

RESOLUTION NO. 2009-10

**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 LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)**

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting a large portion of the property located at 2052 Feather River Boulevard in the County of Yuba, California, which is also known as Assessor's Parcel No. 016-010-009 (the "Property"); and

WHEREAS, on March 18, 2008, TRLIA adopted a Resolution of Necessity for the acquisition of an approximately 0.43-acre portion of the Property for the Project and TRLIA's counsel subsequently filed an action in Eminent Domain that is currently pending in the Yuba County Superior Court as Case No. YCSCCVED 08-0000241; and

WHEREAS, TRLIA has recently determined that the Project must be modified in a way that will require the acquisition of an approximately 0.616-acre portion of the Property and the property owner has informed TRLIA that the remainder of the parcel would be an uneconomic remainder pursuant to Code of Civil Procedure section 1240.150; and

WHEREAS, TRLIA has advised the owner of the Property of the need for the Project and offered the owner an opportunity for a hearing before the TRLIA Board on June 16, 2009 pursuant to section 1245.235 of the Code of Civil Procedure, State of California; 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 0.616-acre portion of the Property to be acquired is for the repair, construction, installation and maintenance of the Project, and the remaining portion of the Property is an uneconomic remnant pursuant to Code of Civil Procedure section 1240.150.

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 1240.150.

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 and the accompanying parcel map attached hereto as Exhibit B, and incorporated herein by reference.

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

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

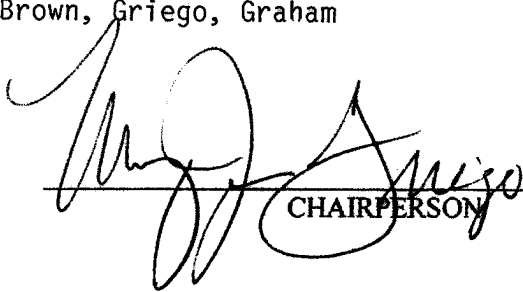
- c. An approximately 0.616-acre portion of the Property described in Exhibit A and depicted in Exhibit B is necessary for the proposed Project and the remainder of the Property is an uneconomic remnant pursuant to Code of Civil Procedure section 1240.150 and the property owner has requested that TRLIA acquire the remainder.
- 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. The use of the Property for its stated public use is scheduled to begin within two years of its acquisition.
- 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.

SECTION 4. Legal counsel retained by TRLIA is hereby authorized and empowered:

- a. To take appropriate legal action, in accordance with the provisions of the Constitution of California and the Eminent Domain Law of California, to acquire the property described in Exhibit A and depicted in Exhibit B.
- b. To deposit the probable amount of compensation, based on an appraisal, and to apply to the court for an order permitting TRLIA to take immediate possession and use of the property for public uses and purposes.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 16th day of June, 2009 by a two-thirds (2/3) or greater vote as follows:

AYES: Director Nicoletti, Brown, Griego, Graham
 NOES: None
 ABSTAIN: None
 ABSENT: Director Crippen


 CHAIRPERSON

ATTEST:

 Donna Stottlemeyer, Secretary

**APPROVED AS TO FORM
 GENERAL COUNSEL**

By: Audrea P. Cleub

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF YUBA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of Lot 13 in Block 31 and of Lot 16 in Block 36, as shown on the map entitled, "Arboga Colony No. 2", filed in the office of the County Recorder of the County of Yuba, State of California in Volume 2 of Maps, Page 15 and more particularly described as follows:

Beginning at the Southeast corner of said Lot 16, thence West along the South line of said Lot 16, a distance of 315.86 feet; thence North $1^{\circ} 57'$ East 100.0 feet, thence East parallel with the South line of said Lots 16 and 13, a distance of 435.86 feet to the centerline of the County Road; thence following said centerline South $1^{\circ} 57'$ West 100.00 feet to the South line of said Lot 13; thence West along said South line 120.0 feet to the point of beginning.

APN: 016-010-009-000

EXHIBIT B

