRLIA, any such assignment shall be subject to an express written acknowledgement by the assignee in recordable form, whereby said assignee agrees to be subject to all of the provisions of this First Amendment pertaining to the land transferred to such transferee. Any assignment by Participant shall release Participant of all obligations associated with the land for which the assignment is made.

C. Disputes Between Participant and Assignee. Participant and any assignee thereof acknowledge and agree that in the event of any dispute between Participant and/or any assignee regarding the legal ownership of the rights to reimbursements hereunder, TRLIA may withhold any cash reimbursement unless and until either (i) all parties to the dispute have executed an agreement in a form acceptable to the County of Yuba County Counsel specifying the legal ownership of such rights and the manner in which such rights will be exercised, which agreement shall contain acceptable indemnification and defense provisions, or (ii) one of the
parties has obtained a court order or an arbitrator's award determining as between the disputing parties the legal ownership of such rights and the manner in which such rights will be exercised.
STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES  

FUNDING AGREEMENT BETWEEN THE STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES  
AND THE  
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY  
FOR THE  
FEATHER RIVER LEVEE IMPROVEMENT PROJECT  

FUNDED UNDER THE  
STATE-FEDERAL FLOOD CONTROL SYSTEM MODIFICATION PROGRAM  
(EARLY IMPLEMENTATION PROJECTS)  
OF  
THE CALIFORNIA DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006 AND THE CALIFORNIA SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006
STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

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CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

FUNDING AGREEMENT BETWEEN STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

UNDER THE CALIFORNIA DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006 AND THE CALIFORNIA SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006
(Public Resources Code Sections 5096.800 et seq. & 75001 et seq.)

THIS FUNDING AGREEMENT, entered into by and between State of California, acting by and through the Department of Water Resources, herein referred to as the "State" and the Three Rivers Levee Improvement Authority, a joint powers agency in the County of Yuba, State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Funding Recipient," which parties do hereby agree as follows:

The terms listed below shall have the meaning indicated wherever used in this Funding Agreement:

"Agreement to Seek Credit or Reimbursement:" An agreement entered into by the Funding Recipient with an appropriate legal entity to seek credit or reimbursement from the federal government for funds expended under this Funding Agreement that is entered into in accordance with the provisions of Paragraph 8(d).

"Agreement to Assume Responsibility for OMRR&R:" An agreement entered into by the Funding Recipient with an appropriate legal entity to assume responsibility for OMRR&R on terms substantially similar to those in Appendix D to this Funding Agreement in accordance with the requirements of Paragraph 24(b).

"Betterments:" The design and construction of a Project Element in accordance with standards that exceed the standards that the State would otherwise apply for accomplishing the Project.

"Corps:" The United States Army Corps of Engineers.

"Eligible Project Costs:" The reasonable and necessary actual costs associated with the Project which are described in Paragraph 7.

"Funding Recipient:" 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 Agreement, and its successors and assigns.

"OMRR&R:" Operation, maintenance, repair, replacement, and rehabilitation of the Project.

"Overall Work Plan:" The plan described in Paragraph 22(a) and Exhibit A-1.

"Post Construction Performance Reports:" The reports required by Paragraph 22(e) and further provided in the OMRR&R Agreement.

"Project:" The project described in the Overall Work Plan.
"Project-Associated Work:" Work on a project that is associated with the work to be done under the Overall Work Plan, but not funded under this Funding Agreement. Project-Associated Work is identified in Exhibit A.

"Project Completion Report:" The report required by Paragraph 22(d) and further described in Exhibit C.

"Project Element:" A discrete portion of the Project identified in the Overall Work Plan.

"Project Feature:" A discrete portion of a Project Element identified in the Overall Work Plan.

"Project Real Estate Plan:" A plan for acquisition of interests in real estate needed to complete the Project which must be reviewed and approved by the State in accordance with Paragraph 21 and Exhibit F.

"Quarterly Progress Reports:" The reports required by Paragraph 22(c) and further described in Exhibit C.

"Quarterly Work Plans:" The reports required by Paragraph 22(b) and further described in Exhibit C.

"Real Estate Capital Outlay Costs:" Reasonably justified costs for real property interests (fee/easement), private utility line relocation (i.e. utility lines serving only one party), damage expenses (wells, fences, irrigation systems) and relocation assistance programs.

"Real Estate Support Costs:" Reasonable acquisition services, appraisal services, geodetic and cadastral services, environmental site assessment services, attorney's services fees, engineering services fees, court costs, title and closing costs, and public utility relocations (i.e. utilities serving multiple parties).

"Relocation Assistance Plan:" The part of the Project Real Estate Plan which identifies any required relocations and the amount of financial assistance required for such relocations to occur prepared in accordance with Paragraph 21 and Exhibit F.

"Relocation Assistance Costs:" The portion of the Real Estate Capital Outlay Costs which is attributable to financial assistance for relocation as specified in the Relocation Assistance Plan.

"State:" The State of California, acting by and through the Department of Water Resources.

"Statement of Costs:" A Statement of incurred Eligible Project Costs submitted pursuant to Paragraph 15.

1. PURPOSE OF FUNDING: This funding is made available by State to Funding Recipient to assist in financing an Early Implementation Project under the State-Federal Flood Control System Modification Program pursuant to Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the California Public Resources Code and Division 43 (commencing with Section 75001) of the California Public Resources Code. In the 2007 Budget Act the legislature appropriated $170 million for funding of programs under Section 5096.821 of the California Public Resources Code that are available for the State-Federal Flood Control System Modification Program. At the time of execution of this Funding Agreement, the State has available an additional $45 million for funding of the State-Federal Flood Control System Modification Program from the $275 million that is continuously appropriated to the Department of Water Resources by Section 75032 of the California Public Resources Code. Funds may be used only as provided in this Funding Agreement.
Agreement for Eligible Project Costs for the Project described in Exhibit A-1, Overall Work Plan. The Overall Work Plan includes Project Elements and Project Features as defined in the Overall Work Plan. The Funding Recipient may also construct Betterments, but the additional cost of Betterments will not be considered Eligible Project Costs. The Overall Work Plan shall separately describe any Betterments and any other Project-Associated Work, but will not be funded under this Funding Agreement.

2. TERM OF FUNDING AGREEMENT: The term of the Funding Agreement shall be from the latest date of execution by the Department of Water Resources and approval by the Department of General Services through June 30, 2010. This term may be amended through mutual written agreement of the Department of Water Resources and the Funding Recipient.

3. PROJECT SCHEDULE: Funding recipient shall diligently perform or cause to be performed all project work in accordance with the Project Schedule as shown in Exhibit A-3 or as otherwise approved by the State in writing.

4. PROJECT COST: The reasonable cost of the Project is estimated to be $192.2 million.

5. LIMIT ON STATE FUNDS: Pursuant to the California Disaster Preparedness and Flood Prevention Bond Act of 2006 and the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 and subject to the availability of funds, State will provide to Funding Recipient in accordance with the terms of this Funding Agreement for the State cost share an amount not to exceed $138.51 million, except as provided in paragraph 29. Funding recipients will only be entitled to State funds for Eligible Project Costs, as defined in paragraph 7, and calculated in accordance with the cost sharing provisions in Paragraph 8. The State may, without requiring an amendment to this Funding Agreement, increase or decrease this amount only as provided for in paragraph 29.

6. FUNDING RECIPIENT'S COST: Funding Recipient agrees to fund the difference, if any, between the actual Project costs and the amount paid by the State for its share of Eligible Project Costs.

7. ELIGIBLE PROJECT COSTS: Funding Recipient shall use State funds received only for Eligible Project Costs. Except as otherwise provided in paragraph 14(b), Eligible Project Costs are the reasonable and necessary actual costs associated with an eligible project incurred after November 7, 2006 (date of passage of Propositions 1E and 84) including, but not limited to the following:

   a) Eligible Real Estate Capital Outlay Costs specified in Funding Recipient's Project Real Estate Plan which must be reviewed and approved by the State in accordance with Paragraph 21;

   b) Project engineering, design, and construction costs;

   c) Costs of obtaining necessary environmental permits and associated environmental mitigation costs, other than the costs of preparing documents required by the California Environmental Quality Act ("CEQA") and, if applicable, the National Environmental Policy Act ("NEPA"), except that the reasonable costs of complying with NEPA in regard to the issuance of a Section 404 permit, Section 408 approval, or Section 104 approval under Section 7(d) below shall be eligible;

   d) Costs of obtaining other necessary federal or state governmental approvals;

   e) Legal fees associated with incurring Eligible Project Costs, such as those listed in (a) through (e) above; and
f) A proportionate share of reasonable overhead costs.

Costs that are not eligible include, but are not be limited to, the following:

a) Except as otherwise provided in paragraph 14(b), any costs incurred before November 7, 2006 (date of passage of Propositions 1E and 84);

b) The cost of Betterments;

c) Operation, maintenance, repair, replacement, and rehabilitation ("OMRR&R") costs;

d) Purchase of equipment that is not an integral part of the Project;

e) Establishing a reserve fund;

f) Replacement of existing funding sources for ongoing projects;

g) Support of existing agency requirements and mandates;

h) Purchase of land in excess of the minimum required acreage established in Funding Recipient's approved Project Real Estate Plan;

i) Costs that the State does not authorize as part of final accounting;

j) Payment of principal or interest of existing indebtedness, or any interest payments, unless the following conditions are met: the debt is incurred after effective date of a Funding Agreement with the State, State agrees in writing to the eligibility of the costs for reimbursement before the debt is incurred, and the purposes for which the debt is incurred are otherwise reimbursable project costs;

k) Costs incurred as part of any and all necessary response and cleanup activities required under CERCLA, RCRA, Hazardous Substances Account Act or other applicable law; and

l) With respect to associated environmental mitigation costs, only those costs incurred up to the time of the final accounting under this Funding Agreement may be considered Eligible Project Costs. After that time, any continuing associated environmental mitigation costs will be considered OMRR&R costs.

8. COST SHARING:

a) Eligible Project Costs will be shared by the State and the Funding Recipient on the following basis:

The State will pay seventy percent (70%) and the Funding Recipient will pay thirty percent (30%) of Eligible Project Costs for Project Elements that are levee repairs or improvements in place. For those Project Elements that incorporate a setback levee in lieu of a repair or improve in place, the State will pay 70% of the estimated cost of repairing or improving the levee in place plus 95% of the incremental additional Eligible Project Costs as a result of constructing a setback levee. To determine the State cost share for Project Elements with setback levees, the Funding Recipient shall provide a levee "repair or improve in place" estimate to the State with sufficient documentation for the State to approve the estimate along with the estimate to complete the Project as proposed. The State will pay a blended rate that applies to all Eligible Project Costs for each Project Element with setback levees that reflects 70% of Eligible Project Costs set forth
in the approved repair or improve in place estimate and ninety five ("95\%") of the remaining Eligible Project Costs, but in no event in excess of the Limit on State Funds set forth in Paragraph 5. Funding Recipient will be responsible for paying the balance.

b) Funding Recipient understands that these State/Local cost sharing percentages are based on the assumption that the State and the Funding Recipient will have to pay the federal share that would otherwise be paid if this Project were authorized and funded by Congress. Funding Recipient understands, however, that the State is required as a condition of using funds from the Disaster Preparedness and Flood Protection Act of 2006 to seek the maximum feasible cost-share from the federal government and must have the full cooperation of the Funding Recipient in making the arrangements necessary to put the State in a position where Project costs will be eligible for federal credit or reimbursement. Thus, if the Funding Recipient is the local/non-federal sponsor for a federally authorized project, the Funding Recipient agrees:

1) The State shall not disburse any funds under this Funding Agreement until the Funding Recipient, has submitted a complete application for a federal credit determination by the U.S. Army Corps of Engineers ("Corps") following the procedures authorized by P.L. 99-162 Section 104 and set forth in 33 CFR Part 240 or such other application for federal credit or reimbursement from the Corps as directed by the State and the Corps has issued all approvals necessary for construction contracts. In its sole discretion, the State may waive or modify this requirement provided such waiver or modification is in writing and signed by the State's Project Manager designated in Paragraph 26 of this Funding Agreement.

2) Funding Recipient shall promptly provide copies of all correspondence relating to the application to the State and will provide timely advance notice of meetings, if any, between the Funding Recipient and the Corps concerning the federal credit or reimbursement application.

3) If requested to do so by the Corps, Funding Recipient shall enter into an agreement with the Corps to provide assurances that it will be responsible for OMRR&R for the Project in accordance with federal law and shall indemnify the federal government and its officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, and whether directly or indirectly, arising out of the Project.

4) If the Corps decides that amendments to the federal credit or reimbursement application, this Funding Agreement, or new agreements between the Funding Recipient and the State are required for the Corps to provide federal credit or reimbursement, Funding Recipient shall not unreasonably withhold its consent to enter into such agreements.

5) Funding Recipient shall diligently pursue obtaining federal credit or reimbursement from the Corps and failure to so shall be considered an event of default under this Funding Agreement.

If the Funding Recipient is not the local/non-federal sponsor of a federally authorized project, the Funding Recipient agrees to seek federal credit or reimbursement in accordance with Paragraph 8(d) of this Funding Agreement.

c) Federal credit/reimbursement from the Corps, including any credit under P.L. 110-114 Section 3041, shall be shared between the Funding Recipient and the State in direct
proportion to the financial contribution of each party toward the Eligible Project Costs incurred for each Project Element for which federal credit/reimbursement is provided by the Corps. If the Funding Recipient is awarded federal credit/reimbursement by the Corps for a Project Element by following the procedures set forth above or through any other means, Funding Recipient will, to the extent permitted by applicable law, provide such federal credit/reimbursement to the State in proportion to the State’s contribution to the Project Element relative to the overall actual Eligible Project Costs incurred for the Project Element. If the State is awarded federal credit/reimbursement by the Corps for a Project Element by following the procedures set forth above or through any other means, State will, to the extent permitted by applicable law, provide such federal credit/reimbursement to the Funding Recipient in proportion to the Funding Recipient’s contribution to the Project Element relative to the actual Eligible Project Costs incurred for the Project Element.

If the Funding Recipient is not the local/non-federal sponsor of a federally authorized project, any credits or reimbursement obtained from the federal government shall be shared in accordance with the Agreement to Seek Credit or Reimbursement required by Paragraph 8(d) of this Funding Agreement.

d) If the Funding Recipient is not the local/non-federal sponsor of a federally authorized project, the Funding Recipient represents and warrants:

1) Funding Recipient has submitted to the State a legally binding Agreement to Seek Credit or Reimbursement with an appropriate legal entity to file a request for credit or reimbursement from the federal government. The Agreement to Seek Credit or Reimbursement shall commit the appropriate legal entity to comply with terms similar to those that would be required of the Funding Recipient under this Paragraph 8 of the Funding Agreement. This Agreement to Seek Credit or Reimbursement shall be reviewed and approved by the State in writing in advance of execution by the parties thereto.

2) Funding Recipient will comply with the terms of this Agreement to Seek Credit or Reimbursement.

3) Funding Recipient will not seek funds under this Funding Agreement until an application for credit or reimbursement has been filed in accordance with the Agreement to Seek Credit or Reimbursement.

4) In the event that the counter-party to the Agreement to Seek Credit or Reimbursement fails to comply with the terms of the Agreement to Seek Credit or Reimbursement, Funding Recipient agrees that it shall continue to use best efforts to obtain credit or reimbursement from the federal government.

In its sole discretion, the State may waive or modify the requirements of this paragraph provided such waiver or modification is in writing and signed by the State’s Project Manager designated in Paragraph 26 of this Funding Agreement.

9. FUNDING RECIPIENT’S RESPONSIBILITY FOR WORK: Funding Recipient shall be responsible for work and for persons or entities engaged in work, including, but not limited to, subcontractors, suppliers, and providers of services. Funding Recipient shall give personal supervision to any work required under this Funding Agreement or employ a competent representative, satisfactory to State, with the authority to act for Funding Recipient. Funding Recipient or its authorized representative shall be present while work is in progress. Funding Recipient shall give attention to fulfillment of the Funding Agreement and completion of the Project, and shall keep work under control. Funding Recipient shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid...
disputes and payment disputes with Funding Recipient's contractors and subcontractors. State
will not mediate disputes between Funding Recipient and any other entity concerning
responsibility for performance of work.

10. RELATIONSHIP OF PARTIES: Funding Recipient is acting in an independent capacity and is
solely responsible for design, construction, and (except as otherwise provided by Section 24(b)
second paragraph) OMRR&R. Review or approval of plans, specifications, Project Real Estate
Plan, bid documents or other construction documents by State is solely for the purpose of proper
administration of funds by State and shall not be deemed to relieve or restrict Funding Recipient's
responsibility.

11. PERFORMANCE AND ASSURANCES: Funding Recipient agrees to faithfully and expeditiously
perform or cause to be performed all Project work as described in the final plans and
specifications under this Funding Agreement and to apply State funds received only to Eligible
Project Costs and to OMRR&R in accordance with applicable provisions of the law.

12. REQUIREMENTS FOR DISBURSEMENT: Funding Recipient shall meet all conditions precedent
to the disbursement of money under this Funding Agreement. Failure by Funding Recipient to
comply may, at the option of State, result in termination of the Funding Agreement. State shall
have no obligation to disburse money under this Funding Agreement unless and until the
disbursement is in accordance with requirements of the California Disaster Preparedness and
Flood Prevention Bond Act of 2006 and the California Safe Drinking Water, Water Quality and
Supply, Flood Control, River and Coastal Protection Act of 2006 and:

a) Funding Recipient has formally acknowledged the current flood risk or has made arrangements
with Yuba County to acknowledge the current flood risk through a resolution body of the county.
The resolution must be approved by the State in advance of adoption as to matters of both form
and substance. The Funding Recipient agrees that each resolution shall provide that any
subsequent resolutions that would modify or rescind the resolution must be first approved by the
State. State agrees that it shall not unreasonably withhold approval of a resolution
acknowledging flood risk.

b) Funding Recipient has provided a copy of a resolution adopted by its governing body accepting
the Funds, and designated a representative to execute this Funding Agreement and to sign
requests for disbursement of State funds. The resolution must be substantially the same as the
draft resolution provided in Exhibit E to this Funding Agreement.

c) An application for credit or reimbursement has been filed with the federal government as provided
for in Paragraph 8 of this Funding Agreement.

d) A OMRR&R Agreement has been signed, or an Agreement to Assume Responsibility for
OMRR&R has been signed, both as provided for in Paragraph 24 of this Funding Agreement.

e) For any applicable Project Segment, Funding Recipient has demonstrated compliance with (i) all
applicable requirements of the CEQA and NEPA and submitted copies of any environmental
documents (including, but not limited to, any environmental impact report(s), environmental
impact statement(s), environmental assessment(s), negative declaration(s), CEQA findings,
project approvals and permits, and mitigation monitoring plan(s), as appropriate); and (ii) all other
applicable state and federal environmental requirements (including, but not limited to,
requirements under the federal Clean Water Act, the federal Endangered Species Act and the
California Fish & Game Code) and submitted copies of the appropriate environmental permits,
authorizations and agreements.

f) Funding Recipient has timely submitted periodic progress reports as required by paragraph 22.
13. ADVANCE WORK APPROVALS BY STATE: At least forty-five days prior to disbursement of funds by State for any Project Element, Funding Recipient shall submit to State engineering plans and specifications certified by a California Registered Civil Engineer as to compliance with the approved Project as defined in paragraph 1 and 21. No disbursements of funds for the work described will be made until the State has approved the engineering plans and specifications.

Except for the first Quarterly Work Plan, at least forty-five days prior to disbursement of funds by State, the Funding Recipient shall submit a Quarterly Work Plan in accordance with paragraph 22. No disbursement of funds for the work described in a Quarterly Work Plan will be made until the State has approved the Quarterly Work Plan.

14. PAYMENTS AND CREDITS FOR STATE SHARE OF ELIGIBLE PROJECT COSTS: Eligible Project costs will be paid or credited by the State in accordance with the cost sharing provisions in paragraph 8 and according to one or more of the following methods:

a) Payments for eligible Real Estate Capital Outlay Costs will be made in accordance with the provisions of paragraph 21.

b) The State will provide only credit toward the Funding Recipient’s share of overall Eligible Project Costs for those costs that were incurred before the effective date of this Funding Agreement, as provided for below:

1) Pursuant to paragraph 21, the State will provide credit for eligible Real Estate Capital Outlay Costs incurred before the Effective Date of this Funding Agreement. This credit will be for the fair market value of land contributed to the Project, along with associated appraisal and entitlement transfer costs; and

2) The State will provide credit for Eligible Project Costs that were incurred after November 7, 2006 and before the Effective Date of this Agreement.

If the Funding Recipient seeks credit for Eligible Project Costs under paragraph 14(b)(2) above, the Funding Recipient shall provide a Statement of Costs detailing such costs in accordance with the applicable provisions of paragraph 15. The Statement of Costs shall be submitted within 7 days of the effective date of this Funding Agreement. The State may provide credit for these Eligible Project Costs if it finds that they were incurred for implementation of the Project. If the State provides credit, it will provide credit toward the Funding Recipient’s share of Eligible Project Costs.

c) This subpart sets forth a process for advance payments of the State share of Eligible Project Costs. Advance payments are made on the basis of estimated budgets included in Quarterly Work Plans and are trued-up quarterly on the basis of a statement of actual Eligible Project Costs.

As soon as possible prior to commencement of the work to be performed from the effective date of this Funding Agreement through the end of the calendar quarter and forty-five days prior to each calendar quarter thereafter, Funding Recipient shall submit to State a Quarterly Work Plan for each calendar quarter in accordance with paragraph 22. State shall pay in advance on a quarterly basis for Eligible Project Costs (excluding Real Estate Capital Outlay Costs) its cost share of the work covered in the Quarterly Work Plans submitted. Funding Recipient shall provide statements of incurred Eligible Project Costs in accordance with paragraph 15. If State determines that advances in that quarter exceed actual costs in that same quarter, such amounts may be applied against advances in succeeding quarters. State’s total amount of all advance payments shall not exceed 75 percent of the total
estimated State share of Eligible Project Costs payable under this Funding Agreement. State shall make payments relating to the remaining 25 percent as work is completed but no more frequently than on a monthly basis.

If State determines that advances exceed the State's share of total actual Eligible Project Costs, State may withhold advance payments equal to amounts advanced in excess of the State's share of Eligible Project Costs, but only after Funding Recipient has had an opportunity to meet and discuss with State any alleged excess payments. Thirty days prior to expiration of this Funding Agreement, Funding Recipient shall remit to State any advance payments that exceed the State's share of actual Eligible Project Costs. All advance payments will be used only to pay Eligible Project Costs for performing all or part of a task or item in the Project budget. All advance payments made pursuant to this subpart shall be subject to withholding in accordance with paragraph 17.

15. STATEMENT OF COSTS: Documentation for eligible real property capital outlay costs will be completed in accordance with Paragraph 21. For all other costs (including Real Estate Support Costs), Funding Recipient shall provide State with a statement or statements of incurred Eligible Project Costs, on forms provided by State.

a) Statements of Costs shall be filed monthly or for such longer periods as State and Funding Recipient may mutually agree. Funding Recipient shall provide a statement of the incurred Eligible Project Costs for work performed in constructing the Project during the period identified in the particular statement. Each Statement of Costs shall also include: (1) information required to verify that claimed costs were incurred, such as contractor and vendor invoices and receipts for equipment and supplies; (2) a statement of Funding Recipient’s payments made to cover its share of Eligible Project Costs, if applicable; and (3) a comparison of the actual incurred Eligible Project Costs with those projected in the Quarterly Work Plans and an explanation of any differences of more than five percent (5%) per task or item from the estimate included in the Quarterly Work Plan budget.

b) The State will review each Quarterly Work Plan and each statement of incurred Eligible Project Costs to determine whether claimed costs are, in the opinion of the State, Eligible Project Costs and whether the Funding Recipient has provided adequate information to verify that claimed expenses were incurred.

c) State may reject a Statement of Costs if: (1) it is submitted without signature; (2) it is submitted under signature of a person other than Funding Recipient’s duly authorized representative; or (3) Funding Recipient fails to timely submit a final Statement of Costs within the time period specified in Paragraph 15(f). State will notify Funding Recipient of any Statement of Costs so rejected, and the reasons therefor.

d) A Statement of Costs containing a mathematical error will be corrected by State, after telephone notification to Funding Recipient, and will thereafter be treated as if submitted in the corrected amount. State will provide Funding Recipient with notification of the corrected Statement of Costs.

e) State will notify Funding Recipient by certified or registered mail, whenever, upon review of a Statement of Costs, State determines that any portion or portions of the costs claimed: (1) are ineligible to be paid under Federal or State law, or the terms of this Funding Agreement; (2) do not constitute Eligible Project Costs approved by State for funding under the terms of this Funding Agreement; or (3) are not supported by invoices or receipts acceptable to State. Funding Recipient may, within thirty (30) days of the date of receipt of such notice, submit additional documentation to State to cure such deficiency(ies). If Funding Recipient fails to timely submit adequate documentation curing the deficiency(ies), State will adjust the
pending Statement of Costs by the amount of the ineligible and/or unapproved cost(s). Funding Recipient may continue to submit additional documentation in support of rejected cost(s) and may include such cost(s) with additional supporting documentation on a subsequent Statement of Costs. Disputes concerning whether costs are Eligible Projects Costs and have been adequately documented will be resolved in accordance with the dispute resolution process set forth in paragraph 20.

f) A Project or Project Element will be considered completed when as-built diagrams provided to the State pursuant to paragraph 17 or B-9 are approved by the State. Upon completion or termination of the Project or any Project Element, Funding Recipient shall furnish to State, within sixty (60) days, a final statement of incurred Eligible Project Costs, including all associated real estate costs, for the Project or Project Element. Periodic cost statements and the final statement of Project Costs shall clearly delineate those costs claimed for reimbursement from the State's funding amount, as provided in paragraph 5 and those costs that represent Funding Recipient's costs, paragraph 6.

g) All statements of Eligible Project Costs shall be accompanied by a statement signed by the Funding Recipient's Project Manager that the statement is correct to the best of his or her knowledge and belief after an investigation that is reasonable under the circumstances and is submitted under penalty of perjury.

h) At the sole discretion of the State, the State may modify the requirements for preparation and submittal of Statements of Costs in order to improve administration of the State-Federal Flood Control System Modification Program or ensure compliance with the Governor's Executive Order on accountability for bond funds, Executive Order S-02-07, or other legal requirements.

16. DISBURSEMENT: Consistent with paragraph 14, State will disburse to Funding Recipient the amounts approved, subject to the availability of funds, which funds are available as of the execution of this Funding Agreement as further described in Section 1. Funds will be disbursed by State in accordance with the cost-sharing provisions in Paragraph 8, the relative payment obligations of Funding Recipient, paragraph 6, and State, paragraph 5, up to the Total Project Cost, paragraph 4. Any and all money disbursed to Funding Recipient under this Funding Agreement and any and all interest earned by Funding Recipient on such money shall be used solely to pay Eligible Project Costs.

17. WITHHOLDING OF FUNDING DISBURSEMENT BY STATE: From each disbursement of funds for Eligible Project Costs, with the exception of funds disbursed pursuant to section 21 of this Funding Agreement, the State shall withhold ten percent (10%) of the State share until the Project Element of the Project for which the payment is made is completed or, if the work on a particular Project Element is further divided into Project Features, until the work on a Project Feature is completed. A Project Element or Feature shall not be considered completed until: (1) the work on such Project Element or Feature has been completed to the State's satisfaction; (2) a final Statement of Costs has been submitted for Eligible Project Costs for the Project Element or Feature; (3) as-built drawings satisfactory to the State have been submitted to the State; and (4) for a Project Element, a certification of a Registered Civil Engineer that the Project has been built in compliance with the plans approved by the State pursuant to paragraph 13, is approved by State. If State determines that the Project is not being constructed substantially in accordance with the provisions of this Funding Agreement, or that Funding Recipient has failed in any other respect to comply substantially with the provisions of this Funding Agreement, and if Funding Recipient does not remedy any such failure to State's satisfaction as provided in Section 20 below, State may withhold from Funding Recipient all or any portion of the funding commitment and take any other action that it deems necessary to protect its interests.
WITHHOLDING THE BALANCE OF FUNDING AMOUNT: Where a portion of the Funding Commitment has been disbursed to Funding Recipient and State notifies Funding Recipient of its decision not to release funds that have been withheld pursuant to paragraph 17, the portion that has been disbursed shall thereafter be repaid immediately with interest at the California general obligation bond interest rate at the time the State notifies the Funding Recipient, as directed by State. Refusal of Funding Recipient to repay may, at the option of State, be considered a breach of agreement and may be treated as default under paragraph 20.

WITHHOLDING THE ENTIRE FUNDING AMOUNT: If State notifies Funding Recipient of its decision to withhold the entire funding amount from Funding Recipient pursuant to paragraph 17, this Funding Agreement shall terminate upon receipt of such notice by Funding Recipient and the State shall no longer be required to provide funds under this Funding Agreement.

DEFAULT PROVISIONS AND DISPUTE RESOLUTION: Funding Recipient will be in default under this Funding Agreement if any of the following occur:

a) Breach of this Funding Agreement, or any supplement or amendment to it, or any other agreement between Funding Recipient and State evidencing or securing Funding Recipient’s obligations;

b) Making any false warranty, representation, or statement with respect to this Funding Agreement or the application filed to obtain this Funding Agreement; or

c) Failure to make any remittance required by this Funding Agreement.

Should an event of default occur, State shall provide a notice of default to the Funding Recipient and shall give Funding Recipient ten or more days to cure the default from the date the notice of default is sent via first-class mail to the Funding Recipient. If the Funding Recipient fails to cure the default within the time prescribed by the State, State may do any or all of the following:

a) Declare the funds be immediately repaid, with interest, which shall be equal to State of California general obligation bond interest rate in effect at the time of the default;

b) Terminate any obligation to make future payments to Funding Recipient;

c) Terminate the Funding Agreement; and

d) Take any other action that it deems necessary to protect its interests, including but not limited to completing the work and requiring the Funding Recipient to pay the cost of the work, less the State cost share.

Any claim that Funding Recipient may have regarding the performance of this Funding Agreement including, but not limited to claims for an extension of time, shall be submitted to the Director, Department of Water Resources, within thirty (30) calendar days of Funding Recipient’s knowledge of the claim. State and Funding Recipient shall then attempt to negotiate a resolution of such claim and process an amendment to the Funding Agreement to implement the terms of any such resolution.

Before either party to this Funding Agreement may bring suit in any court concerning an issue relating to this Funding 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 the parties. Any costs of dispute resolution shall be shared evenly by the parties. Except as specifically provided in this Funding Agreement, the existence of a dispute shall not excuse the parties from performance pursuant to this Funding Agreement.
In the event State finds it necessary to enforce any provision of this Funding Agreement in a court of law, Funding Recipient agrees to pay all costs incurred by State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

21. LAND ACQUISITION PROCESS: Unlike other Eligible Project Costs, certain expenditures made for land acquisition under this Funding Agreement will require review and approval in accordance with the State's established procedures for land acquisition. Thus, the procedures for obtaining payment of the State's share of certain eligible project real estate costs will differ significantly from the procedures used for obtaining payment of other Eligible Project Costs. In particular, costs associated with Real Estate Capital Outlay Costs are subject to the provisions set forth in this paragraph 21. Paragraphs 14 to 19 do not apply to Real Estate Capital Outlay Costs. Real Estate Support Costs are subject to payment as provided in paragraphs 14 to 19.

For purposes of this Funding Agreement, the term "Real Estate Capital Outlay Costs" means reasonably justified costs for real property interests (fee/easement), private utility line relocation (i.e. utilities lines serving only one party), damage expenses (wells, fences, irrigation systems) and relocation assistance programs, all of which are to be paid as provided in subpart (b) of this paragraph. "Real Estate Support Costs" include reasonable acquisition services, appraisal services, geodetic and cadastral services, environmental site assessment services, attorney’s services fees, engineering services fees, court costs, title and closing costs, and public utility relocations (i.e. utilities serving multiple parties).

Only costs incurred in a manner consistent with an approved Project Real Estate Plan as detailed in this paragraph will be considered Eligible Project Costs under this Funding Agreement. The applicable land acquisition standards and requirements as set forth in Exhibit F shall apply to this Funding Agreement.

a) Project Real Estate Plan. Funding Recipient, after consultation with State, shall determine the lands, easements, and rights-of-way necessary for construction and OMRR&R, including those rights required for the flood control structures, temporary construction areas, mitigation sites, borrow sites, spoil sites, access/haul routes, staging areas, private utility relocations, providing relocation assistance for qualified occupants of acquired property, as required by state and federal statutes, rules, and regulations.

Funding Recipient will submit to State a Project Real Estate Plan. Sample guidelines for such a plan, to establish acceptable Project Real Estate Requirements will be provided upon request by the State. Project Real Estate Plan shall include such details as narrative description of the real estate requirements including a break down of Funding Recipient's estimate of total acreage to be acquired, type of real property interests to be acquired, and cost projections of eligible real estate project costs. The Project Real Estate Plan shall also include: a property owner tract register (matrix), identifying impacted property owners, real property interest to be acquired, and area of acquisitions; a real estate requirement map exhibit; and design plans and specifications. Funding Recipient may submit Project Real Estate Plan by Project Element, Project Feature, or reach.

Funding Recipient's Project Real Estate Plan shall be based on, at a minimum, 60% designs, plans and specifications, which shall include: topographic drawings with the project design features illustrated; assessor parcel numbers (APN), property lines, flood control structure, private utility relocations with the responsible party to relocate or protect in place noted; mitigation sites, borrow sites, spoil sites, access/haul routes, and staging areas.

Funding Recipient's Project Real Estate Plan will include a baseline cost estimate for eligible real estate project costs. State shall provide Funding Recipient with a written approval of
Project Real Estate Plan. Funding Recipient is at risk of not receiving cost-sharing for land acquisition activities performed prior to receiving State’s approval of Project Real Estate Plan.

Funding Recipient shall provide or acquire all necessary real property services for all parcels in support of approved Project Real Estate Plan in accordance with the land acquisition process described in this Funding Agreement, including the services, and materials necessary to fulfill the land acquisition process and accomplish the following tasks:

1) Geodetic services including field surveys, examination of title to all parcels, including obtaining preliminary title reports, or litigation guarantees, clearance of exceptions to title, policy of title insurance, the preparation of legal descriptions, maps and deeds.

2) Appraisal of all parcels establishing the fair market value.

3) Environmental site assessment reports to determine the existence of hazardous and toxic waste materials.

4) Preparation of written offer including necessary acquisition documents including purchase funding agreements, maps and deeds for all parcels. Funding Recipient will also prepare all other necessary temporary entry permits, rights of entry, borrow and spoil agreements.

5) Negotiations for the acquisition of all parcels by deed and contract and/or condemnation. For parcels being acquired by condemnation, an order of possession shall be deemed “acquisition.”

6) Preparation of memorandums of settlement, a sample of such to be provided by State to Funding Recipient upon request, for transactional review and approval including settlement justification, escrow instructions worksheet and closing.

7) Escrow and closing services required to consummate the transaction which are called for in the purchase Funding Agreements including clearing title at close of escrow, funding, and issuance of a policy of title insurance.

8) Preparation of a land acquisition final accounting package.

9) Preparation of a Relocation Assistance Plan.

Descriptions of these activities are set forth in detail in Exhibit F to this Funding Agreement.

Funding Recipient shall (1) keep State apprised of its land acquisition activities and the activities of its contractors; (2) consult with State on matters concerning compliance with State and federal acquisition rules and regulations; and (3) provide complete access as requested to its records relating to such land acquisition.

b) Real Property Acquisition Disbursement Process. For acquisition of title or other interest in each parcel of land, Funding Recipient may utilize any of the three disbursement approaches. The first, set forth in subpart 1 below, is the standard approval process and provides the Funding Recipient with 100% of the State’s cost share for Real Estate Capital Outlay Costs upon the Funding Recipient’s completion of all land acquisition requirements as set forth in Exhibit F. The second approach, set forth in subpart 2 below, provides a mechanism whereby the State will advance funding to the Funding Recipient for real estate capital outlays prior to completion of all land acquisition requirements set forth in Exhibit F. Under this approach, Funding Recipient is not guaranteed to receive 100% of its eligible Real Estate Capital Outlay Costs. The final approach, set forth in subpart 3 below, provides the process under which the State will advance Real Estate Capital Outlay Costs and, to the extent required by law, any Real Estate Support Costs for condemnation proceedings. Because the Funding Recipient may need to condemn only some of the parcels required to complete the Project, the
State anticipates the Funding Recipient may utilize more than one of the three disbursement approaches.

1) **Standard Disbursement Approach.** Upon completion of the applicable land acquisition standards and requirements set forth in Exhibit F to this Funding Agreement, including the submission of a land acquisition final accounting package, the State will disburse 100% of its cost share of real estate capital outlays to Funding Recipient.

2) **Advancement of State Cost Share Prior to Completion of Land Acquisition Requirements.**

   If requested by Funding Recipient, the State will advance fifty percent (50%) of the State cost share of the appraised fair market value of the property after State completes its preliminary review of the appraisal and environmental site assessment, and remediation plan if necessary, for the property. The advance will be made directly to an escrow account established to hold funds for the seller of the parcel for release upon closing. At closing, the State will advance into the escrow account for immediate release to the seller another twenty-five percent (25%) of the State cost share of the appraised fair market value of the property. The State will then reimburse Funding Recipient for the remaining State cost share of the price paid for the property plus any unpaid associated capital outlays, up to the approved value of the real estate capital outlays, after Funding Recipient has followed the entire approval process including the submission of a land acquisition final accounting package. If the amount approved is less than the amount already paid to Funding Recipient, the difference will be deducted from the State cost share for other project expenses not yet reimbursed to Funding Recipient. If the State cost share of the approved fair market value is higher than the State cost share of the amount outlined for capital outlays in Funding Recipient’s Project Real Estate Plan, the State will pay the difference so long as total expenses paid to the Funding Recipient do not exceed the maximum amount of funds permitted to the Funding Recipient pursuant to the Funding Agreement. Any necessary environmental remediation shall be completed prior to transfer of the property to the State and the payment of the remaining State cost share.

   If requested by the Funding Recipient, the State shall advance seventy-five percent (75%) of the State cost share of the Relocation Assistance Costs specified in the Relocation Assistance Plan after State completes its preliminary review of the Relocation Assistance Plan. The State will then reimburse Funding Recipient for the remaining State cost share for Relocation Assistance Costs, after the Relocation Assistance Plan has been approved by the Department of General Services.

3) **Eminent Domain Disbursement Procedures:** If eminent domain proceedings are necessary, following its review of the independent appraisal of the parcel submitted by the Funding Recipient, the State will deposit 100% of the State cost share of the fair market value of the parcel, as determined by the independent appraisal, together with any additional associated Real Estate Capital Outlay Costs and Real Estate Support Costs, as required by applicable law, with the Court. At the sole discretion of the State, the State may become a party to the condemnation proceeding. The funding and reimbursement procedures described further below will be implemented whenever eminent domain proceedings are required.

   After all other appraisals, transaction, cadastral, geodetic, and environmental site assessment reviews and a Court order approving the
condemnation of the property, the State will pay the State cost share of the Court approved total just compensation for the parcel. However such payments will be subject to the cap on total funds established in the Funding Agreement. Therefore, if the State cost share of the Court approved total just compensation is higher than the State cost share of the amount outlined for the property acquisition in Funding Recipient's Project Real Estate Plan, the Department will pay the difference so long as total expenses paid to the Funding Recipient do not exceed the maximum amount of funds permitted to the Funding Recipient pursuant to the Funding Agreement.

c) **Surplus Land.** In the event any lands, easements, or rights of way acquired by Funding Recipient are not used for the Project, such lands, easements or rights of way shall be deemed a remnant and may be sold. Upon the sale of remnant property, the State shall receive the percentage of the proceeds that is the State share under Paragraph 8. Alternatively, Funding Recipient may elect to retain ownership by paying State the percent of the appraised value that is the State share under Paragraph 8. State shall have a right of first refusal on any remnants offered for sale by Funding Recipient. State’s right of refusal shall remain open for 60 days after Funding Recipient gives written notice.

d) **Leased land.** In the event any land acquired by Funding Recipient is subject to a lease or leases, Funding Recipient shall ensure that any such leases are identified in the Project Real Estate Plan, including arrangements that address what happens to such lease interests upon acquisition of title by the State. In any event, all net proceeds received by Funding Recipient from any such lease agreement shall be applied as a credit to the State on Statements of Costs submitted pursuant to Paragraph 15 of the Funding Agreement.

22. **SUBMISSION OF INFORMATION BY THE FUNDING RECIPIENT:**

a) **Overall Work Plans:** An Overall Work Plan, Budget, and Schedule for the Project are included as Exhibit A to this Funding Agreement.

b) **Quarterly Work Plans:** The Funding Recipient shall submit Quarterly Work Plans consistent with the Overall Work Plan for the term of this Funding Agreement. Within seven (7) days of the effective date of this Funding Agreement, the Funding Recipient shall submit its first Quarterly Work Plan for the time period between the effective date of the Funding Agreement and the end of that calendar quarter and then quarterly thereafter. Each Quarterly Work Plan will include detailed information regarding the work to be performed during the quarter, the projected budget for this work (broken down to show individual items and tasks), and the expected monthly schedule. Except for the first Quarterly Work Plan, the Funding Recipient will submit Quarterly Work Plans at least forty-five days before the work covered by the plan is scheduled to begin. Exhibit C, Quarterly Work Plan and Report Formats, provides an example template for the Quarterly Work Plan.

c) **Quarterly Progress Reports:** Funding Recipient shall submit progress reports on the status of the Project to State. Progress reports shall be filed quarterly. No later than 45 days after the time period covered by a Quarterly Work Plan, the Funding Recipient shall submit a Quarterly Progress Report for the time period covered by the Quarterly Work Plan. The submittal and approval of these reports is a requirement for continued disbursement of State funds. Progress reports shall summarize the work completed during the reporting period, include a statement of construction progress compared to the Project schedule, and provide a comparison of costs to date compared to the approved scope of work and Project budget as
well as evidence the Funding Recipient will have sufficient funds to pay its share of the Eligible Project Costs required to complete the Project. Exhibit C, Quarterly Work Plan and Report Formats, provides an example report template. The Funding Recipient may request in writing that the State grant permission to combine the Quarterly Progress Report required by this paragraph with other reports required by this Funding Agreement and the State may, at its sole discretion, approve such a request.

d) Project Completion Report: Funding Recipient shall submit a Project Completion Report within ninety (90) calendar days of completion of all tasks associated with the Project. The Final Project Report shall include a description of actual work done, a final schedule showing actual progress versus planned progress, copies of any final documents or reports generated or utilized during the Project and three sets of as-built drawings. The Project Completion Report shall also include certification of final Project by a registered civil engineer, consistent with paragraph B-8 of this Funding Agreement. Exhibit C, Quarterly Work Plan and Report Formats, provides an example report template.

e) Post Construction Performance Reports: After Project completion and within ninety (90) calendar days after the date of submission of the Project Completion Report, Funding Recipient shall submit an annual summary of the operations for the Project as provided in the OMRR&R Agreement.

f) Project-Associated Work: The work plans and reports described in paragraphs (a) through (e) above shall include information regarding any Project-Associated Work, which is work on projects that are associated with the work to be done under the Overall Work Plan, but will not be funded under this Funding Agreement. The State will determine the extent of the information required concerning Project-Associated Work on a case-by-case basis in consultation with the Funding Recipient.

g) Compliance with Executive Order S-02-07: At the sole discretion of the State, the State may modify the requirements for preparation and submission of work plans and reports called for in this Funding Agreement in order to improve administration of the State-Federal Flood Control System Modification Program or ensure compliance with the Governor's Executive Order on accountability for bond funds, Executive Order S-02-07, or other legal requirements.

23. SAFETY AND EMERGENCY RESPONSE PLANS: Funding Recipient agrees to provide State an acceptable detailed safety plan before completion of the Project. The safety plan will be consistent with the requirements for such plans set forth in AB 5 (Wolk), 2007 Cal. Stat. 366 (to be codified at Cal. Water Code § 9550(b)). The Funding Recipient agrees to use best efforts to ensure that the safety plan is integrated into any other local agency emergency plan and is coordinated with the state emergency plan. Failure to meet these requirements may, at the option of State, be considered a breach of the Funding Agreement and may be treated as default under paragraph 20. Funding Recipient shall update the plan as provided in the OMRR&R agreement attached hereto as Exhibit D.

24. OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION:

a) Funding Recipient agrees to provide State an acceptable detailed interim OMRR&R manual at least 120 days before completion of the first Project Element which shall be consistent with the requirements of 33 C.F.R. § 208.10 and other applicable Corps engineering regulations.

b) Funding Recipient agrees that it will execute an agreement with the Reclamation Board, or a successor thereto, substantially in the form of Exhibit D to this Funding Agreement, which sets forth the obligations of the Funding Recipient to do the OMRR&R work for the Project. Refusal of Funding Recipient to do the OMRR&R work in accordance with this Exhibit D may,
at the option of State, be considered a breach of this Funding Agreement and may be treated as default under paragraph 20.

If the Funding Recipient is not currently responsible for OMRR&R of the associated federally authorized project, the Funding Recipient represents and warrants:

1) Funding Recipient has submitted a legally binding Agreement to Seek Responsibility for OMRR&R with an appropriate legal entity which requires that legal entity to seek to enter into an OMRR&R agreement with the Central Valley Flood Protection Board, or any successor thereto, that is substantially similar to the form of Exhibit D to this Funding Agreement. This Agreement to Seek Responsibility for OMRR&R shall be reviewed and approved by the State in writing in advance of execution by the parties thereto.

2) Funding Recipient will comply with the terms of this Agreement to Seek Responsibility for OMRR&R.

3) In the event that the counter-party to the Agreement to Seek Responsibility for OMRR&R fails to comply with the terms of the Agreement to Seek Responsibility for OMRR&R, Funding Recipient agrees that it shall enter into an OMRR&R agreement with the Central Valley Flood Protection Board, or any successor thereto, with terms substantially similar to the form of Exhibit D to this Funding Agreement.

In its sole discretion, the State may waive or modify the requirements of this paragraph provided such waiver or modification is in writing and signed by the State's Project Manager designated in Paragraph 26 of this Funding Agreement.

c) If requested to do so by the State, Funding Recipient agrees that it shall provide a written notice to landowners and other affected interests of the extent of protection afforded by the Project not less than once each year. The contents of this written notice will be determined by the State and may include the types of statements specified in AB 5 (Wolk), 2007 Cal. Stat. 366 (to be codified at Cal. Water Code § 9121 (b)). Funding Recipient further agrees that all costs of providing such information will be borne by the Funding Recipient and that the obligation to provide such information to landowners will extend beyond the term of this Funding Agreement.

25. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS: Funding Recipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Funding Agreement, including those necessary to perform design, construction, or OMRR&R for the Project. Funding Recipient shall be responsible for observing and complying with any applicable federal, state and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental, procurement and safety laws, rules, regulations, and ordinances.

Without limiting the foregoing, Funding Recipient shall keep informed of and take all measures necessary to ensure compliance with California Labor Code requirements, including but not limited to Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under this Funding Agreement.

If there is funding from Prop. 84, the Safe-Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, Cal. Pub. Res. Code § 75076 et seq., the Funding Recipient must have a labor compliance program that meets the requirements of
California Labor Code Section 1771.5. Written evidence of the Labor Compliance Program shall be submitted to the State.

26. PROJECT MANAGERS: Either party may change its Project Manager upon written notice to the other party.

a) State’s Project Manager: State’s Project Manager shall be the Chief, Division of Flood Management, Department of Water Resources. State’s Project Manager shall be State’s representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Funding Agreement.

b) Funding Recipient’s Project Manager: Funding Recipient’s Project Manager shall be [Insert job title]. Funding Recipient’s Project Manager shall be the Agency’s representative for the administration of the Funding Agreement and shall have full authority to act on behalf of the Agency, including authority to execute all payment requests.

27. NOTICES: Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing. Notices may be sent by any of the following means: (i) by delivery in person; (ii) by certified U.S. mail, return receipt requested, postage prepaid; (iii) by “overnight” delivery service; provided that next-business-day delivery is requested by the sender; or (iv) by facsimile transmission, followed submittal of a hard copy. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given five (5) business days after the date deposited with the U.S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent by facsimile will be effective on the date of successful transmission, which is documented in writing. Notices shall be sent to the following addresses. Either party may, by written notice to the other, designate a different address that shall be substituted for the one below:

State of California
Department of Water Resources
Division of Flood Management
Attention: Program Manager
Early Implementation Projects Program
Post Office Box 942836
Sacramento, California 94236-0001

(Representative)
(Funding Recipient Name)
(Mailing Address)

28. INCORPORATION OF EXHIBITS: This Funding Agreement incorporates:

Exhibit A, Overall Work Plan, Budget, and Schedule
Exhibit B, Standard Conditions
Exhibit C, Quarterly Work Plan and Report Formats
Exhibit D, Operation, Maintenance, Repair, Replacement, and Rehabilitation Agreement
Exhibit E, Draft Resolution Accepting Funds
Exhibit F, Land Acquisition Process Requirements

29. MODIFICATION OF OVERALL WORK PLAN: At the request of the Funding Recipient, the State may at its sole discretion approve non-material changes to the portions of Exhibit A which concern the budget and schedule without formally amending this Funding Agreement. Non-
material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Funding Commitment set forth in paragraph 4. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Funding Agreement which is set forth in Paragraph 2 of the Funding Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Funding Recipient to the State in writing and are not effective unless and until specifically approved by the State’s Project Manager in writing.

The State may, without requiring an amendment to this Funding Agreement, increase the State Funding Commitment set forth in paragraph 4 by up to ten percent (10%) if: (1) site conditions prove to be materially different than anticipated as of the Effective Date of this Agreement or site conditions materially change during implementation of the Overall Work Plan and, in the sole discretion of the State, the Funding Recipient has adequately documented the existence of a change in site conditions, and (2) changes in the scope of the Overall Work Plan, agreed to by the parties, require such increase. A request for an increase in the State Funding Commitment is not effective unless and until specifically approved by the State’s Project Manager in writing.

If the Funding Recipient and the State agree to a material change with respect to the Overall Work Plan that decreases the Project Cost in paragraph 4, the parties agree there shall be proportionate reduction in the limit on state funds set forth in paragraph 5.

If the State Project Manager approves a material change pursuant to the provisions of this paragraph, the Funding Recipient shall include information regarding the material change in the reports required by this Funding Agreement. Within a reasonable time after the material change is approved, the State and the Funding Recipient shall also formally amend this Funding Agreement to reflect the material change.

30. MODIFICATION OF PROJECT-ASSOCIATED WORK: The Funding Recipient shall notify the State if it proposes to make a change to Project-Associated Work described in the Overall Work Plan in Exhibit A that will cause a material change to cost, effectiveness or schedule of the work that is being funded under this Funding Agreement. Failure to comply with this provision will be considered an event of default under this Funding Agreement.

31. FUNDING RECIPIENT COMMITMENTS: Funding Recipient accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Funding Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Funding Recipient in the application, documents, amendments, and communications filed in support of its request for California Disaster Preparedness and Flood Prevention Bond Act of 2006 and the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 financing.

IN WITNESS WHEREOF, the parties hereto have executed this Funding Agreement

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By ______________________________
Lester A. Snow, Director

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By ______________________________
Paul G. Brunner, Executive Director
Agreement No.
Three Rivers Levee Improvement Authority
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Date: ____________________________

Approved as to Legal Form
And Sufficiency:

By ____________________________
  David Sandino, Chief Counsel

Date: ____________________________

Approved as to Legal Form
And Sufficiency:

Three Rivers Levee Improvement Authority Counsel

By ____________________________
  Scott L. Shapiro, General Counsel

Date: ____________________________

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Exhibit A
OVERALL PROJECT WORK PLAN, BUDGET, AND SCHEDULE

Directions: Funding Recipient shall prepare an Overall Project Work Plan, Overall Project Budget, and Overall Project Schedule. In preparing these documents, if the Project has separable elements, Funding Recipient shall define the Project Elements and provide separate budgets and schedules for each Project Element. If any Project Element can be further divided into Project Features, Funding Recipient shall define the Project Features and provide separate budgets and schedules for each Project Feature. If the Project includes Betterments, the Overall Work Plan can include information regarding these Betterments, but the Work Plan shall clearly indicate what work is a betterment and shall separately identify the cost of the betterment in the budget since such costs are not Eligible Project Costs under this Funding Agreement.

Funding Recipients should also note that, while the Funding Agreement requires the Funding Recipient to submit the first Quarterly Work Plan within seven days of the effective date of the Funding Agreement, the Quarterly Work Plan will not be a part of this Funding Agreement.

ARTICLE A-1. OVERALL PROJECT WORK PLAN

ARTICLE A-2. OVERALL PROJECT BUDGET

ARTICLE A-3. OVERALL PROJECT SCHEDULE

If implementation of the Overall Work Plan will be done in conjunction with Project-Associated Work, the Overall Work Plan should include information regarding the scope of the Project-Associated Work and a budget and schedule for this work. The Funding Recipient will clearly distinguish between work included in the Overall Work Plan, which will be funded by the State under this Funding Agreement, and Project-Associated Work, which will not be funded by the State under this Funding Agreement.
EXHIBIT B
STANDARD CONDITIONS

B-1 GOVERNING LAW: This Funding Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

B-2 TIMELINESS: Time is of the essence in this Funding Agreement.

B-3 AMENDMENT: This Funding 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 Funding Recipient for amendments must be in writing stating the amendment request and the reason for the request. State shall have no obligation to agree to an amendment.

B-4 SUCCESSORS AND ASSIGNS: This Funding Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Funding Agreement or any part thereof, rights hereunder, or interest herein by the Funding Recipient shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.

B-5 AUDITS: State reserves the right to conduct an audit at any time between the execution of this Funding Agreement and the completion of the Project, with the costs of such audit borne by State. After completion of the Project, State may require Funding Recipient to conduct a final audit to State's specifications. At Funding Recipient's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may elect to pursue any remedies provided in paragraph 20 or take any other action it deems necessary to protect its interests.

Pursuant to Government Code Section 8546.7, the Funding Recipient shall be subject to the examination and audit of State for a period of three years after final payment under this Funding Agreement with respect of all matters connected with this Funding Agreement, including but not limited to, the cost of administering this Funding Agreement. All records of Funding Recipient or subcontractors shall be preserved for this purpose for at least three (3) years after Project completion.

Funding Recipient is aware that special audit provisions apply to this funding commitment pursuant to Cal. Pub. Res. Code §§ 75078, 75079 and shall cooperate fully with the State in complying with these audit provisions. At the sole discretion of the State, the State may waive compliance with these special audit provisions if the source of the funds provided to the Funding Recipient is limited to funds made available by the California Disaster Preparedness and Flood Prevention Bond Act of 2006, Cal. Pub. Res. Code Chapter 1.699, rather than the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, Cal. Pub. Res. Code Division 43.

B-6 ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT:
a) Separate Accounting of Funding Disbursements and Interest Records: Funding Recipient shall account for the money disbursed pursuant to this Funding Agreement separately from all other Funding Recipient funds. Funding Recipient shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Funding Recipient shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. Funding Recipient shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.

b) Disposition of Money Disbursed: All money disbursed pursuant to this Funding Agreement shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.

c) Remittance of Unexpended Funds: Funding Recipient shall remit to State any unexpended funds that were disbursed to Funding Recipient under this Funding Agreement and were not used to pay Eligible Project Costs within a period of sixty (60) calendar days from the final disbursement from State to Funding Recipient of funds or, within thirty (30) days of the expiration of the Funding Agreement, which ever comes first.

B-7 COMPETITIVE BIDDING AND PROCUREMENTS: Funding Recipient shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Funding Recipient’s contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement.

B-8 FINAL INSPECTIONS AND CERTIFICATION OF REGISTERED CIVIL ENGINEER: Upon completion of the Project, Funding Recipient shall provide for a final inspection and certification by a California Registered Civil Engineer that the Project has been completed in accordance with submitted final plans and specifications and any modifications thereto and in accordance with this Funding Agreement. Funding Recipient shall notify the State’s Project Manager of the inspection date at least 14 calendar days prior to the inspection in order to provide State the opportunity to participate in the inspection.

B-9 INSPECTIONS OF PROJECT BY STATE: State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Funding Agreement. This right shall extend to any subcontracts, and Funding Recipient shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Funding Agreement with State. State shall also have the right to inspect the Project under the terms set forth in the OMRR&R Agreement included as Exhibit D to this Funding Agreement.

B-10 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 Funding 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

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to its activities under this Funding Agreement. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may withhold disbursements to Funding Recipient or take any other action it deems necessary to protect its interests, as provided in paragraph 20.

B-11 ACKNOWLEDGEMENT OF CREDIT: Funding Recipient shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project or using any data and/or information developed under this Funding Agreement. During construction of the Project, Funding Recipient shall install a sign at a prominent location which shall include a statement that the Project is financed under the California Disaster Preparedness and Flood Prevention Bond Act of 2006 and the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, State-Federal Flood Control System Modification Program (Early Implementation Projects), administered by State of California, Department of Water Resources. Funding Recipient shall notify State that the sign has been erected by providing them with a site map with the sign location noted and a photograph of the sign.

B-12 TRAVEL: Travel includes the reasonable and necessary costs of transportation, subsistence, and other associated costs incurred by personnel during the term of this Funding Agreement. Travel and per diem shall be reimbursed consistent with the rates current at the time of travel. These rates are published at http://www.dpa.ca.gov/jobinfo/statetravel.shtm or its successor website. For the purpose of computing such expenses, Funding Recipient’s designated headquarters shall be Marysville, California. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.

B-13 PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION: Funding Recipient 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 Project, or with Funding Recipient’s service of water, without prior permission of State. Funding Recipient 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 Funding Recipient meet its obligations under this Funding Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property be remitted to State.

B-14 STATE TO BE HELD HARMLESS: Funding Recipient agrees to indemnify State and its officers, agents, and employees against and to hold the same free and harmless from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, and whether directly or indirectly, arising out of the Project.

B-15 NO THIRD PARTY RIGHTS: The parties to this Funding Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Funding Agreement, or of any duty, covenant, obligation or undertaking established herein.

B-16 OPINIONS AND DETERMINATIONS: Where the terms of this Funding 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.

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B-17 SUIT ON FUNDING AGREEMENT: Each of the parties hereto may sue and be sued with respect to this Funding Agreement.

B-18 REMEDIES NOT EXCLUSIVE: The use by either party of any remedy specified herein for the enforcement of this Funding 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.

B-19 SEVERABILITY: Should any portion of this Funding Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Funding Agreement shall continue as modified.

B-20 WAIVER OF RIGHTS: None of the provisions of this Funding Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties here to that from time to time either party may waive any of its rights under this Funding Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Funding 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.

B-21 TERMINATION FOR CAUSE: Subject to the right to cure provided under paragraph 20, the State may terminate this Funding Agreement and be relieved of any payments should Funding Recipient fail to perform the requirements of this Funding Agreement at the time and in the manner herein provided included but not limited to reason of default under paragraph 20.

B-22 INDEPENDENT CAPACITY: Funding Recipient, and the agents and employees of Funding Recipients, in the performance of the Funding Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.

B-23 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 Funding Recipient: Employees of the Funding Recipient shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to...
to any applicable conflict of interest provisions of the California Political Reform Act, Cal. Gov’t Code § 87100 et seq.

B-24 WORKERS’ COMPENSATION: Funding Recipient 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 Funding Recipient affirms that it will comply with such provisions before commencing the performance of the work under this Funding Agreement and will make its contractors and subcontractors aware of this provision.

B-25 AMERICANS WITH DISABILITIES ACT: By signing this Funding Agreement, Funding Recipient 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.

B-26 NONDISCRIMINATION CLAUSE: During the performance of this Funding Agreement, Funding Recipient 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. Funding Recipient and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Funding Recipient 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. Funding Recipient 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.

Funding Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.

B-27 DRUG-FREE WORKPLACE CERTIFICATION

Certification of Compliance: By signing this Funding Agreement, Funding Recipient, 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 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:

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1. The dangers of drug abuse in the workplace,
2. Funding Recipient'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 Funding Agreement:

   1. Will receive a copy of Funding Recipient’s drug-free policy statement, and
   2. Will agree to abide by terms of Funding Recipient’s condition of employment,
contract or subcontract.

Suspension of Payments: This Funding Agreement may be subject to suspension of payments or
termination, or both, and Funding Recipient may be subject to debarment if the State determines
that:

   a) Funding Recipient, its contractors, or subcontractors have made a false certification, or
   b) Funding Recipient, its contractors, or subcontractors violates the certification by failing to
carry out the requirements noted above.

B-28 UNION ORGANIZING: Funding Recipient, by signing this Funding Agreement, hereby
acknowledges the applicability of Government Code 16645 through 16649 to this Funding
Agreement. Furthermore, Funding Recipient, by signing this Funding Agreement, hereby certifies
that:

   a) No State funds disbursed by this Funding Agreement will be used to assist, promote, or
deter union organizing.
   b) Funding Recipient shall account for State funds disbursed for a specific expenditure by
this Funding Agreement to show those funds were allocated to that expenditure.
   c) Funding Recipient 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 Funding Recipient makes expenditures to assist, promote, or deter union organizing,
Funding Recipient will maintain records sufficient to show that no State funds were used for
those expenditures and that Funding Recipient shall provide those records to the Attorney
General upon request.

B-29 BUDGET CONTINGENCY: If the Budget Act of the current year covered under this
Funding Agreement does not appropriate sufficient funds for the State-Federal Flood Control
System Modification Program (Early Implementation Projects), this Funding Agreement shall be
of no force and effect. This provision shall be construed as a condition precedent to the
obligation of State to make any payments under this Funding Agreement. In this event, State
shall have no liability to pay any funds whatsoever to Funding Recipient or to furnish any other
considerations under this Funding Agreement and Funding Recipient shall not be obligated to

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perform any provisions of this Funding Agreement. Nothing in this Funding Agreement shall be construed to provide Funding Recipient with a right of priority for payment over any other Funding Recipient. If funding for any fiscal year after the current year covered by this Funding Agreement is reduced or deleted by the Budget Act for purposes of this program, State shall have the option to either cancel this Funding Agreement with no liability occurring to State, or offer a Funding Agreement amendment to Funding Recipient to reflect the reduced amount.

B-30 COMPUTER SOFTWARE: Funding Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Funding Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

B-31 DELIVERY OF INFORMATION, REPORTS, AND DATA: Funding Recipient agrees to expeditiously provide, during work on the State-Federal Flood Control System Modification Program (Early Implementation Projects) and throughout the term of this Funding Agreement, such reports, data, information, and certifications as may be reasonably required by State.

B-32 RIGHTS IN DATA: Funding Recipient 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 Funding 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. Funding Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Funding Agreement, subject to appropriate acknowledgement of credit to State for financial support. Funding Recipient 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.

B-33 DISPOSITION OF EQUIPMENT: Funding Recipient shall provide to State, not less than 30 days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided by State. The inventory shall include all items with a current estimated fair market value of more than $500 per item. Within 60 days of receipt of such inventory State shall provide Funding Recipient with a list of the items on the inventory that State will take title to. All other items shall become the property of Funding Recipient. State shall arrange for delivery from Funding Recipient of items that it takes title to. Cost of transportation, if any, shall be borne by State.

B-34 CHILD SUPPORT COMPLIANCE ACT: For any Funding Agreement in excess of $100,000, the Funding Recipient acknowledges in accordance with Public Contract Code 7110, that:

a) The Funding Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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b) The Funding Recipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

B-35 PRIORITY HIRING CONSIDERATIONS: If this Funding Agreement includes services in excess of $200,000, the Funding Recipient shall give priority consideration in filling vacancies in positions funded by the Funding Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

B-36 DOMESTIC PARTNERS: For contracts over $100,000 executed or amended after January 1, 2007, the Funding Recipient certifies by signing this Funding Agreement, under penalty of perjury under the laws of State of California, that Funding Recipient is in compliance with Public Contract Code section 10295.3.

B-37 FUNDING RECIPIENT NAME CHANGE: Approval of the State’s Project Manager is required to change the Funding Recipient’s name as listed on this Funding 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.

B-38 AIR OR WATER POLLUTION VIOLATION: Under State laws, the Funding Recipient 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.
Exhibit C
QUARTERLY WORK PLAN AND REPORT FORMATS

If implementation of the Overall Work Plan will be done in conjunction with Project-Associated Work, the work plans and reports described in this Exhibit should include information regarding the scope of the Project-Associated Work. The Funding Recipient will clearly distinguish between work included in the Overall Work Plan, which will be funded by the State under this Funding Agreement, and Project-Associated Work, which will not be funded by the State under this Funding Agreement.

QUARTERLY WORK PLANS

Quarterly Work Plans shall generally use the following format. This format may be modified as necessary to effectively communicate information on the various projects contained in the State-Federal Flood Control System Modification Program (Early Implementation Projects).

The report should reflect the work plan for completing work over the three months of the next calendar quarter.

QUARTERLY WORK PLAN

Describe the work to be performed during the time period covered by the Quarterly Work Plan including:

PROJECT INFORMATION

- Engineering and construction matters;
- Environmental matters;
- Status of permits, easements, rights-of-way, and approvals as may be required by other State, federal, and/or local agencies;
- Major accomplishments planned for the quarter (i.e. tasks to be completed, milestones to be met, meetings to be held or attended, etc.);
- Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter;
- Describe differences between the work to be performed and the work outlined in the Overall Work Plan, including anticipated change orders.
- Any litigation, proceedings or claims relating to the Project.

COST INFORMATION

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• Listing showing projected costs that are anticipated during the time period covered by the Quarterly Work Plan by the Funding Recipient and each contractor working on the project, broken down to show individual items and tasks.

• A discussion of how the projected costs compare to the project budget included in the Overall Work Plan;

• A list of any changes planned to the budget in accordance with Funding Agreement and a revised budget, by task, if changed from latest budget in the Overall Work Plan;

• The amount of advance funds sought from the State pursuant to paragraph 14(c);

• The amount of funds the Funding Recipient intends to expend to meet its funding obligations under the Funding Agreement.

In the discussion of project costs, eligible Real Estate Capital Outlay Costs will be listed separately from other Eligible Project Costs. If the Project has multiple Project Elements and Project Features, the Quarterly Work Plan should clearly indicate which costs will be incurred for each Project Element and Project Feature.

SCHEDULE INFORMATION

• A schedule of activities during the time period covered by the Quarterly Work Plan;

• A discussion on how the projected schedule compares to the original or last reported schedule; and

• A list of any changes anticipated during the time period covered by the Quarterly Work Plan as compared to the latest reported schedule.

QUARTERLY PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information on the various projects contained in the State-Federal Flood Control System Modification Program (Early Implementation Projects).

The report should reflect the status of all of the projects identified in the Funding Agreement. A brief summary of program status should also be provided.

PROJECT STATUS

For each project, describe the work performed during the time period covered by the report including:

PROJECT INFORMATION

• Legal matters;
• Engineering and construction matters;
• Environmental matters;
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Three Rivers Levee Improvement Authority
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• Status of permits, easements, rights-of-way, and approvals as may be required by other State, federal, and/or local agencies;
• Major accomplishments during the quarter (i.e. tasks completed, milestones met, meetings held or attended, press releases, etc.);
• Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter;
• Describe differences between the work performed and the work outlined in the Overall Work Plan, including change orders.
• Demonstrate financial ability to pay local cost share of Eligible Project Costs required to complete the Project.

COST INFORMATION

• Listing showing costs incurred during the time period covered by the report by the Funding Recipient and each contractor working on the project and which of these costs are Eligible Project Costs;
• A discussion on how the actual budget is progressing in comparison to the project budget included in the Overall Work Plan as well as the Quarterly Work Plans;
• A list of any changes approved to the budget in accordance with Funding Agreement and a revised budget, by task, if changed from latest budget in the Overall Work Plan; and
• A discussion of whether there have been any changes to the Funding Recipient’s Finance Plan for payment of the Funding Recipient’s share of Eligible Project Costs.

In the discussion of project costs, eligible Real Estate Capital Outlay Costs will be listed separately from other Eligible Project Costs.

SCHEDULE INFORMATION

• A schedule showing actual progress verses planned progress;
• A discussion on how the actual schedule is progressing in comparison to the original or last reported schedule; and
• A list of any changes approved to the Schedule in accordance with Funding Agreement and a revised schedule, by task, if changed from latest reported schedule.

PROJECT COMPLETION REPORT

Project Completion Reports shall generally use the following format.

EXECUTIVE SUMMARY

The Executive Summary consists of a maximum of ten (10) pages summarizing project information (see report status section below for topics). The Executive Summary should include the following:

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• Brief description of work proposed to be done in the original Early Implementation Grant application;

• Description of actual work completed and any deviations from the work plan identified in the Funding Agreement;

Reports and/or products

• Provide a copy of the final technical report;

• A map and shapefile(s) showing the location of the completed project, including latitude and longitude datum. (NAD'27 coordinates; UTM10 projection);

• Provide three electronic copies and three hard copies of as-built plans (media: CD-ROM; PDF format);

• Provide copies of any data collected along with location maps;

Cost & Disposition of Funds Information

• A list of and copies of all invoices showing:
  ➢ The date each invoice was submitted to State;
  ➢ The amount of the invoice;
  ➢ The date the check was received; and
  ➢ The amount of the check. (If a check has not been received for the final invoice, then state this in this section.)

• A summary of the payments made by the Funding Recipient for meet its cost sharing obligations under this Funding Agreement.

• A summary of final funds disbursement including:
  ➢ Labor cost of personnel of agency/ major consultant /sub-consultants. (Indicate personnel, hours, rates, type of profession and reason for consultant, i.e., design, CEQA work, etc.);
  ➢ Construction cost information, shown by material, equipment, labor costs, and change orders;
  ➢ Any other incurred cost detail; and
  ➢ A statement verifying separate accounting of funding disbursements.

• Summary of project cost including:
  ➢ Accounting of the cost of project expenditure;
  ➢ Include all internal and external costs not previously disclosed;
  ➢ A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

In the discussion of project costs and disposition of funds, eligible Real Estate Capital Outlay Costs will be listed separately from other Eligible Project Costs.

Additional Information

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• A final project schedule showing actual progress verses planned progress;
• Certification by a California Registered Civil Engineer that the project was conducted in accordance with the approved work plan and any approved modifications thereto;
• Submittal schedule for Post Construction Performance Report and outline of the reporting format; and
• A copy of the application filed for a determination of eligibility for federal credits or reimbursement and all correspondence with the U.S. Army Corps of Engineers relating to that application and information regarding the status of that application.
Exhibit D
OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND REHABILITATION AGREEMENT

[See separate electronic file.]
Resolved by the ____________________________
(Governing body, city council, or other)
of the ____________________________
(Funding Recipient-agency, city, county, or other)
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 the funds awarded to ____________________________
(Agency, city, county, or other)
by the California Department of Water Resources for a State-Federal Flood Control System Modification Program project titled: ____________________________
(Project title)
are hereby accepted.

The ____________________________
(Presiding officer, president, city manager, or other official)
is hereby authorized and directed to
(Agency, city, county, or other)
sign a Funding Agreement with the California Department of Water Resources and to sign requests for disbursements to be made under this Funding Agreement.

Passed and adopted at a regular meeting of the ____________________________
(Board of Directors, Supervisors, etc.)
of the ____________________________
(Name of Funding Recipient)
on ____________________________.
(Date)

Authorized Signature ________________
Printed Name ____________________________
Title ____________________________
Clerk/Secretary ____________________________
Exhibit F

LAND ACQUISITION PROCESS REQUIREMENTS

1) GEODETIC STANDARDS: Funding Recipient shall provide geodetic services as described in this Exhibit F. Geodetic services are defined as field surveys, examination of title to all parcels, preparation of legal descriptions, maps and deeds including obtaining preliminary title reports, or litigation guarantees, clearance of exceptions to title, policy of title insurance.

Funding Recipient shall acquire and assume title of the real property rights in Funding Recipient's name for all parcels authorized in accordance with the approved Project Real Estate Plan using Easement Acquisition Deed or Grant Deed, a sample of such to be provided. After completion of all Project acquisitions, and in concurrence with State, Funding Recipient will subsequently assign to State, in the name of The Sacramento and San Joaquin Drainage District or successor entity, all real property interests using Easement Assignment Deed or Grant Deed, a sample of such to be provided.

Funding Recipient shall adhere and conform to all conditions stated in the Funding Agreement, cadastral surveys guidelines, standards, and requirements for legal descriptions and mapping.

Funding Recipient shall assure that property vested by Funding Recipient, and subsequently assigned to State, is free and clear of all liens, encumbrances, assessments, easements, leases (recorded and/or unrecorded), and taxes, except:

- Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
- Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
- Easements or rights of way over said land for public or quasi-public utility or public purposes not in conflict with the Project, if any.

State shall provide Funding Recipient with copies of the geodetic branch-cadastral surveys guidelines, standards, and requirements for legal descriptions and mapping upon request.

State shall verify Funding Recipient's adherence to geodetic standards during the review process and provide approval or rejection to Funding Recipient in writing.

2) APPRAISAL STANDARDS: An appraisal estimates the fair market value of the real property acquired. All appraisals shall be performed by an appraiser who is licensed with the State of California, Office of Real Estate Appraisers and who also holds the designation of MAI or a recognized equivalent applicable to the type of property appraised. An appraisal of the current fair market value as defined in Code of Civil Procedure Section 1263.320 must be developed as required by the Uniform Standards of Professional Practice Standard 1: Real Property Appraisal Development, and reported as a Self-Contained Appraisal Report under USPAP Standard 2: Real Property Appraisal Reporting. Appraisal Standards shall be those contained in the most recent edition of The Appraisal of Real Property, which is published by the Appraisal Institute. Three copies of each appraisal report shall be submitted to the State for approval, including, if necessary, the Department of General Services.

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Appraisals reports with just compensation values up to $150,000 will be reviewed and approved by State. For acquisitions where the individual appraisal report's just compensation value exceeds $150,000, the appraisal will require review and approval from the Department of General Services. State shall provide Funding Recipient with Appraisal Standards and Specifications and Department of General Services Appraisal Review Specifications upon request.

State shall verify Funding Recipient's adherence to Appraisal Standards and Specifications during the appraisal review process and provide approval or rejection to Funding Recipient in writing. For lands, easements, or rights of way acquired by eminent domain proceeding instituted in accordance with this Funding Agreement, fair market value shall be either: (a) the amount of the court award for the real property interests taken, to the extent the Funding Recipient, after coordination with State, determined such interests are required for construction or OMRR&R, or (b) the amount of any stipulated settlement or portion thereof that the State approves in writing.

3) ENVIRONMENTAL SITE ASSESSMENT STANDARDS: During the due diligence period and before final acquisition, Funding Recipient shall perform and/or comply with the following provisions to determine the presence or existence of hazardous substances/toxic materials and cultural/historic resources:

Funding Recipient shall comply with State's, Water Resources Engineering Memorandum No. 59 (WREM 59), which establishes a policy for pre-acquisition inspection of real property and improvements where the State is anticipating to be conveyed, by assignment, a real property interest, fee or easements, for ascertaining the existence of hazardous substances. At a minimum for all fee purchases and all levee right of way, Funding Recipient shall conduct a Phase I Environmental Site Assessment (ESA) and prepare a written report in conformance with the scope and limitations of the American Society for Testing and Materials (ASTM) E1527-05 standard practice and the requirements set forth in Title 40, Part 312 of the Code of Federal Regulations (CFR). The contents of the Phase I ESA report shall be based on information from the following, but not limited to the following activities: a site reconnaissance, historical review of land use, review of land title records, consultation with local environmental health officials, contact with the land owner, review of available maps and records, review of cultural resource databases, and review of federal and State environmental databases.

The Funding Recipient will obtain necessary permits from the current landowners to allow inspection of the property. In the event that the Funding Recipient discovers through an environmental investigation, such as a Phase I ESA or other means prior to or after close of escrow that any Project lands contain hazardous substances or toxic materials which will require the expenditure of response costs, the Funding Recipient shall either forgo the purchase of the property or initiate and complete any and all necessary response and cleanup activities required under CERCLA, RCRA, Hazardous Substances Account Act or other applicable law and sustain all costs accordingly. Any required remediation plan shall be approved by the State before the State advances any funds into escrow under paragraph 21 (b) of this Agreement. The Funding Recipient shall be considered the Project proponent, bona fide prospective purchaser, operator, and/or landowner for purposes of CERCLA, RCRA, Hazardous Substances Account Act, other applicable law and WREM 59 liability.

Funding Recipient shall acquire the real property rights free and clear of all known encumbrances and hazardous substances based on, when reasonably necessary, the analytical laboratory results of composite sediment and soil samples. Funding Recipient shall determine and have reviewed and approved by the agencies with regulatory jurisdiction the proper disposition of identified encumbrances to title.

If the areas of acquisition are to be used as borrow sites, Funding Recipient shall determine that the soil found in these areas is suitable as fill material in accordance with guidelines found in the
State shall provide Funding Recipient with Environmental Site Assessment Standards and Guidelines upon request.

State shall verify Funding Recipient’s adherence to Environmental Site Assessment Standards during the review process and provide approval or rejection to Funding Recipient in writing.

4) **WRITTEN OFFER:** Purchase documents, known collectively as the first written offer, is comprised of a cover letter to the property owner, a right of way contract (purchase funding agreement), a sample of such to be provided upon request, including an appraisal summary statement of the appraisal’s fair market value and geodetic materials (map and deed). The offer package shall also include information on Relocations Assistance Program if it is applicable.

Prior to Funding Recipient making a first written offer to landowners, Funding Recipient shall provide State for review and approval purposes, the subject property’s right of way contract (purchase funding agreement), appraisal report, geodetic materials (map and deed), and environmental site assessment report. State’s review shall be accomplished and the results reported to Funding Recipient promptly following receipt of those documents.

Funding Recipient’s geodetic materials (map and deed) shall be reviewed by State for compliance to the Early Implementation Projects, Cadastral Surveys Guidelines, and requirements for legal descriptions and mapping.

Funding Recipient’s environmental site assessment report will be reviewed for compliance to a Phase I Environmental Site Assessment (ESA) and prepare a written report in conformance with the scope and limitations of the American Society for Testing and Materials (ASTM) E1527-05 standard practice and the requirements set forth in Title 40, Part 312 of the Code of Federal Regulations (CFR). This standard is in accordance with the State’s Water Resources Memorandum No. 59 (WREM 59), which establishes a policy for pre-acquisition inspection of real property and improvements where the State is anticipating to be conveyed, by assignment, a real property interest, fee or easements, for ascertaining the existence of hazardous substances.

Funding Recipient is at risk of not receiving cost-sharing for land acquisition activities made before receiving State’s approvals as detailed in Sections 1) Geodetic Standards, 2.) Appraisal Standards, and 3.) Environmental Site Assessment Standards, of this Exhibit F.

5) **NEGOTIATIONS:** Funding Recipient’s negotiator is responsible to ensure that the property owner is paid the just compensation that they are entitled, that the settlement represents compensation that is just and fair, and that every courtesy and consideration is extended to the property owner. If during the course of negotiations, the negotiator discovers anything affecting the value for the property that may have escaped the appraiser’s attention or was not given proper consideration in the final determination of market value, he must investigate and, if necessary, call for a reappraisal of the property before negotiations are continued.

Parcel diaries for each ownership must be maintained. The parcel diary will reflect the offer and status of the agent’s contracts and conversations with all interested parties. It will remain with the agent individual parcel folder until the parcel is acquired. It will then be included in the memorandum of settlement package.

Private property or interest therein will be acquired in accordance with Article I, Section 19 of the California Constitution. In addition to the constitutional requirement, acquisition of private property for public use is also to be in accordance with sections of the Government Code entitled “Uniform Relocation Assistance and Real Property Acquisitions Policies Act.”

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Negotiated settlement, situations where final just compensation is to be paid to a property owner, must be approved by State in writing prior to close of escrow. Property may be acquired through negotiated settlement at a payment which varies from the approved appraisal through the negotiated settlement process. If the negotiated settlement is non-substantial and can be justified through the appraisal process, it may be authorized by State’s Real Estate Branch. Negotiated settlements of a substantial amount or those that can not be justified through the appraisal process, will require prior approval by State’s Program Management personnel in concurrence with the State’s Real Estate Branch, Chief.

Funding Recipient is at risk of not receiving cost-sharing for offers made that are in excess of the approved appraisal’s fair market value without receiving the State’s approvals as detailed in Sections 1) Geodetic Standards, 2.) Appraisal Standards, and 3.) Environmental Site Assessment Standards, of this Exhibit F.

6) **MEMORANDUM OF SETTLEMENT:** Before the close of escrow for any parcel, Funding Recipient shall provide State a memorandum of settlement package (MOS), a sample of such to be provided. State will review and approve each transaction before the close of escrow. The settlement package shall include a copy of the original signed and notarized deed on deposit in the escrow account, two signed copies of the Right of Way Contract each with original signature(s), a “Memorandum of Settlement, Escrow and Closing Instruction Worksheet” which gives instructions for clearing title at close of escrow, escrow closure notice, escrow and closing cover letter, and a copy of the parcel diary.

The final settlement will be given careful consideration to compensation of appraised fair market value, compliance with existing policy on title exceptions, and adequacy of the property acquired as it relates to the Project Real Estate Plan.

Where the amount proposed to be paid by the Funding Recipient for the real property interest exceeds the amount determined pursuant to Section 2), Appraisal Standards, of this Exhibit F, also referred to as a “Negotiated Settlement” as described in Section 5), Negotiations, of this Exhibit F, the State, at the request of the Funding Recipient, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Funding Recipient, may approve an amount greater than the amount determined pursuant to Section 2) Appraisal Standards, of this Exhibit F. Funding Recipient will provide a detailed settlement explanation of any negotiated settlements.

Transactions with a just compensation value up to $150,000 will be reviewed and approved by State. In cases where the individual transaction’s just compensation value exceeds $150,000, the appraisal will require review and approval from the Department of General Services.

Funding Recipient is at risk of not receiving cost-sharing for settlements made that are in excess of the approved appraisal’s fair market value without receiving the State’s written approvals as detailed in Sections 1) Geodetic Standards, 2.) Appraisal Standards, and 3.) Environmental Site Assessment Standards, of this Exhibit F, and State’s Transaction Review Approval in writing prior to close of escrow.

7) **ESCROW AND CLOSING:** Escrow and closing services are required to consummate the transactions which are called for in the Funding Agreement including funding, clearing title at close of escrow, and issuance of a policy of title insurance.

Funding Recipient shall establish individual escrows (Escrow) to consummate the transactions which are authorized in Funding Recipient’s Project Real Estate Plan and have received all State approvals.
In concurrence with State, Funding Recipient will select an escrow holder of its choice to facilitate escrow. Escrow holder shall be instructed by State as to funding, clearing title at close of escrow, and issuance of a policy of title insurance.

Funding Recipient’s escrow holder shall close escrow in accordance with previously approved “Escrow and Closing Instruction Worksheet” outlined in Section 6), Memorandum of Settlement, of this Exhibit F, which gives instructions for the proper disposition of identified encumbrances to title and the escrow closure notice.

Funding Recipient is solely responsible for providing funding for its share of Eligible Project Costs into escrow.

Funds advanced by State for purchase of real property essential for completion of the Project shall be deposited by State with escrow holder. If the escrow does not close by the date set forth in State’s escrow instructions, or such other date as may be agreed to by the parties, the funds provided by State shall be returned to State.

Closing shall be accomplished through the Escrow upon which the deed will be recorded in the official public records of the county in which the real property is located. Title shall be conveyed to Funding Recipient at close of escrow.

The costs of using an escrow agent will be paid by the Funding Recipient, but will be considered Eligible Project Costs for purposes of this Funding Agreement and hence subject to state cost sharing requirements.

After completion of all Project acquisitions, and in concurrence with State, Funding Recipient will subsequently assign to State, in the name of “The Sacramento and San Joaquin Drainage District, or successor entity” all real property interests using Easement Assignment Deed or Grant Deed, a sample of such to be provided.

8) **LAND ACQUISITION FINAL ACCOUNTING PROCESS**: At the conclusion of the Project or any Project Elements, Funding Recipient shall prepare and provide State with a land acquisition final accounting package as described below. The land acquisition final accounting package serves multiple purposes for the State, including allowing tracking of parcels, ensuring only eligible project costs are paid, facilitating legally required accounting and audit functions, and maximizing the State’s ability to obtain crediting towards future possible federal cost shares. Accordingly, strict adherence to preparation of the land acquisition final accounting package is required.

As detailed in paragraph 21(a) of the Funding Agreement, Funding Recipient will submit to State a Project Real Estate Plan, to establish acceptable Project Real Estate requirements. Depending upon the disbursement approach selected by Funding Recipient in paragraph 21(b) of the Funding Agreement, State may provide Funding Recipient advanced funds to be counted toward the State cost share of total Project costs for approved acquisitions of necessary Project lands, easements, and rights-of-way. Payment to Funding Recipient for any lands, easements, or rights of way purchased, and relocations made prior to execution of the Agreement, and/or prior to final determination by State of the extent of necessary real estate requirements for the Project, is subject to adjustment during the final accounting of costs shared between State and Funding Recipient.

Where the amount proposed to be paid by the Funding Recipient for the real property interest exceeds the amount determined pursuant to Section 2) Appraisal Standards, of this Exhibit F, also referred to as a negotiated settlement as described in Section 5) Negotiations, of this Exhibit F, the State, at the request of the Funding Recipient, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Funding Recipient, may approve an amount greater than the amount determined pursuant to Section 2) Appraisal Standards, of Exhibit F to the Funding Agreement. Funding Recipient will provide a detailed settlement explanation of any negotiated settlements.
Funding Recipient shall submit for State’s approval a land acquisition final accounting package, a sample of such to be provided upon request. The land acquisition final accounting package will serve as the final review and approval of Funding Recipient’s authorized land acquisition costs, which may be applied towards Eligible Project Costs. A land acquisition final accounting package will be provided for each individual real property acquisition necessary for the project construction. Land acquisition final accounting packages will conform to State’s format and will include all documents requested by State.

Land acquisition final accounting package will include: Binder Coversheet and Spine format; Exhibit A, Funding Recipient Parcel No., Reclamation Board Parcel No., APN, Property Owner, Acreage per Project Real Estate Plan, Acreage Acquired; Exhibit B, acquisition breakdown of capital outlay costs; Authorization Letters (Authorization of Project Real Estate Plan Letter, Land Acquisition Standards Approval Form, Memorandum of Settlement Approval Form); Checklist including acreage variance; Right of Way Contract (Purchase Agreement); Appraisal; Acquisition deed; Acquisition maps; Utility Relocation Agreements, if applicable; Preliminary Title Report; Policy of Title Insurance; Escrow and Closing Settlement Statement; and Memorandum of Settlement Statement. The final land acquisition accounting package shall include a certification by the Project Manager that all costs and records are true and correct.
Exhibit A - TRLIA Overall Work Plan

Project Background: TRLIA has embarked on a four phase program to provide 200 year flood protection to South Yuba County by the end of 2008. The four phase program summarized below:

**RD784**

- Non TRLIA Levees (black): WPIC, and Bear River

**TRLIA & RD784 Levees**

- Phase 1 (red): Yuba River
- Phase 2 (green): Yuba River, Western Pacific Interceptor Canal (WPIC), and Bear River
- Phase 3 (purple): Bear River Setback
- Phase 4 (blue): Yuba River, and Feather River

Phases 1, 2, and 3 have been completed and were certified by the Corp of Engineers on May 8th, 2007 for FEMA 100 year flood protection.

The TRLIA Early Implementation Project (EIP): The TRLIA EIP project is the Phase 4 Feather River levee work that is show in the above graphic. The Feather River levee work is broken into three segments.

a. Segment 1: Bear River to approximately Star Bend (project associated work)
b. Segment 2: Setback between Star Bend and approximately Shanghai Bend
c. Segment 3: Approximately Shanghai Bend to Yuba River (HWY 70)

TRLIA has updated the cash flow originally submitted on October 3, 2007 to reflect actual expenses incurred through November 2007 and match the project elements and features, schedule, and budget provided in Tab A, B, C, D, E, and F.
Outlined below is a high level review of the TRLIA EIP Project:

- **Project Work:**
  
  - **Segment 2 Land Acquisition (March 2008 – January 2009):** TRLIA expects EIP Grant funds to become available by March 2008, preferably sooner. TRLIA will commence the lion's share of land acquisition behind the setback levee immediately when the funds become available. By June of 2008 TRLIA expects the majority of its Segment 2 setback levee land acquisition to be in the process of being purchased. TRLIA has forecasted the remainder of its land acquisition budget to be expended by 2009.

  - **Segment 2 Setback Construction (March 2008 – Fall 2009):** TRLIA anticipates starting to incur construction related expenses in late March 2008 with the goal of completing work in calendar year 2008. Work could extend into 2009 pending potential weather delays and timely issuance of work permits. It is expected that construction related invoices will be submitted in 2008 and 2009.

  - **Segments 3 Construction (April 2008 – December 2008):** TRLIA expects to recommence Segment 3 construction in late April/May 2008 and complete these segments of work by October 2008. It is expected that construction invoices will be submitted as late as December 2008.

  - **Segment 2 Setback Tie Ins Construction (Summer/Fall 2008):** TRLIA anticipates starting to incur construction related expenses in summer/fall 2008 once necessary federal permits have obtained. Work could extend into 2009 pending potential weather delays and timely issuance of work permits. It is expected that construction related invoices will be submitted in 2008 and 2009.

  - **Segment 2 Levee Degrade (April 2009 – December 2009):** TRLIA expects to begin to degrade the existing Segment 2 levee in April/May of 2009 and complete by October 2009. It is expected that construction invoices will be submitted as late as December 2009.

- **Project Associated Work:**
  
  - **Segments 1 Construction (April 2008 – December 2008):** TRLIA expects to start Segment 1 construction in late April/May 2008 and complete this segment of work by October 2008. It is expected that construction invoices will be submitted as late as December 2008.
The overall work plan contains the following sections:

1. Project Work Elements and Features – Tab A
2. Project Work Element and Features Budget – Tab B
3. Project Element and Features Schedule – Tab C
4. Associated Project Work Elements and Features – Tab D
5. Associated Project Work Element and Features Budget – Tab E
6. Associated Project Element and Features Schedule – Tab F
# Tab A: Project Elements and Features

## Outline of Project Elements:

1. **Element 1:** Feather River EIP Land Acquisition (see real estate Acquisition Plan)

2. **Element 2:** Feather River Segment 2 setback levee (w/o tie ins and levee degradation construction):

3. **Element 3:** Feather River Segment 2 Levee Tie Ins

4. **Element 4:** Feather River Segment 2 levee degradation

5. **Element 5:** Feather River Segment 3 levee improvement

6. **Element 6:** Feather River Segment 2, and 3 Operations and Maintenance post construction:

7. **Element 7:** Feather River Land Management

8. **Element 8:** Project Management, legal support, community relations support, land management support, and overhead

## Description of Project Elements and Features:

1. **Element 1:** Feather River EIP Land Acquisition (see real estate acquisition plan for details)

   1.1. **Feature 2:** Feather Segment 2: The proposed Segment 2 Levee Setback will require right of way acquisition of roughly 1749 acres from 37 parcels controlled by 25 owners. Two households and three tenants will be relocated as part of the project.

   Additional land acquisition may be necessary (up to 8 parcels) for borrow. TRLIA is working with Army Corp of Engineers to use borrow from the Setback Area and minimize impact to parcels outside the project area. However, should the setback area not provide sufficient borrow TRLIA is also pursuing borrow areas from willing sellers landside of the setback levee.

   The land acquisition is being completed in 5 reaches to coincide with the timing of the construction phasing:

   1. Reach 1 – North of Ella, plus one borrow site - 8 properties covering 313 acres
   2. Reach 2 – Ella to Anderson – 7 properties covering 884 acres
   3. Reach 3 – South of Anderson – 17 properties covering 416 acres
   4. Reach 4 – Setback Area and Relocation – 6 properties covering 136 acres
   5. Reach 5 – Potential Borrow Sites – Up to 8 properties
Negotiations have begun in earnest on all the properties in all the Reaches. TRLIA expects to have control of all properties necessary for the project between March 2008 and July 2008.

1.2. Feature 3: Feather Segment 3: The land acquisition phase of Segment 3 (PLM 23.6 to PLM 26.07) consists of temporary access rights and permanent rights necessary for the construction of a cut off wall and seepage berm. Ten property owners are affected by the project. Negotiations were completed with property owners in the spring of 2007.

**Deliverables:** Real Estate documents (see real estate acquisition plan)

2. **Element 2:** Feather River Segment 2 setback levee work (w/o tie ins and levee degradation construction):

2.1. Feature 1: Design, permitting, right of way support, and environmental support activities

2.1.1. Design: The design of Segment 2 levee repairs was initiated in April 2007, and the initial design submittal (60% design) was submitted to the Corps, DWR and Reclamation Board in July 2007. Review comments were received from DWR and Corps in September 2007, and TRLIA is proceeding with preparation of the Issue for Approval design, scheduled to be issued by the end of January 2008. In summary, the Segment 2 setback levee design includes the following activities:

- Geotechnical explorations and laboratory testing
- Preparation of site topographic mapping and other site surveys
- Preparation of a Phase 1 Environmental Site Assessment
- Geomorphic assessments
- Hydraulic modeling
- Evaluation of wind-driven erosion
- Engineering analyses, including seepage, stability, and settlement
- Preparation of a Design Report and Geotechnical Data Report
- Preparation of design drawings and specifications
- Preparation of cost estimates and schedules
- Preparation of bid documents and evaluation of contractor bids

2.1.2. Permitting: As discussed for Element 2 above, CEQA compliance for the Feather River Levee Repair Project (including Segments 1, 2 and 3) was initiated in March 2006, and the Final Environmental Impact Report (EIR) was certified by the TRLIA board on February 6, 2007. Permitting for Segment 2 was initiated in March 2007 and preparation of all permit applications was completed by August 2007. Issuance of a Reclamation Board Encroachment permit (Permit No. 18227) was delegated to the Reclamation Board General Manager in December 2007 pending receipt of the approved drawings and specification. All other permits and
authorizations are in progress, including Corps Section 404 and 408 and DFG Section 2081. In summary, permitting activities for Segment 2 include:

- Wetland delineation
- Preparation of permit applications, including Reclamation Board encroachment, Corps Section 404, DFG Section 2081, and DFG Section 1602 permits and RWQCB Section 401 water quality certification
- Cultural resources site surveys; preparation of a Cultural Resource Assessment; coordination with the Corps, the State Historic Preservation Officer (SHPO), and local Native American groups in compliance with Section 106 of the National Historic Preservation Act (NHPA)
- Site survey for sensitive habitats and preparation of Biological Assessments for USFWS and NMFS
- Preparation of Section 408 documentation, including NEPA compliance.
- Consultation and coordination with resource agencies including the Corps, U.S. Fish and Wildlife Service, NMFS, DFG, and RWQCB.
- Preparation of a pre-construction notification

2.1.3. Right of way support for real estate acquisition (see real estate acquisition plan)

- Boundary Surveys
- Plat and Legal Descriptions
- Environmental Site Assessments
- Rights of Entry
- Appraisal
- Acquisition
- Relocation
- Title / Escrow Support
- Eminent Domain Support
- Legal Support
- Right of Way Management

2.2. Feature 2: Construction Management: Construction management for Segment 2 levee repairs will include the following activities:

- Coordinate construction activities with DWR and Corps staff to communicate issues of concern, provide required information, and responding to questions.
- Conduct weekly construction meetings and prepare monthly progress reports.
- Construction contract administration, including review of work plans, schedules, budgets, and cash flow projections; evaluation of value
engineering proposals; evaluation of change orders; and review of invoices for progress payment.

- Review and processing of contractor submittals and requests for information (RFIs).
- Construction inspections to ensure that Contractors' work is performed in accordance with construction plans and specifications, and is consistent with the intent of the design.
- Quality assurance (QA) testing to ensure compliance with the requirements of contract documents, and review of the effectiveness and adequacy of the contractor's quality control (QC) program.
- Implementing start-up, closeout and acceptance procedures for the systematic, orderly and timely completion, acceptance, and transfer of facilities constructed, as well as contract closeout.
- Preparing a construction summary report for construction activities, including a summary of the project history, problems encountered and resolutions made, summary of major changes, summary of bid and final project costs, QA and QC testing results, photographs depicting construction work in progress, and project record drawings.
- Conducting preconstruction biological surveys, training, and construction monitoring for biological resources before and during construction.
- Conduct cultural resources monitoring near known cultural resources.

2.3. Feature 3: Construction of setback levee w/o tie ins and segment 2 levee degradation construction work: The Segment 2 setback levee will extend from the existing Feather River left levee PLM 17.2 to 23.4. Setback levee construction is anticipated to begin in spring 2008.

2.3.1. Foundation and related construction activities. A summary of major foundation construction activities includes the following:

- Includes preconstruction activities including constructability review and design support.
- Clearing, grubbing and stripping for the setback levee footprint, portions of borrow areas, and portions of spoil berms.
- Excavating an approximately 5.7-mile-long inspection trench along the alignment of the setback levee and backfilling it with compacted low-permeability soil.
- Constructing an approximately 25,000-foot-long, 50- to 80-foot-deep soil-bentonite slurry cutoff wall through the backfilled inspection trench. Cutoff wall area is estimated at about 1,600,000 square feet.

2.3.2. Embankment and related construction activities. A summary of major embankment construction activities excluding levee tie ins include the following:
• Clearing, grubbing and stripping for the stability berm footprints, toe access corridor, landside toe ditch, borrow areas, Pump Station No. 3 facilities, and spoil berms.
• Constructing the 5.7-mile-long setback levee embankment, including stability berms against the landside and waterside levee slopes along certain reaches of the levee.
• Demolishing residences and farm buildings and related above and below-ground structures in the setback area.
• Constructing a new Pump Station No. 3 consisting of a four-bay reinforced-concrete structure equipped with four 150-HP vertical turbine pumps (including motors, discharge lines, controls, and appurtenances), and outfall piping over the levee.
• Constructing a landside toe ditch along most of the length of the setback levee, including bridge and culvert roads crossings.
• Installing approximately 24 relief wells and related drainage facilities.
• Re-constructing the levee patrol roads.
• Installing vibrating wire and open standpipe piezometers.
• Restoring final levee embankment and staging/lay down areas, including, and establishing erosion control vegetation on the embankment slopes and toe access corridors.

2.3.3. Relocation of PG&E Facilities

2.4. Feature 4: Environmental & Cultural Mitigation: The Feather River Repair Project, Segment 2 is expected to require compensatory mitigation for the direct loss of habitat and temporary impacts to species and habitats associated with USACE jurisdictional waters and habitats and federally listed species. These may include mitigation for:

2.4.1. Environmental Mitigation/Restoration

2.4.1.1. Riparian habitat: At this time, TRLIA estimates a direct loss to approximately 8.45 acres and temporary impacts to 39.09 acres of riparian habitat

Proposed Restoration: TRLIA proposes to establish an onsite riparian preserve that will include the compensatory mitigation requirements for riparian habitat.

2.4.1.2. Emergent wetlands: At this time, TRLIA estimates a direct loss to approximately 2.11 acres and temporary impacts to 0.82 acres of emergent wetlands

Proposed Mitigation: TRLIA will purchase off site mitigation banking credits to compensate for the direct and temporary loss of wetlands.
2.4.1.3. Other waters of the U.S., TRLIA estimates a direct loss to approximately 0.22 acres to waters of the U.S.

Proposed Mitigation: TRLIA will purchase off site mitigation banking credits to compensate for the loss of waters of the U.S.

2.4.1.4. Other waters of the Feather River floodway for orchard removal:

Proposed Restoration: TRLIA proposes to include any requirements for orchard removal resulting in the creation and or loss to waters of the Feather River floodway in the onsite riparian preserve as converted areas for raptor foraging habitat.

2.4.1.5. Federally threatened valley elderberry longhorn beetle: At this time, TRLIA estimates temporary effects to the valley elderberry longhorn beetles given that approximately 30 shrubs, the beetle's habitat is the valley elderberry shrub, are present within the project's construction area.

Proposed Mitigation: Efforts will be made to remove and transplant all the affected shrubs, however it is likely that TRLIA will incur temporary impacts during the period of transplant. Removal and transplant efforts are expected to be complete by December 2009, in addition to any compensatory mitigation TRLIA may be required to provide as a result of these impacts.

2.4.1.6. Federally threatened giant garter snake: TRLIA estimates direct loss and temporary impacts to giant garter snake habitat as a result of the project. It is estimated that the project will result in permanent loss of 16.60 acres of aquatic habitat and 12.24 acres of upland habitat to the giant garter snake. An additional 0.11 acres of temporary upland habitat is expected to be affected.

Proposed Mitigation: In anticipation of the compensatory mitigation requirement by the project, TRLIA has negotiated to purchase compensatory mitigation credits, based on the ratio determined by the U.S. Fish and Wildlife Service (Service), from an offsite provider, beginning with payments in November of 2007 and ending in December 2008. Based on previous requirements for compensatory mitigation determined by the Service on TRLIA's past projects, the total giant garter snake mitigation compensation was estimated to be approximately 137.6 acres.

2.4.2. Cultural Mitigation: Work necessary to accomplish and comply with Section 106 consultation.
Deliverables: Design Drawings and Specifications used for Bidding; Permits; CEQA and NEPA documents; and As-built drawings

3. Element 3: Feather River Segment 2 Levee Tie Ins:

3.1. Feature 1: Construction: Constructing earthen buttress tie-ins to the existing Feather River Levee at both ends of the setback levee. Tie construction would begin once necessary federal permits were obtained.

Deliverables: Design Report, Design Drawings and Specifications used for Bidding; Permits; CEQA and NEPA documents; and As-built drawings (if applicable, items can be included in element 2 deliverables)

4. Element 4: Feather River Segment 2 levee degradation:

4.1. Feature 1: Construction: Once the new segment 2 setback levee and ties ins are in place the existing levee will be degraded, floodplain swale and other related construction activities will occur. Existing levee degradation and floodplain swale construction would begin in spring 2009 and be completed fall 2009. A summary of major levee degradation and floodplain swale construction activities includes the following:

- Clearing, grubbing, and stripping the proposed floodplain swale discharging to the Feather River.
- Stripping designated portions of the existing levee.
- Demolishing and removing the existing Pump Station No. 3.
- Reclaiming borrow pits with material excavated from the existing levee and floodplain swale.
- Revegetating and restoring the former levee footprint, floodplain swale, borrow areas, staging/lay down areas, and other areas disturbed by construction.

Deliverables: Design Report, Design Drawings and Specifications used for Bidding; Permits; CEQA and NEPA documents; and As-built drawings (if applicable, items can be included in element 2 deliverables)

5. Element 5: Feather River Segment 3 levee improvement: Prior to State EIP funding being available to TRLIA associated work segment 1 and project work segment 3 were managed as one TRLIA project. For EIP purposes TRLIA has separated the segments work into Segment 3 project work and Segment 1 associated project work.

5.1. Feature 1: Design, permitting, right of way support:

5.1.1. Design: The design of Segment 3 levee repairs was initiated in May 2006 integral with the associated segment 1 levee repair design. The Segment 3 Issue for Approval design was submitted to the Corps, DWR and
Reclamation Board in March 2007 and Issue for Construction drawings and specifications were submitted in August 2007. Remaining Segment 3 design work includes design support during construction and design modifications as required due to changed conditions as revealed by construction. In summary, the design of Segment 3 levee repairs included the following activities:

- Geotechnical explorations and laboratory testing
- Preparation of site mapping and other site surveys
- Preparation of a Phase I Environmental Site Assessment
- Geomorphic assessment
- Hydraulic modeling
- Evaluation of wind-driven erosion
- Engineering analyses, including seepage, stability, and settlement
- Preparation of a Design Report and Geotechnical Data Report
- Preparation of design drawings and specifications
- Preparation of cost estimates and schedules
- Preparation of bid documents and evaluation of contractor bids

5.1.2. Permitting: CEQA compliance for the Feather River Levee Repair Project (including associated segments 1, and project work segments 2 and 3) was initiated in March 2006, and the Final Environmental Impact Report (EIR) was certified by the TRLIA board on February 6, 2007.

Permitting for Segment 3 was initiated in May 2006 integral with associated Segment 1 permitting. A Reclamation Board Encroachment permit (Permit No. 18170) and Corps Section 408 permission were received in August 2007 addressing both the associated segment 1 work and segment 3 project work. The Segment 3 levee repair work was designed to avoid any Corps-jurisdictional features and sensitive habitats such that environmental permits (i.e., Corps Section 404 permit, DFG Section 1602 and 2081 permits, federal Endangered Species Act authorization) were not required. In summary, permitting activities included the following:

- Preparation of Reclamation Board encroachment permit application
- Cultural resources and sensitive habitats assessment
- Wetland delineation
- Preparation of a pre-construction notification
- Preparation of Section 408 documentation, including an Environmental Assessment (EA) for NEPA compliance.
- Consultation and coordination with resource agencies including the Corps, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and DFG.

5.1.3. Right of way support for real estate acquisition (see real estate acquisition plan)
• Boundary Surveys
• Plat and Legal Descriptions
• Environmental Site Assessments
• Rights of Entry
• Appraisal
• Acquisition
• Relocation
• Title / Escrow Support
• Eminent Domain Support
• Legal Support
• Right of Way Management

5.2. Feature 2: Construction Management: Construction management for Segment 3 levee repairs will include the following activities:

• Coordinate construction activities with DWR and Corps staff to communicate issues of concern, provide required information, and responding to questions.
• Conduct weekly construction meetings and prepare monthly progress reports.
• Construction contract administration, including review of work plans, schedules, budgets, and cash flow projections; evaluation of value engineering proposals; evaluation of change orders; and review of invoices for progress payment.
• Review and processing of contractor submittals and requests for information (RFIs).
• Construction inspections to ensure that Contractors' work is performed in accordance with construction plans and specifications, and is consistent with the intent of the design.
• Quality assurance (QA) testing to ensure compliance with the requirements of contract documents, and review of the effectiveness and adequacy of the contractor's quality control (QC) program.
• Implementing start-up, closeout and acceptance procedures for the systematic, orderly and timely completion, acceptance, and transfer of facilities constructed, as well as contract closeout.
• Preparing a construction summary report for construction activities, including a summary of the project history, problems encountered and resolutions made, summary of major changes, summary of bid and final project costs, QA and QC testing results, photographs depicting construction work in progress, and project record drawings.
• Conducting preconstruction biological surveys, training, and construction monitoring for biological resources before and during construction.
• Conduct cultural resources monitoring near known cultural resource
5.3. Feature 3: Construction: Segment 3 levee repairs will extend from the Feather River left levee PLM 23.4 to 26.1 (junction with the Yuba levee), and Yuba River left levee PLM 0.0 to 0.3. Construction was initiated along a limited reach in 2007, and construction is anticipated to begin again in spring 2008 and be completed late summer 2008. A summary of major construction activities includes the following:

- Clearing, grubbing, and stripping for earthwork construction and borrow areas.
- Partially degrading the existing Feather River levee embankment; constructing approximately 320,000 square feet of soil-cement-bentonite cutoff wall through the levee embankment; and reconstruction of the levee embankment.
- Constructing a berm against the landside levee slope along a reach of the levee.
- Reshaping the levee crown in several areas to restore levee freeboard.
- Re-constructing the levee patrol roads.
- Constructing a flood gate at the levee crossing with the Union Pacific Railroad.
- Removing and reconstructing the Linda County Water wastewater pipeline, including associated bypass facilities to prevent service outages.
- Removing an abandoned pipe that extends through the levee embankment.
- Installing vibrating wire and open standpipe piezometers.
- Final levee embankment and staging/lay down area restoration, including establishing erosion control vegetation on the embankment slopes and toe access corridors.

**Deliverables:** Design Report, Design Drawings and Specifications used for Bidding; Permits; CEQA and NEPA documents; and As-built drawings

6. **Element 6:** Feather River Segment 2 and 3 Operations and Maintenance Manuals:

6.1. Feature 1: Feather River Segments 3 O&M Manual: As construction nears completion, an operations and maintenance (O&M) addendum will be prepared for use by Reclamation District (RD) 784, the local entity with responsibility for post construction operation and maintenance of Feather River Segment 3. Prior to this turn over to RD784 TRLIA will be responsible for levee's under construction along with the TRLIA construction contractor. The addendum will augment O&M directions already contained in the Corps of Engineers’ Standard Operation and Maintenance Manual for the Sacramento River Flood Control Project and the Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit No. 145-Part No. 1. The O&M addendum will be used by RD 784 as they continue to operate and maintain the repaired levee segments. Draft versions of the addendum will be reviewed by
RD 784, the Corps of Engineers, and the DWR prior to being adopted for use. The addendum will address the following:

- Reinforcement of standard O&M practices for levees in the Sacramento River Flood Control System
- Identification of new features constructed as part of the repairs for Segment 3 and additional O&M efforts required for these new features
- Special surveillance efforts required in the first few years following construction
- As-built Plans
- Flood fighting techniques

6.2. Feature 2: Feather River Segment 2 O&M Manual: As levee degradation nears completion, an operations and maintenance (O&M) addendum will be prepared for use by Reclamation District (RD) 784 for the new setback levee, the local entity with responsibility for post construction operation and maintenance of Feather River Segment 2. Prior to this turn over to RD 784 TRLIA will be responsible for levee's under construction along with the TRLIA construction contractor. The addendum will augment O&M directions already contained in the Corps of Engineers' Standard Operation and Maintenance Manual for the Sacramento River Flood Control Project and the Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit No. 145-Part No. 1. The O&M addendum will be used by RD 784 as they continue to operate and maintain the repaired levee segment. Draft versions of the addendum will be reviewed by RD 784, the Corps of Engineers, and the DWR prior to being adopted for use. The addendum will address the following:

- Reinforcement of standard O&M practices for levees in the Sacramento River Flood Control System
- Identification of new features constructed as part of the repairs for Segment 2, and additional O&M efforts required for these new features
- Special surveillance efforts required in the first few years following construction
- As-built Plans
- Flood fighting techniques

**Deliverables:** Manuals

7. **Element 7: Feather River Land Management:**

7.1. Feature 1: Environmental Maintenance Activities: The Feather River Repair Project, Segment 2, also anticipates providing short term and long term management for the area behind the new setback levee. This management will include an active and passive restoration plan for the onsite preserve, and a short and long term plan for continued agricultural operations in the setback area. The total amount of restoration provided in the setback will be largely determined by
the final permit outcomes, however it is anticipated that approximately 800 acres of the total 1600 acre area will be devoted to either active species restoration or passive riparian and natural habitats in the form of an onsite preserve. Approximately 800 acres are expected to become part of a long term plan devoted to agricultural uses; including orchard and row crop plantings.

7.2. Feature 2: Lease back activities (e.g. farming)

7.3. Feature 3: Land Maintenance of setback area (e.g. security, etc.) post construction and prior to transfer of property to State

8. **Element 8**: Project Management, legal support, community relations support, land management support, and overhead

8.1. Feature 1: TRLIA and Yuba County Salaries & Benefits

8.2. Feature 2: TRLIA program consultant expenses (program manager, financial support, design manager, community relations support)

8.3. Feature 3: TRLIA legal support

8.4. Feature 4: TRLIA travel expenses

8.5. Feature 5: TRLIA general expenses (services, supplies, office)

8.6. Feature 6: TRLIA Insurance

8.7. Feature 7: TRLIA Travel

8.8. Feature 8: TRLIA Flood Control Memberships
Tab B: Project Element and Features Budget

The proposed EIP budget is broken out by project element and feature (see Tab A above). The budget is based on the State/TRLIA EIP project agreement for funding anticipated to be signed by all parties in February 2008 and the funding being dispersed to TRLIA in a timely manner to support the schedule described in Tab C.
## TRLIA Overall Work Plan Budget

<table>
<thead>
<tr>
<th>Project Elements and Features</th>
<th>State Budget ($)</th>
<th>Local Budget ($)</th>
<th>Total Budget ($)</th>
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<tr>
<td><strong>Element 1: Feather River EIP Land Acquisition</strong></td>
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<td>(Excludes Levee Tie Ins and Existing Levee Degradation)</td>
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<td>and Maintenance post construction [5]</td>
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</table>

[1] State Budget is State share of eligible portion of Total Budget.
[2] Local Budget is the portion of the Total Budget not funded by State. This includes ineligible project costs and remaining portion of eligible project costs not funded by State. Local budget is funded by Yuba County and Local Landowners and potentially reimbursements from other State grants and/or other Non-Local sources.
[3] Total Budget is remaining costs to be incurred going forward plus all prior costs incurred.
[4] Total budget includes 100% of the design costs, 46% of which was deemed to be complete before Nov. 2006, therefore, 46% of the States share of design costs have been removed from the States Share of the budget.
[5] The total budget for all TRLIA Post Construction Levee Maintenance (Phases 1 through 4) is $750,000 and has been allocated based upon levee miles.
[6] Total Budget only includes allocable portion of overhead to eligible EIP Grant Funded Projects. TRLIA has assumed, based on remaining project budgets, that 89% of overhead is related to eligible EIP Grant Funded Projects. TRLIA has also assumed that the State Share of Total Overhead Budget is 70%.
Tab C: Schedule shown by Project Element and Features

The proposed EIP schedule below is broken out by project element and feature (see Tab A above). The schedule is based on the State/TRLIA EIP project agreement for funding being signed by all parties by February 2008 and the funding being received as described in Tab B.
<table>
<thead>
<tr>
<th>Element</th>
<th>Feature 1</th>
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<td>Foundation Construction</td>
<td>Feasibility Evaluation</td>
<td>Tie Ins Construction</td>
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<td>3</td>
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<td>Construction</td>
<td>Feasibility Evaluation</td>
<td>Tie Ins Construction</td>
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<tr>
<td>4</td>
<td>Feasibility Evaluation</td>
<td>Tie Ins Construction</td>
<td>Existing Levee Degradation</td>
<td>Environmental Maintenance</td>
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<td>Existing Levee Degradation</td>
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</table>

**Notes:**
- Table C: Project Work Schedule
- Year: 2008
- Table columns include: Year, Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov, Dec
- Project Elements and Features include:
  - Element 1: Feather River EIP Land Acquisition (See real estate acquisition plan)
  - Element 2: Feather River Segment 2 construction (Tie Ins and Segment 2 levee degradation)
  - Element 3: Feather River Segment 2 levee tie ins
  - Element 4: Feather River Segment 2 levee degradation
  - Element 5: Feather River Segment 2 levee improvement
  - Element 6: Feather River Segment 2, and 3 O&M Manuals
  - Element 7: Feather River Land Management
  - Element 8: Project Management, legal support, community relations support, land management support, and overhead

2/11/2008
Tab D: Associated Project Elements and Features

Outline of Associated Project Elements:

1. Associated Project Element 1: Feather River EIP Land Acquisition (see real estate Acquisition Plan)

2. Associated Project Element 2: Feather River Segment 1 levee improvement

3. Associated Project Element 3: Feather River Segment 1 Operations and Maintenance post construction:

4. Associated Project Element 4: Project Management, legal support, community relations support, land management support, and overhead

Description of Associated Project Elements and Features:

1. Associated Project Element 1: Feather River EIP Land Acquisition (see real estate Acquisition Plan for details)

1.1. Associated Feature 1: Feather Segment 1: The land acquisition phase of Segment 1 (PLM 13.3 to PLM 17.1) includes purchasing temporary access along the toe of the existing levee for construction of the cut off wall within this reach. Three property owners will be affected by the construction. Negotiations have begun with all the property owners.

In addition, the Reclamation Board Permit No. 18170 requires TRLIA to purchase a 50’ wide easement along the toe of the levee.

Deliverables: Real Estate documents (see real estate acquisition plan)

2. Associated Project Element 2 - Feather River Segment 1 levee improvement:
This element (Segment 1) was not selected for State EIP funding and is all local funded. Prior to State EIP funding being available to TRLIA Segment 1 and 3 were managed as one TRLIA project. For EIP purposes TRLIA has separated the segments work into Segment 3 project work and Segment 1 associated project work.

2.1. Associated Feature 1: Design, permitting, right of way support.

2.1.1. Design: The design of Segment 1 levee repairs was initiated in May 2006 integral with the Segment 3 levee repair design. The Segment 1 Issue for Approval design was submitted to the Corps, DWR and Reclamation Board in March 2007 and Issue for Construction drawings and specifications were submitted in August 2007. Remaining Segment 1 design work includes
design support during construction and design modifications as required due to changed conditions as revealed by construction. In summary, the design of Segment I levee repairs included the following activities:

- Geotechnical explorations and laboratory testing
- Preparation of site mapping and other site surveys
- Preparation of a Phase I Environmental Site Assessment
- Geomorphic assessment
- Hydraulic modeling
- Evaluation of wind-driven erosion
- Engineering analyses, including seepage, stability, and settlement
- Preparation of a Design Report and Geotechnical Data Report
- Preparation of design drawings and specifications
- Preparation of cost estimates and schedules
- Preparation of bid documents and evaluation of contractor bids

2.1.2. Permitting: CEQA compliance for the Feather River Levee Repair Project (including Segments 1, 2 and 3) was initiated in March 2006, and the Final Environmental Impact Report (EIR) was certified by the TRLIA board on February 6, 2007. Permitting for Segment 1 was initiated in May 2006 integral with Segment 3 permitting. A Reclamation Board Encroachment permit (Permit No. 18170) and Corps Section 408 permission were received in August 2007 addressing both the Segment 1 associated work and Segment 3 project work. The Segment 1 levee repair work was designed to avoid any Corps-jurisdictional features and sensitive habitats such that environmental permits (i.e., Corps Section 404 permit, DFG Section 1602 and 2081 permits, federal Endangered Species Act authorization) were not required. In summary, permitting activities included the following:

- Preparation of Reclamation Board encroachment permit application
- Cultural resources and sensitive habitats assessment
- Wetland delineation
- Preparation of a pre-construction notification
- Preparation of Section 408 documentation, including an Environmental Assessment (EA) for NEPA compliance.
- Consultation and coordination with resource agencies including the Corps, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and DFG.

2.1.3. Right of way support for real estate acquisition (see real estate acquisition plan)

- Boundary Surveys
- Plat and Legal Descriptions
- Environmental Site Assessments
- Appraisal
• Acquisition
• Relocation
• Title / Escrow Support
• Eminent Domain Support
• Legal Support
• Right of Way Management

2.2. Associated Feature 2: Construction Management: Construction management for Segment 1 levee repairs will include the following activities:

• Coordinate construction activities with DWR and Corps staff to communicate issues of concern, provide required information, and responding to questions.
• Conduct weekly construction meetings and prepare monthly progress reports.
• Construction contract administration, including review of work plans, schedules, budgets, and cash flow projections; evaluation of value engineering proposals; evaluation of change orders; and review of invoices for progress payment.
• Review and processing of contractor submittals and requests for information (RFIs).
• Construction inspections to ensure that Contractors' work is performed in accordance with construction plans and specifications, and is consistent with the intent of the design.
• Quality assurance (QA) testing to ensure compliance with the requirements of contract documents, and review of the effectiveness and adequacy of the contractor's quality control (QC) program.
• Implementing start-up, closeout and acceptance procedures for the systematic, orderly and timely completion, acceptance, and transfer of facilities constructed, as well as contract closeout.
• Preparing a construction summary report for construction activities, including a summary of the project history, problems encountered and resolutions made, summary of major changes, summary of bid and final project costs, QA and QC testing results, photographs depicting construction work in progress, and project record drawings.
• Conducting preconstruction biological surveys, training, and construction monitoring for biological resources before and during construction.
• Conduct cultural resources monitoring near known cultural resource sites.

2.3. Associated Feature 3: Construction: Segment 1 levee repairs will extend from approximately Feather River left levee Project Levee Mile (PLM) 13.3 to 17.2. Construction is anticipated to begin in spring 2008 and be completed late
summer 2008. A summary of major construction activities includes the following:

- Clearing, grubbing, and stripping for earthwork construction and borrow areas.
- Partially degrading the existing Feather River levee embankment; constructing approximately 290,000 square feet of soil-cement-bentonite cutoff wall through the levee embankment; constructing approximately 220,000 square feet of soil-bentonite cutoff wall under the waterside toe of the levee embankment; and reconstruction of the levee embankment.
- Constructing a low permeability fill on the waterside slope along two reaches of the levee.
- Constructing approximately 16 relief wells and related drainage facilities.
- Re-constructing the levee patrol roads.
- Removing and reconstructing the Plumas Mutual Water Company water pipelines and removing the abandoned Plumas Mutual Water Company water pipeline that extends through the levee embankment.
- Installing vibrating wire and open standpipe piezometers.
- Final levee embankment and staging/lay down area restoration, including establishing erosion control vegetation on the embankment slopes and toe access corridors.

**Deliverables:** Design Report, Design Drawings and Specifications used for Bidding; Permits; CEQA and NEPA documents; and As-built drawings

3. **Associated Project Element 3 - Feather River Segment 1 Operations and Maintenance post construction:**

3.1. Associated Feature 1: O&M: As construction nears completion, an operations and maintenance (O&M) addendum will be prepared for use by Reclamation District (RD) 784, the local entity with responsibility for post construction operation and maintenance of Feather River Segment 1. Prior to this turn over to RD784 TRLIA will be responsible for levee’s under construction along with the TRLIA construction contractor. The addendum will augment O&M directions already contained in the Corps of Engineers’ *Standard Operation and Maintenance Manual for the Sacramento River Flood Control Project and the Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit No. 145-Part No. 1*. The O&M addendum will be used by RD 784 as they continue to operate and maintain the repaired levee segments. Draft versions of the addendum will be reviewed by RD 784, the Corps of Engineers, and the DWR prior to being adopted for use. The addendum will address the following:
• Reinforcement of standard O&M practices for levees in the Sacramento River Flood Control System
• Identification of new features constructed as part of the repairs for Segment 1 and additional O&M efforts required for these new features
• Special surveillance efforts required in the first few years following construction
• As-built Plans
• Flood fighting techniques

**Deliverables:** Manual
Tab E: Associated Project Element and Features Budget

The proposed Associated EIP Project budget is broken out by project element and feature (see Tab D above). The budget is based on the State/TRLIA EIP project agreement for funding anticipated to be signed by all parties in February 2008 and the funding being dispersed to TRLIA in a timely manner to support the schedule described in Tab F of the work plan.
### Associated Project Element Budget

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[1] State Budget is State share of eligible portion of Total Budget.

[2] Local Budget is the portion of the Total Budget not funded by State. This includes ineligible project costs and remaining portion of eligible project costs not funded by State. Local budget is funded by Yuba County and Local Landowners and potentially reimbursements from other State grants and/or other Non-Local sources.

[3] Total Budget is remaining costs to be incurred going forward plus all prior costs incurred.

[4] The total budget for all TRLIA Post Construction Levee Maintenance (Phases 1 through 4) is $750,000 and has been allocated based upon levee miles.
Tab F: Associated Project Element and Features Schedule

The proposed Associated EIP project schedule is shown below and is broken out by project element and feature (see Tab D). The schedule is based on the State/TRLIA EIP project agreement for funding that is anticipated to be signed by all parties in February 2008 and funding being received as described in Tab E of the work plan.
### TAB F

**Associated Project Work Schedule**

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<td>Associated Element 2: Feather River Segment 1 Operations and Maintenance post construction</td>
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<td>Associated Feature 1 - O&amp;M Manual</td>
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February 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul G. Brunner, Executive Director
SUBJECT: Lobbying contract with Peterson Consulting Inc.

**Recommended Action**

Approve the attached Lobbying Contract with Peterson Consulting, Inc. to provide lobbying services to TRLIA and authorize the chairman to sign once General Counsel has reviewed. Amount of this contract is $60,000 for the time period of January 1, 2008 through December 31, 2008.

**Background**

Peterson Consulting, Inc. has represented Yuba County and Yuba County Water Agency with the State for many years. As part of that work, at the request of Yuba County and Yuba County Water Agency, Peterson Consulting has also been advocating for TRLIA on issues of joint concern to Yuba County, Yuba County Water Agency, and TRLIA.

**Discussion**

This agreement would continue Peterson Consulting's relationship with TRLIA. Don Peterson is widely respected as understanding Sacramento Valley issues and has tremendous political contacts within the Capitol. This contract would also authorize Peterson Consulting to subcontract with Reeb Governmental Relations for Reeb to also provide services to TRLIA. Rob Reeb is the former lobbyist for the Association of California Water Agencies and is the current lobbyist for the California Central Valley Flood Control Association. In these positions, Reeb has obtained tremendous substantive knowledge on many of the issues that TRLIA faces. This contract is for a one year period from January 1, 2008 through December 31, 2008. It may be cancelled upon 60 days notice.

**Fiscal Impact**

The contract is for a total amount of $60,000, with monthly payments of $5,000. Of the $5,000 monthly payment, $4,000 will be used monthly to retain Reeb Governmental Relations. This contract is within the FY 07/08 TRLIA budget and also the projected FY 08/09 TRLIA budget.
EXTENSION OF LOBBYING CONTRACT

This document extends the provisions of the contract previously entered into between the
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and PETERSON
CONSULTING INC., for the period from January 1, 2007, to December 31, 2007.

This extension shall be in effect from January 1, 2008, to December 31, 2008. The seven (7)
terms and conditions listed in the original contract shall be incorporated by reference as part of
this extension (see attachment A), provided, however, that a new condition eight (8) shall be
added to read: “Contractor shall provide the Authority with a monthly report on the status of
administrative, legislative and regulatory actions pertaining to the interests of Three Rivers
Levee Improvement Authority as may be refined and clarified by the Authority.”

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

PETERSON CONSULTING,
INC.
1415 L Street, Suite 200
Sacramento CA 95814

By: ________________________

By: ________________________

Date: __________

Date: __________

ATTEST: DONNA STOTTEMEYER
CLERK OF THE BOARD

APPROVED AS TO FORM:
SCOTT SHAPIRO
GENERAL COUNSEL

Andrew P. Clark for Scott Shapiro

Three Rivers Levee Improvement Authority
Lobbying Contract Page 1 of 3
LOBBYING CONTRACT

The following constitutes a lobbying firm retention contract between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and PETERSON CONSULTING, INC.,

1. SERVICES TO BE PERFORMED—THREE RIVERS LEVEE IMPROVEMENT AUTHORITY engages the services of PETERSON CONSULTING, INC. as an independent contractor with the responsibility for providing California state legislative services and administrative advocacy on behalf of Three Rivers Levee Improvement Authority. Such services shall include:

   A. Work with the Authority to understand and define the State legislative, regulatory and financial objectives of the Authority. Assist in the preparation of a strategic plan to accomplish those objectives.

   B. Analyze State legislation and administrative actions that could affect the interests of the Authority and prepare recommendations for positions, as well as draft legislative language as appropriate. Prepare and convey correspondence relating to legislation.

   C. Representation in the State Capitol (Legislature, Governor and State agencies, departments and boards) with respect to legislation and administrative action, including participation and attendance at meetings and advocacy. Assist in building stakeholder coalitions where appropriate.

   D. Monitor State legislative developments and regulatory or agency proposals in areas of interest to the Authority and report regularly on pending actions.

2. TERMS OF PAYMENT—THREE RIVERS LEVEE IMPROVEMENT AUTHORITY will pay PETERSON CONSULTING, INC., according to terms and conditions set forth herein, a fee of SIXTY THOUSAND AND NO/100 DOLLARS ($60,000.00) for the period of January 1, 2007 through December 31, 2007. This amount shall be paid in twelve (12) equal installments of FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00) due on the first (1st) of each month from January through December 2007, inclusive. Such fee shall cover all time and expenses expended by Peterson Consulting, Inc. personnel and subcontractors required to perform the above services except out of the Capitol or out of Yuba County travel, such actual expenses, subject to the prior approval of the Authority, shall be reimbursed.

Three Rivers Levee Improvement Authority
Lobbying Contract Page 2 of 3
It is the understanding of both parties to this agreement that Peterson Consulting, Inc., will engage the services of Reeb Government Relations, LLC, to assist in the fulfillment of this contract at no further cost to the Three Rivers Levee Improvement Authority.

3. INDEPENDENT CONTRACTOR—PETERSON CONSULTING, INC. will function as an independent contractor and will represent itself as such and will have no authority to obligate THREE RIVERS LEVEE IMPROVEMENT AUTHORITY for indebtedness, contracts, or other legal obligations.

4. POLITICAL REFORM ACT—PETERSON CONSULTING, INC. will be solely responsible for its filing and reporting obligations pursuant to the Political Reform Act of 1974, as it may be amended from time to time.

5. GOVERNING LAW - This agreement shall be governed by and construed pursuant to the laws of the State of California.

6. ENTIRE AGREEMENT - This is the entire agreement of the parties and no other representations, promises or agreements, oral or otherwise, shall be of any force or effect. This agreement may be supplemented, amended or revised only in writing by agreement of the parties.

7. TERM OF CONTRACT—This engagement shall be subject to review at any mutually agreed upon time. Either party may terminate this engagement without cause by giving written notice at least sixty (60) days prior to the date of termination. The effective date of this agreement is January 1, 2007, and it shall terminate on December 31, 2007.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: ________________________________

PETERSON CONSULTING, INC.
1415 L Street, Suite 200
Sacramento CA 95814

By: ________________________________

Donald F. Peterson
President/Owner

Three Rivers Levee Improvement Authority
Lobbying Contract Page 3 of 3
February 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul G. Brunner, Executive Director
Scott Shapiro, General Counsel
Anja Kelsey, Environmental Manager

SUBJECT: Approval of Resolution in regard to alignment shift

Staff Recommendation: Staff recommends the Board approve the Resolution finding that there are no significant impacts associated with minor shifts in the alignment of the proposed Feather River Setback Levee.

Background: In February 2007, the Three Rivers Levee Improvement Authority (TRLIA) Board certified under the California Environmental Quality Act (CEQA) the Environmental Impact Report (EIR) for the Feather River Levee Repair Project (FRLRP). After the TRLIA Board certified the EIR and approved Alternative 2, TRLIA made several refinements to the approved ASB Setback Levee alignment.

Discussion: As noted in the attached February 7, 2008 memorandum to file (Attachment A), staff has concluded that the refinements to the Setback Levee alignment that TRLIA has decided to implement do not result in any new significant, or substantially more severe, environmental impacts as compared to the impacts that have already been analyzed in the FRLRP EIR, nor do the refinements otherwise require additional CEQA documentation pursuant to the standards set forth in Section 15162 of Title 14, Cal. Code of Regulations. Staff recommends that the Board review the memorandum to file and exercise its own independent judgment in regard to whether the alignment refinement requires additional CEQA documentation.

Financial Impact: None
RESOLUTION NO. 2008-__

A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY IN REGARD TO LACK OF SIGNIFICANT IMPACTS FROM ALIGNMENT SHIFT OF THE FEATHER RIVER SETBACK LEVEE

WHEREAS, the Three Rivers Levee Improvement Authority (the "Authority"), a joint exercise of powers authority which the County of Yuba and Reclamation District 784 are the members, has constructed over $130,000,000 of levee improvements resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear River and significant portions of the levees on the Yuba River, thereby significantly improving public safety in Southern Yuba County; and

WHEREAS, in February 2007 the Authority certified the final environmental impact report for the Feather River Levee Repair Project, the fourth and final phase of levee improvements, which included a Feather River setback levee; and

WHEREAS, since that time, certain minor shifts in levee alignment have been made in order to minimize impacts on local property owners and as required in conjunction with the final design of the setback levee; and

WHEREAS, the Authority’s staff has evaluated the alignment changes and has determined that the alignment changes do not generate any significant impacts, and in fact the alignment changes are within the alignments considered within the EIR and actually have the effect of further minimizing impacts by reducing the amount of land required for the project; and

WHEREAS, the Board of Trustees has evaluated the information presented by the Authority’s staff and, based on the evidence presented therein, has exercised its own independent judgment in this matter.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Three Rivers Levee Improvement Authority as follows:

Section 1. The Board has determined that the alignment shifts as documented in a memorandum to file dated February 7, 2008 do not result in any new significant, or substantially more severe, environmental impacts, as compared to the impacts that have already been analyzed in the FRLRP EIR, or otherwise require additional CEQA documentation pursuant to the standards set forth in Section 15162 of Title 14, Cal. Code of Regulations.

* * * * *
PASSED AND ADOPTED this 19th day of February, 2008, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Chair

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

__________________________

APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO
MEMORANDUM

To: File

From: Scott Shapiro, General Counsel
       Anja Kelsey, Environmental Manager

Date: February 7, 2008

In February 2007, the Three Rivers Levee Improvement Authority (TRLIA) Board certified under the California Environmental Quality Act (CEQA) the Environmental Impact Report (EIR) for the Feather River Levee Repair Project (FRLRP). The project is needed to provide increased protection from flooding from the Feather and lower Yuba Rivers in Yuba County.

The FRLRP EIR analyzed three alternatives, including two different setback levee alignments. The alternatives studied in the EIR were as follows:

- Alternative 1 - Levee repair and strengthening.
- Alternative 2 - Levee repair and strengthening, and the Above Star Bend (ASB) Setback Levee to replace segment 2 (mile 17.1 to mile 23.6) of the existing Feather River left bank levee.
- Alternative 3 - Levee repair and strengthening, and the Intermediate Setback Levee to replace segment 2 of the existing Feather River left bank levee.

Under both Alternative 2 and Alternative 3, the setback levee alignment would be located to the east of the exiting levee. The main difference between these two alternatives is that under Alternative 2, the setback levee is located farther to the east of the existing levee, which results in a larger setback area. In evaluating Alternative 3 (the Intermediate Setback Levee), the EIR explained that a number of alignments for this Alternative were being considered and that the particular route depicted in the EIR was determined to be representative of the various alignment options available.

After considering the EIR and all available information, the TRLIA Board selected and approved a project course of action that consists of all elements of Alternative 1 - The Levee Strengthening Alternative, as identified in the FRLRP EIR, plus only that element of Alternative 2 that consists of construction of a new setback levee in Segment 2 approximately following the ASB setback levee alignment identified in the Y-FSFCP EIR ("ASB setback levee element"). The elements of Alternative 1 plus the ASB setback levee element of Alternative 2 are hereafter collectively referred to as the "Selected Project". The Selected Project involves strengthening in place the existing levees in project Segments 1 and 3, consistent with all the project alternatives analyzed in the EIR, and allows for implementation of any of the following actions in project Segment 2:
- Strengthening in place the existing levee in Segment 2 consistent with Alternative 1 analyzed in the EIR. In this case, the ASB Setback Levee would not be constructed.

- Constructing the ASB Setback Levee consistent with Alternative 2 analyzed in the EIR, and removing the existing levee in Segment 2 soon after the setback levee is complete.

- Constructing the ASB Setback Levee consistent with Alternative 2 analyzed in the EIR, and allowing the existing levee in Segment 2 to remain in place for some time after setback levee is complete, consistent with the "backup levee" concept described on Page 4-5 of the DEIR.

The Selected Project incorporated all of these possibilities, with the clarification that the ASB setback levee element in Segment 2 was contingent on necessary funds being appropriated by the California Legislature in the 2007/2008 budget. As such funds were appropriated, the Selected Project does not include strengthening the existing levee in Segment 2, but rather construction of the ASB setback. TRLIA adopted CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program.

After the TRLIA Board certified the EIR and approved Alternative 2, TRLIA made several refinements to the approved ASB Setback Levee alignment. First, TRLIA shifted the ASB Setback Levee alignment approximately 500 feet to the west (i.e., in between the ASB Setback Levee and Intermediate Setback Levee alignments as studied in the EIR), for a length of about 9,000 feet, in order to reduce impacts to landowners in the setback area. Second, TRLIA shifted the ASB Setback Levee alignment approximately 135 feet to the west, for a length of about 650 feet, to reduce impacts to the Rice property. Third, TRLIA shifted the ASB Setback Levee alignment approximately 30 feet to the west, for a length of about 900 feet, to avoid a landowner's memorial redwood grove. Fourth, TRLIA shifted the ASB Setback Levee alignment approximately 30 feet to the west, for a length of about 1,700 feet, to avoid residential properties along Feather River Blvd. Fifth, TRLIA shifted the ASB Setback Levee alignment approximately 150 feet to the east, for a length of about 3,000 feet, to avoid a cultural resources site (CA-YUB-5). Finally, in coordination with the Department of Water Resources, the Central Valley Flood Protection Board (formerly the Reclamation Board), and the U.S. Army Corps of Engineers, TRLIA decided not to implement another proposed alignment change - referred to as the Naumes-Rice Reach north of Plumas Avenue - that would have involved further shifts of the ASB Setback Levee alignment to the east.

The refinements to the ASB Setback Levee alignment that TRLIA has decided to implement do not result in any new significant, or substantially more severe, environmental impacts as compared to the impacts that have already been analyzed in the FRLRP EIR. In fact, the overall effect of these refinements is to move the setback levee alignment further from a sensitive cultural resources site and several nearby residentialities and reducing the total size of the levee setback area, which in turn reduce the severity of several environmental impacts as compared to the approved ASB Setback Levee alignment studied in the EIR - including, for example, impacts to agricultural resources, land use effects, noise levels at sensitive receptors, and impacts to cultural resources. In fact, the final refinement discussed above relating to the cultural resources site CA-YUB-5 was specifically identified in the EIR as a mitigation measure to reduce impacts to cultural resources. As explained in the EIR, there are other types of environmental impacts (including, for example, geological, air quality, recreational resource, and traffic impacts) that do not depend on the size of the setback area and would therefore be the same, or substantially similar, as between Alternatives 2 and 3. For these types of impacts, the effects of the ASB Setback Levee alignment as refined would also be the same, or substantially similar, to the impacts identified in the EIR for Alternatives 2 and 3, and there would be no new significant or substantially more severe impacts.

In sum, the refinements adopted by TRLIA to the FRLRP do not result in any new significant or substantially more severe environmental effects as compared to the impacts that have already been studied in the EIR, and in fact these refinements would serve to reduce the severity of a number of the
project’s impacts. As a result, there is no need for a subsequent or supplemental EIR or any further CEQA review.