

RESOLUTION NO. 2008-01

**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 (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; and

WHEREAS, the Authority and YCWA 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.

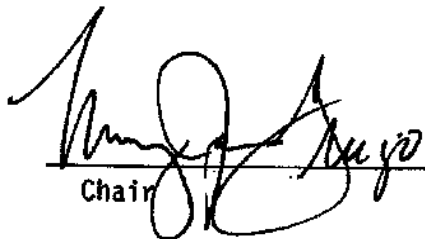
PASSED AND ADOPTED this 19th day of February, 2008, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES: Directors Brown, Crippen, Graham, Griego, Logue

NOES: None

ABSENT: None

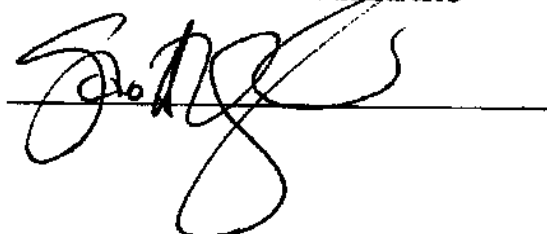
ABSTAIN: None


Chair

**ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD**



APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO

A handwritten signature in black ink, appearing to read "Scott Shapiro", is written over a horizontal line. The signature is stylized and cursive.