CALL TO ORDER: Welcome to the Three Rivers Levee Improvement Authority (TRLIA) meeting. As a courtesy to others, please turn off cell phones, pagers, or other electronic devices which might disrupt the meeting. Thank you.

I  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti

II  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. Prior to this time, speakers are requested to fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

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

A. Approve minutes of the meeting of March 20, 2012.


IV  ACTION ITEMS

A. Adopt resolution of public necessity for the taking of certain property and identified as Assessor Parcel No. 021-041-006 (Ronnie Willis and Clara Willis) for Three Rivers Upper Yuba River Levee Improvement Project.

B. Adopt resolution of public necessity for the taking of certain property and identified as Assessor Parcel No. 018-200-008, recently changed to 018-200-010 (Daniel J. Luis) for Three Rivers Upper Yuba River Levee Improvement Project.

C. Adopt resolution of public necessity for the taking of certain property and identified as Assessor Parcel No. 018-200-001 (Ajit Bains and Maria del Carmen Bains) for Three Rivers Upper Yuba River Levee Improvement Project.

V  BOARD AND STAFF MEMBERS’ REPORTS

VI  ADJOURN

The complete agenda is available at the Yuba County Government Center, 915 8th Street, Suite 109A Marysville, and www.trlia.org. Any disclosable public record related to an open session item on the agenda and distributed to all or a majority of the Board less than 72 hours prior to the meeting is available at Suite 109 during normal business hours. In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board's office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MARCH 20, 2012

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, and Mary Jane Griego. Director John Nicoletti was absent. Also present were Program Manager Ric Reinhardt, Assistant Counsel Scott McElhinney, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chair Griego presided.

I ROLL CALL - Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti – Director Nicoletti absent.

II PUBLIC COMMUNICATIONS: No one came forward.

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

MOTION: Move to approve MOVED: Jerry Crippen SECOND: Rick Brown
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego,
NOES: None ABSTAIN: None ABSENT: John Nicoletti

A. Approve minutes of the meeting of February 20, 2012. Approved.

IV ACTION ITEMS

A. Approve agreement with HDR Engineering Inc. in the amount of $358,178 for 200-year urban levee compliance determination for the upper Bear and WPIC west levee and authorize the Executive Director to execute same. Program Manager Ric Reinhardt recapped criteria for urban certification and responded to Board inquiries.

MOTION: Move to approve MOVED: Jerry Crippen SECOND: Rick Brown
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego,
NOES: None ABSTAIN: None ABSENT: John Nicoletti

B. Approve agreement with Kleinfelder Inc. in the amount of $124,400 for 200-year urban levee compliance determination for the lower Yuba south levee and authorize the Executive Director to execute same.

MOTION: Move to approve MOVED: Jerry Crippen SECOND: Don Graham
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego,
NOES: None ABSTAIN: None ABSENT: John Nicoletti

V BOARD AND STAFF MEMBERS' REPORTS: None received.
VI  **ADJOURN:** 2:09 p.m. by Chair Griego.

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

Chair

Approved:

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April 17, 2012

Ms. Nancy Moricz
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, CA 95821

Re: Comments on the Draft Central Valley Flood Protection Plan and Draft
Programmatic Environmental Impact Report

Dear Ms. Moricz:

The Yuba County Water Agency (YCWA) and the Three Rivers Levee Improvement Authority (TRLIA) have reviewed the draft Central Valley Flood Protection Plan (CVFPP or Plan) developed by the Department of Water Resources (DWR) for consideration and adoption by the Central Valley Flood Protection Board (CVFPB). We understand the CVFPP is a framework for establishing a vision for flood management in the Central Valley and is not a list of projects to be approved now for later implementation.

YCWA and TRLIA greatly appreciate our partnership with DWR as part of the FloodSAFE Program to reduce the risk of flooding in Yuba County. Our collective accomplishments are many and include the following:

- The TRLIA Levee Improvement Program, which will result in RD 784 being the first community in the Central Valley to achieve a 200-year level of protection, and led to the construction of two setback levees that provide regional flood stage reductions stages and the creation of over 2,000 acres of new riparian habitat.

- The Marysville Ring Levee Project, which is a USACE led project to improve the levee system that protects the City of Marysville.

- The Bear River Levee Improvement Project to protect the City of Wheatland.

- Forecasted Coordinated Operations of Oroville and New Bullard’s Bar Dams.

Our partnership has led to unprecedented efforts to minimize the risk of flooding that has devastated our region in each of the past major flood events.

The CVFPP builds on our successes, and specifically includes the following elements that are high priorities for our community:
• A rural levee program and proposal to create a rural levee repair standard, which will benefit both RD 10 and RD 817.

• A program to improve the levee systems that protect small communities, such as Wheatland.

• The New Bullard’s Bar Outlet Modifications Project.

• Changes to Oroville to increase the ability to manage the releases for extreme flood events.

• Acknowledgment that the National Flood Insurance Program is challenging our agricultural areas and that changes are needed to ensure that our rural economy thrives into the future.

• Forecasted based operations of New Bullards Bar and Oroville Reservoirs.

We are supportive of these elements of the Plan and look forward to working with the CVFPB and DWR, as well as Sutter and Butte Counties during the regional planning process to identify and prioritize those actions that are important to our region.

We are also supportive of the concept of system improvements, such as modifications to the bypass system. However, modifications to the Flood Control System of this scale will have significant adverse effects to the counties, agricultural economies, and property owners that need to be carefully considered and mitigated. We encourage the CVFPB and DWR to partner with local agencies in implementation of the CVFPP to carefully consider these impacts and ensure that the benefits of these actions justify the costs, not only in monetary terms, but also the sacrifice this will require from property owners and potential harm to the agricultural economy.

We appreciate both DWR’s and the CVFPB’s efforts to seek local participation in the preparation of the draft CVFPP and look forward to actively partnering with you on implementation of the Plan.

Thank you for the opportunity to provide these comments.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Mary Jane Griego, Chair

YUBA COUNTY WATER AGENCY

Mary Jane Griego, Chair
THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY
1114 Yuba Street, Suite 218
Marysville, CA 95901
Office (530) 749-7841 Fax (530) 749-6990

April 17, 2012

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       KELLY L. POPE, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
         ACQUISITION OF PROPERTY INTERESTS OWNED BY RONNIE C.
         WILLIS AND CLARA E. WILLIS ALONG THE YUBA RIVER SOUTH
         BANK LEVEE FOR THE UPPER YUBA RIVER LEVEE IMPROVEMENT
         PROJECT

RECOMMENDATION:

That the Board of Directors adopts the attached proposed Resolution of Necessity for the
acquisition of certain property interests in the property bearing Assessor's Parcel Number 021-
041-006 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project").
The property is currently owned by Ronnie Willis and Clara Willis. As described and depicted
in Exhibits "A-1" and "A-2" to the attached proposed Resolution of Necessity, the property
interests proposed for acquisition are 0.430 acres in fee. Roughly 0.292 acres of the proposed
0.430 acre acquisition is encumbered by existing levee easements.

BACKGROUND:

The Three Rivers Levee Improvement Authority ("TRLIA") is in the process of conducting
improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba
River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The
levee improvements include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The
Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the
California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA's larger
flood protection program that includes 29.3 miles of levee improvements in Yuba County. The
entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the
portion of the county within Reclamation District 784, but TRLIA's goal for the upgrades is to
meet a higher 200-year flood protection standard. The State is providing the majority of the
funding for the Project as part of its Proposition 1E Early Implementation Program ("EIP"). As an EIP Project, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of operation and maintenance ("O&M") corridors along the levee toe. The O&M line for the levee along the Willis property is fifteen feet from the levee toe. The O&M corridors are necessary for the Project in order to provide adequate room for levee maintenance, inspection, patrolling during high water, and flood fighting.

TRLIA was granted access to the Willis property as of September 15, 2011 by Ronnie Willis. Pursuant to that grant of access, TRLIA has now completed the reconstruction and resurfacing portion of the levee improvement work over the Willis property, including flattening the waterside of the levee along the property, and resurfacing the crown. TRLIA still needs to remove trees, vegetation and fences in order to complete its levee improvement work over the property. This remaining work is scheduled to take place during the next construction season.

DISCUSSION:

The Willis parcel is located at 1925 Hammonton Smartville Road in Yuba County and currently totals 1.09 acres in size. Roughly 0.292 acres of the proposed 0.430-acre fee acquisition is encumbered by the existing levee. The proposed Resolution of Necessity includes maps depicting the property and the proposed acquisition.

Based on an appraised value of $1.05 per square foot for the fee ownership interest, TRLIA offered to purchase the necessary property interests for $10,500.00 on September 16, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

The named property owners are divorced, and the January 21, 2000 divorce decree provides that Clara Willis was to deed her interest in the property to Ronnie Willis. Based on this information, TRLIA’s right-of-way consultants negotiated the proposed acquisition with Ronnie Willis after sending out the offer letter.

Productive discussion led to an agreement between Ronnie Willis and TRLIA for the purchase and sale of the property interests TRLIA seeks to acquire. At the close of escrow, however, it was discovered that Clara Willis had never actually deeded her interest in the property to Ronnie Willis. Accordingly, TRLIA staff has been unable to complete the negotiated purchase of the property interests it seeks.

On or about February 17, 2012, the original offer letter was re-sent to Clara Willis, who is not located at the same address as Ronnie Willis, with an explanation of the circumstances. TRLIA’s counsel subsequently spoke with both Ronnie Willis and Clara Willis in an attempt to complete the negotiated purchase of the property. To date, TRLIA has been unable to reach an agreement with both Ronnie Willis and Clara Willis for the purchase and sale of the property TRLIA seeks to acquire.

The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.’s Problem Identification Report, Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California, dated September 29, 2009. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design,
Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California, dated June 11, 2010. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s Upper Yuba Levee Improvement Project, 100% Design Submittal Final Design Documentation Report, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated June 21, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

The absence of a negotiated agreement for the purchase of the property will require TRLIA to commence condemnation proceedings in the very near future. However, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Resolution of Necessity and Exhibits
2. Offer to Purchase Letter
RESOLUTION NO. 2012—

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY 
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY 
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE 
RIVERS UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT 
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcel currently bearing Assessor's Parcel No. 021-041-006 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on April 17, 2012, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property is to be acquired for the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5 and Water Code section 50930.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal description attached hereto as Exhibit A-1, and the accompanying parcel map attached hereto as Exhibit A-2, which are incorporated herein by this reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the Project.

b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Property described in Exhibit A-1, and depicted in Exhibit A-2, is necessary for the proposed Project.

d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

e. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.
PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 17th day of April, 2012, by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

______________________________
CHAIRPERSON

ATTEST:

______________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By: ______________________
Exhibit ‘A-1’

All that real property situate in the County of Yuba, State of California, being portion of Lot 52, as shown on the plat of “Dunning Subdivision”, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 14, and being more particularly described as follows:

Beginning at the Northwest corner of said Lot 52, from which a brass cap in a monument well at the intersection of Linda Avenue and Hammonton-Smartville Road bears South 41°49'16" West, 2595.54 feet and from which a brass cap in a monument well at the intersection of Dunning Avenue and Hammonton-Smartville Road bears South 84°04'31" East, 807.94 feet; thence along the North line of said Lot 52, North 66°42'57" East, 406.28 feet; thence leaving said North line, South 03°13'11" West, 52.69 feet; thence South 66°04'14" West, 66.31 feet; thence South 66°59'31" West, 192.88 feet; thence South 68°13'56" West, 63.90 feet; thence South 70°52'14" West, 76.50 feet to a point on the West line of said Lot 52; thence along said West line, North 00°37'03" West, 43.06 feet to the Point of Beginning, containing 0.430 acres, more or less.

See Exhibit ‘A-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]
[Date: 07/10/2010]

Kevin A. Homer, ELB 5914

Portion of:
APN 021-041-006
THE BASIS FOR BEARINGs SHOWN HEREIN IS THE CALIFORNIA COORDINATE SYSTEM, ZONE 8, EAD 83. DISTANCES SHOWN HEREIN ARE GROUND DISTANCES.
MULTIPLY GROUND DISTANCE BY 0.9998718 TO OBTAIN GRID DISTANCES.

LINE DATA TABLE

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</table>

Exhibit 'A-2'

OWNER: Willie, Clara E. & Ronnie C.
APN: 021-041-006
AREA: FEE TITLE = 0.430 Ac.
AREA WITHIN EASEMENTS/LEVEE = 0.292 Ac.

Upper Yuba Levee Improvement Project

COUNTY OF YUBA
STATE OF CALIFORNIA
September 16, 2010

Clara E. Willis  
Ronnie C. Willis  
1931 Hammonton Smartville Road  
Marysville, CA 95901  

RE: Upper Yuba Levee Improvement Project  
APN: 021-041-006  

Offer to Purchase – Government Code §7267.2

Dear Mr. and Mrs. Willis,

As you may be aware, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to under seepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs to acquire in fee ownership is approximately 0.430 acres in size.

Bender Rosenthal, Inc. has been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained a valuation of the required property interest, which is summarized in the enclosed document titled Statement and Summary for the Basis for Appraisal.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary for the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interests for $10,500.00.
If the amount and terms of the offer are satisfactory, please sign the proposed Grant Deed with a notary's acknowledgement, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA's ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

TRLIA realizes that it may take you some time to evaluate its purchase offer, particularly if you decide to obtain an appraisal report of your own. As an alternative, TRLIA would like to enter into an Agreement for Possession and Use of Real Property with you on the following terms:

- TRLIA would immediately pay you the $10,500.00 appraised value of the property interests it needs to acquire.
- TRLIA would have the right to take possession of that property on April 1, 2011 and begin construction of the Project.
- TRLIA will continue to negotiate with you regarding the total price to be paid for the property it is acquiring and other terms of the purchase. If you and TRLIA do not reach an agreement on price and other terms before June 1, 2011, TRLIA will promptly file an eminent domain lawsuit to have the amount of just compensation for the property determined by the Yuba County Superior Court.

A proposed Agreement for Possession and Use of Real Property is also enclosed for your review and consideration. If the price and terms of the Agreement for Possession and Use of Real Property are acceptable, please sign that agreement and return it to me in the enclosed envelope. The proposed Agreement for Possession and Use of Real Property is also subject to approval by the TRLIA Board of Directors.

You are welcome to contact me at (916) 978-4900 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

Bill Kouris
Enclosures
April 17, 2012

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS

FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       KELLY L. POPE, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
          ACQUISITION OF PROPERTY INTERESTS OWNED BY DANIEL J. LUIS
          ALONG THE YUBA RIVER SOUTH BANK LEVEE FOR THE UPPER YUBA
          RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopts the attached proposed Resolution of Necessity for the
acquisition of certain property interests in the property bearing Assessor’s Parcel Number 018-
200-008, recently changed to 018-200-010 (the “Luis Property”), for the Three Rivers Upper
Yuba River Levee Improvement Project (the “Project”). The Luis Property is currently owned
by Daniel J. Luis. As described, depicted, and defined in Exhibits D-1, D-2 and D-3 to the
attached proposed Resolution of Necessity, the property interest proposed for acquisition is a
0.527-acre Utility Easement.

BACKGROUND:

The Three Rivers Levee Improvement Authority (“TRLIA”) is in the process of conducting
improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba
River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The
levee improvements include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The
Board of Directors approved the Project and adopted a Mitigated Negative Declaration pursuant
to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’s larger
flood protection program that includes 29.3 miles of levee improvements in Yuba County. The
entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the
portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to
meet a higher 200-year flood protection standard. The State is providing the majority of the
funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As
an EIP Project, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of operation and maintenance ("O&M") corridors along the levee toe. The O&M corridor is necessary for the Project in order to provide adequate room for levee maintenance, inspection, patrolling during high water, and flood fighting.

On September 28, 2010, the Board of Directors approved Resolutions of Necessity to acquire property interests needed for the Project. Resolution No. 2010-6 authorized the acquisition of a temporary construction easement, a temporary access easement, and approximately 1.004 acres in fee from the Luis Property. A condemnation proceeding was initiated in Yuba County Superior Court, Case No. YCCCVED 10-0000903, on October 13, 2010. TRLIA obtained possession of the property interests authorized by Resolution No. 2010-6 on April 1, 2011 pursuant to a stipulation in the condemnation proceeding, and began Project construction on the Luis Property in July 2011.

A single pole line carries both PG&E electrical transmission wires and an AT&T phone line across the Luis Property. Prior to the commencement of construction on the Luis Property, the poles were located in the toe of the levee embankment, with the AT&T line terminating on the Luis Property, and the PG&E line extending to serve the neighboring property to the northeast. In order to construct the seepage cutoff wall and new levee embankment, the poles were temporarily relocated away from the levee. However, to comply with the applicable levee design standards, the poles must be permanently relocated at least 15 feet from the toe of the levee.

At the time the condemnation proceeding was filed, TRLIA’s staff and consultants had not worked out utility relocation issues with PG&E and AT&T. Now that these issues have been worked out, we are asking the Board of Directors to consider a Resolution of Necessity which authorizes TRLIA to acquire a Utility Easement necessary to complete the permanent relocation of the existing utility pole line.

**DISCUSSION:**

The Luis Property consists of 14.09 acres, and is located along the water side (north) of the Yuba River South Levee. Daniel Luis primarily uses the Luis Property for growing corn silage for cattle feed, and he also stores farm equipment and vehicles on the property.

TRLIA has already filed an action to condemn fee title to 1.004 acres of the Luis Property. The proposed 0.527-acre Utility Easement runs along the western boundary of the property TRLIA is acquiring from Daniel Luis in fee, and is approximately 16-feet in width. The proposed Utility Easement is a non-exclusive easement for electrical and phone/cable transmission facilities that grants TRLIA access to the area to install, use, maintain, repair, and replace such facilities. The proposed Utility Easement also restricts the future construction of buildings, structures, reservoirs, wells, or any other obstructions in the easement area.

TRLIA initially offered to purchase a 0.592-acre utility easement from Daniel Luis on June 3, 2011. However, after extensive negotiations with Daniel Luis and PG&E, TRLIA agreed to put a portion of the utility line underground in order to minimize impacts to the remainder property. On March 12, 2012, TRLIA sent an offer to purchase the smaller 0.527-acre Utility Easement for $2,750.00. A copy of the March 12, 2012 offer letter, without exhibits, is attached hereto.
The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.’s Problem Identification Report, Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California, dated September 29, 2009. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design, Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California, dated June 11, 2010. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s Upper Yuba Levee Improvement Project, 100% Design Submittal Final Design Documentation Report, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated June 21, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

TRLIA’s staff and consultants have worked with PG&E and AT&T to determine what is needed to relocate the existing line of utility poles on the Luis Property. As noted above, to comply with the applicable levee design standards, the poles must be permanently relocated at least 15 feet away from the toe of the levee. After consultation with PG&E and AT&T, TRLIA staff and consultants determined that a 30-foot wide utility easement centered on the new pole locations is necessary to provide adequate room for the movement of the utility wires, as well operation and maintenance of the line. Approximately fourteen feet of the Utility Easement will overlap the property TRLIA is acquiring from Daniel Luis in fee, but the other approximately 16 feet in width must be acquired as a new Utility Easement with a total area of 0.527 acres. TRLIA is authorized to acquire the substitute easement pursuant to Code of Civil Procedure section 1240.330.

Mr. Luis has not accepted TRLIA’s offer to purchase the Utility Easement. In the absence of a negotiated agreement for the purchase of the Utility Easement, TRLIA will need to amend its complaint in the condemnation action in order to acquire the Utility Easement. However, the addition of the Utility Easement to the condemnation proceedings will not end TRLIA’s already extensive efforts to reach a negotiated agreement with Mr. Luis.

**FISCAL IMPACT:**

The approved appraised value for the Utility Easement is within the TRLIA Board approved land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire the Utility Easement is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Resolution of Necessity and Exhibits
2. Offer to Purchase Letter
RESOLUTION NO. 2012-__

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE
RIVERS UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install,
and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, on September 28, 2010, TRLIA adopted Resolution No. 2010-6, a Resolution of Necessity
for the acquisition of certain property interests from the parcels bearing Assessor’s Parcel Nos. 018-200-
008, 018-200-005, 018-200-007 and 018-210-035; and

WHEREAS, TRLIA’s Special Counsel subsequently filed an action in eminent domain in the Yuba
County Superior Court to acquire the property interests described and defined in Resolution No. 2010-6,
which action is currently pending; and

WHEREAS, TRLIA has since determined that it also needs to acquire a replacement Utility Easement
across a portion of the parcel bearing Assessor’s Parcel No. 018-200-008, recently changed to 018-200-
010 (the "Property"), for Pacific Gas and Electric Corp. ("PG&E") and AT&T in order to accomplish
certain utility relocation work necessary to complete the Project; and

WHEREAS, Assessor’s Parcel No. 018-200-008, recently changed to 018-200-010, is owned by Daniel J.
Luis; and

WHEREAS, TRLIA has advised Daniel J. Luis of the need for the Project and offered him an opportunity
for a hearing before the TRLIA Board on April 17, 2012, pursuant to Section 1245.235 of the California
Code of Civil Procedure; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section
1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property is to be acquired for the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes:
1240.330.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal
description attached hereto as Exhibit D-1, the accompanying parcel map attached hereto as Exhibit D-2,
and the accompanying definition attached hereto as Exhibit D-3, which are incorporated herein by this
reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the Project.
b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the Project.

d. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the purpose specified in Code of Civil Procedure section 1240.330. The acquisition of the Utility Easement is necessary as substitute property for PG&E and AT&T.

e. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

f. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

g. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 17th day of April, 2012, by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

______________________________
CHAIRPERSON

ATTEST:

______________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By:____________________________
Exhibit 'D-1'

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50'' East, 883.67 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 33°25'14'' West, 3242.54 feet; thence along the North line of said Lot 1, South 89°59'50'' West, 34.99 feet to the Point of Beginning; thence continuing along said North line, South 89°59'50'' West, 25.55 feet; thence leaving said North line, South 40°25'06'' West, 324.20 feet; thence South 50°12'11'' East, 16.17 feet to a point hereinafter referred to as Point 'A'; thence North 40°22'00'' East, 189.42 feet; thence North 42°07'40'' East, 133.74 feet; thence North 38°39'20'' East, 17.50 feet to the Point of Beginning, containing 0.129 acres, more or less.

TOGETHER WITH the following described strip of land:

Commencing at the aforementioned Point 'A'; thence South 40°22'00'' West, 175.17 feet; thence South 41°42'54'' West, 33.93 feet to the Point of Beginning; thence North 49°04'21'' West, 15.71 feet; thence South 40°51'30'' West, 317.44 feet; thence South 40°57'11'' West, 326.33 feet; thence South 40°49'46'' West, 319.37 feet; thence South 42°21'11'' West, 89.83 feet; thence South 09°56'00'' West, 34.42 feet; thence North 41°43'11'' East, 9.68 feet; thence North 41°07'29'' East, 304.48 feet; thence North 40°22'00'' East, 168.61 feet; thence North 43°03'51'' East, 69.69 feet; thence North 40°22'58'' East, 406.56 feet; thence North 41°07'05'' East, 50.61 feet; thence North 41°42'54'' East, 72.91 feet to the Point of Beginning, containing 0.398 acres, more or less.

See Exhibit 'D-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 5914

03/05/2012

[Signature]

Date

(Stamp)
Exhibit “D-3”

UTILITY EASEMENT

DANIEL J. LUIS, hereinafter called Grantor, hereby grants to Three Rivers Levee Improvement Authority, a joint powers authority composed of Yuba County and Reclamation District 784, hereinafter referred to as Grantee, the right from time to time to construct, reconstruct, install, inspect, maintain, replace, remove, and use facilities of the type hereinafter specified, together with a right of way therefore, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the County of Yuba, State of California, described as follows:

APN 018-200-008, recently changed to 018-200-010

The parcel of land, situated in Section 15, Township 15 North, Range 4 East, MDM, described in the deed from H.W. Zimmerman, Jr. to Daniel J. Luis, dated June 14, 1991 and recorded as Recorder’s Serial Number 1991-7474, Yuba County Records.

Said facilities and easement area are described as follows:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as Grantee deems necessary for the distribution of electric energy and communication purposes located within the parcel of land described and depicted in EXHIBITS “D-1” and “D-2”, attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor shall not erect or construct any building or other structure or drill or operate any well within said easement area.

The provisions hereof shall inure to the benefit of and bind the successor and assigns of the respective parties hereto.
March 12, 2012

Daniel J. Luis
 c/o Brian Manning, Esq.
 Desmond, Nolan, Livaich & Cunningham
 15th & S Building
 1830 15th St.
 Sacramento, CA 95811

Via Hand Delivery

Re: Upper Yuba Levee Improvement Project
 Utility Easement

Offer to Purchase – Government Code §7267.2

Dear Mr. Luis:

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to under seepage. In order to complete the Project, however, TRLIA will need to acquire a Utility Easement (UE) over a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs for the UE is approximately 0.527 acres in size. The UE is needed to relocate an existing line of utility poles that carries both a Pacific Gas & Electric power line and an AT&T communications line.

Bender Rosenthal, Inc. and Downey Brand LLP have been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained an appraisal of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Statement and Summary of the Basis for Appraisal, Summary Statement Relating to the Purchase of Real Property or an Interest Therein, proposed Easement Deed, proposed Agreement for Purchase of Utility Easement, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interest for $2,750.00.
If the amount and terms of the offer are satisfactory, please sign the proposed Easement Deed with a notary’s acknowledgement, plus two copies of the proposed Agreement for Purchase, and return to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned for your records. Of course, this offer is conditioned on TRLIA’s ratification of the offer as approved by the TRLIA Board of Directors.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

You are welcome to contact me at (916) 520-5362 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

DOWNEY BRAND LLP

Kelly L. Pope

cc: Bob Morrison (w/enclosures)
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
1114 Yuba Street, Suite 218
Marysville, CA 95901
Office (530) 749-7841 Fax (530) 749-6990

April 17, 2012

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       KELLY POPE, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY Dacus, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
          ACQUISITION OF PROPERTY INTERESTS OWNED BY AJIT S. BAINS
          AND MARIA DEL CARMEN BAINS ON DANTONI ROAD FOR THE
          UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopts the attached proposed Resolution of Necessity for the
acquisition of certain property interests in property bearing Assessor’s Parcel Number 018-200-
001 for the Three Rivers Upper Yuba River Levee Improvement Project (the “Project”). The
property is currently owned by Ajit Bains and Maria del Carmen Bains. As described, depicted,
and defined in Exhibits D-1, D-2 and D-3 to the attached proposed Resolution of Necessity, the
property interest proposed for acquisition is a 0.343-acre Utility Easement.

BACKGROUND:

The Three Rivers Levee Improvement Authority (“TRLIA”) is in the process of conducting
improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba
River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The
levee improvements include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The
Board of Directors approved the Project and adopted a Mitigated Negative Declaration pursuant
to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’s larger
flood protection program that includes 29.3 miles of levee improvements in Yuba County. The
entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the
portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to
meet a higher 200-year flood protection standard. The State is providing the majority of the
funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As
an EIP Project, the Project must comply with State Department of Water Resources’ standards
for project design and real estate acquisition. Those standards require the acquisition of operation and maintenance ("O&M") corridors along the levee toe. The O&M corridor is necessary for the Project in order to provide adequate room for levee maintenance, inspection, patrolling during high water, and flood fighting.

On September 28, 2010, the Board of Directors approved Resolutions of Necessity to acquire property interests needed for the Project. Resolution No. 2010-4 authorized the acquisition of a temporary construction easement, temporary access easements, and approximately 5.227 acres in fee from the Bains parcels bearing Assessor’s Parcel Numbers 018-200-001 and 018-220-030. A condemnation proceeding was initiated in Yuba County Superior Court, Case No. YSSCCVED 10-0000977, on November 9, 2010. TRLIA obtained an Order for Possession from the Court on April 7, 2011, and began Project construction on the Bains property in July 2011.

A single pole line carries both PG&E electrical transmission wires and an AT&T phone line across the Bains parcel bearing Assessor’s Parcel Number 018-200-001. Prior to the commencement of construction on the Bains property, the poles were located in the toe of the levee embankment. In order to construct the seepage cutoff wall and new levee embankment, the poles were temporarily relocated away from the levee. However, to comply with the applicable levee design standards, the poles must be permanently relocated at least 15 feet from the toe of the levee.

At the time the condemnation proceeding was filed, TRLIA’s staff and consultants had not worked out utility relocation issues with PG&E and AT&T. Now that these issues have been worked out, we are asking the Board of Directors to consider a Resolution of Necessity which authorizes TRLIA to acquire a Utility Easement necessary to complete the permanent relocation of the existing utility pole line.

DISCUSSION:

The Bains property has a total area of approximately 123.54 acres, and is located along the water side (north) of the Yuba River South Levee. The Bains property is planted with peach, prune and walnut orchards.

TRLIA has already filed an action to condemn fee title to 5.227 acres of the Bains property. The proposed 0.343-acre Utility Easement runs along the western boundary of the property TRLIA is acquiring from Mr. and Mrs. Bains on parcel 018-200-001 in fee, and is approximately 16 feet in width. The proposed Utility Easement is a non-exclusive easement for electrical and phone/cable transmission facilities that grants TRLIA access to the area to install, use, maintain, repair, and replace such facilities. The proposed Utility Easement also restricts the future construction of buildings, structures, reservoirs, wells, or any other obstructions in the easement area.

On March 8, 2012, TRLIA sent an offer to Mr. and Mrs. Bains to purchase the 0.343-acre Utility Easement for $1,800.00. A copy of the offer letter, without exhibits, is attached hereto.

The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc. ‘s Problem Identification Report, Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California, dated September 29, 2009. This report contains the results of geotechnical investigations and provides preliminary repair
recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design, Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California, dated June 11, 2010. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s Upper Yuba Levee Improvement Project, 100% Design Submittal Final Design Documentation Report, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated June 21, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

TRLIA’s staff and consultants have worked with PG&E and AT&T to determine what is needed to relocate the existing line of utility poles on the Bains property. As noted above, to comply with the applicable levee design standards, the poles must be permanently relocated at least 15 feet away from the toe of the levee. After consultation with PG&E and AT&T, TRLIA staff and consultants determined that a 30-foot wide utility easement centered on the new pole locations is necessary to provide adequate room for the movement of the utility wires, as well operation and maintenance of the line. Approximately fourteen feet of the Utility Easement will overlap the property TRLIA is acquiring from Mr. and Mrs. Bains in fee, but the other approximately 16 feet in width must be acquired as a new Utility Easement with a total area of 0.343 acres. TRLIA is authorized to acquire the substitute easement pursuant to Code of Civil Procedure section 1240.330.

Mr. and Mrs. Bains have not accepted TRLIA’s offer to purchase the Utility Easement. In the absence of a negotiated agreement for the purchase of the Utility Easement, TRLIA will need to amend its complaint in the condemnation action in order to acquire the Utility Easement. However, the addition of the Utility Easement to the condemnation proceedings will not end TRLIA’s efforts to reach a negotiated agreement with Mr. and Mrs. Bains.

FISCAL IMPACT:

The approved appraised value for the Utility Easement is within the TRLIA Board approved land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire the Utility Easement is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Resolution of Necessity and Exhibits
2. Offer to Purchase Letter
RESOLUTION NO. 2012-__

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE RIVERS UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT (CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, on September 28, 2010, TRLIA adopted Resolution No. 2010-4, a Resolution of Necessity for the acquisition of certain property interests from the parcels bearing Assessor's Parcel Nos. 018-200-001 and 018-220-030; and

WHEREAS, TRLIA's Special Counsel subsequently filed an action in eminent domain in the Yuba County Superior court to acquire the property interests described and defined in Resolution No. 2010-4, which action is currently pending; and

WHEREAS, TRLIA has since determined that it also needs to acquire a replacement Utility Easement across a portion of the parcel currently bearing Assessor's Parcel No. 018-200-001 (the "Property" ) for Pacific Gas and Electric Corp. ("PG&E") and AT&T in order to accomplish certain utility relocation work necessary to complete the Project; and

WHEREAS, TRLIA has advised Mr. and Mrs. Bains of the need for the Project and offered them an opportunity for a hearing before the TRLIA Board on April 17, 2012, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property is to be acquired for the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5, Water Code section 50930, and Code of Civil Procedure section 1240.330.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal description attached hereto as Exhibit D-1, the accompanying parcel map attached hereto as Exhibit D-2, and the accompanying definition attached hereto as Exhibit D-3, which are incorporated herein by this reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the Project.

b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
c. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the Project.

d. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the purpose specified in Code of Civil Procedure section 1240.330. The acquisition of the Utility Easement is necessary as substitute property for PG&E and AT&T.

e. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

f. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

g. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 17th of April, 2012, by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

______________________________
CHAIRPERSON

ATTEST:

______________________________
Donna Stottlemyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By: __________________________
Exhibit 'D-1'

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Commencing at a point on the Southerly line of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 56°56'27" East, 2384.34 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 25°31'29" West, 1557.80 feet; thence North 09°56'00" East, 67.48 feet to the Point of Beginning; thence continuing North 09°56'00" East, 34.42 feet; thence South 42°21'11" West, 255.36 feet; thence South 39°00'57" West, 324.45 feet; thence South 41°06'00" West, 295.41 feet; thence South 00°41'11" East, 21.88 feet; thence South 44°47'29" West, 72.75 feet; thence South 45°12'31" East, 16.00 feet; thence North 44°47'29" East, 82.30 feet; thence North 40°19'09" East, 257.07 feet; thence North 38°27'06" East, 68.82 feet; thence North 40°20'01" East, 106.62 feet; thence North 38°04'01" East, 131.26 feet; thence North 44°10'30" East, 78.66 feet; thence North 39°48'39" East, 58.64 feet; thence North 44°27'55" East, 73.74 feet; thence North 41°43'11" East, 14.95 feet to the Point of Beginning, containing 0.343 acres, more or less.

See Exhibit 'D-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.99999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Date

Portion of

APN 018-200-001
Exhibit “D-3”

UTILITY EASEMENT

AJIT S. BAUNS and MARIA DEL CARMEN BAUNS, husband and wife, hereinafter called Grantor, hereby grants to Three Rivers Levee Improvement Authority, a joint powers authority composed of Yuba County and Reclamation District 784, hereinafter referred to as Grantee, the right from time to time to construct, reconstruct, install, inspect, maintain, replace, remove, and use facilities of the type hereinafter specified, together with a right of way therefore, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the County of Yuba, State of California, described as follows:

APN 018-200-001

The parcel of land, situated in Section 15, Township 15 North, Range 4 East, MDM, described and designated PARCEL 4 in the deed from Maria Del Carmen Bains to Ajit S. Bains and Maria Del Carmen Bains, husband and wife, dated September 8, 2008 and recorded as Recorder’s Serial Number 2008-014771, Yuba County Records.

Said facilities and easement area are described as follows:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as Grantee deems necessary for the distribution of electric energy and communication purposes located within the parcel of land described and depicted in EXHIBITS “D-1” and “D-2”, attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor shall not erect or construct any building or other structure or drill or operate any well within said easement area.

The provisions hereof shall inure to the benefit of and bind the successor and assigns of the respective parties hereto.
March 8, 2012

Ajit S. Bains  
Maria del Carmen Bains  
1921 Redding Avenue  
Yuba City, CA 95993

Re: Upper Yuba Levee Improvement Project  
Utility Easement  
Offer to Purchase – Government Code §7267.2

Dear Mr. and Mrs. Bains:

This letter revises and replaces the offer dated March 5, 2012, in that this offer makes a correction to the utility easement that was enclosed with the previous letter.

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to under seepage. In order to complete the Project, however, TRLIA will need to acquire a Utility Easement (UE) over a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs for the UE is approximately 0.343 acres in size. The UE is needed to relocate an existing line of utility poles that carries both a Pacific Gas & Electric power line and an AT&T communications line.

Bender Rosenthal, Inc. and Downey Brand LLP have been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained an appraisal of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Statement and Summary of the Basis for Appraisal, Summary Statement Relating to the Purchase of Real Property or an Interest Therein, proposed Easement Deed, proposed Agreement for Purchase of Utility Easement, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interest for $1,800.00.
If the amount and terms of the offer are satisfactory, please sign the proposed Easement Deed with a notary’s acknowledgement, plus two copies of the proposed Agreement for Purchase, and return to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned for your records. Of course, this offer is conditioned on TRLIA’s ratification of the offer as approved by the TRLIA Board of Directors.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

You are welcome to contact me at (916) 520-5362 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration of this matter.

Very truly yours,

DOWNEY BRAND LLP

[Signature]
Kelly L. Pope

KLP

cc: Bob Morrison (w/enclosures)
    Brant J. Bordsen, Esq. (w/enclosures)
    Max Steinheimer (w/o enclosures)