



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Yuba County Government Center, Board Chambers
915 Eighth Street, Suite 109A
Marysville, California

May 26, 2009 – 1:30 P.M.

No other business shall be conducted at this meeting. The public shall have an opportunity to address the Authority only with respect to items set forth in this agenda. Each individual or group will be limited to no more than five 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.

I **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.

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

III **ACTION ITEMS**

- A. Adopt resolution authorizing specific actions in regard to the funding program for the Upper Yuba River which will:
- i) Adopt resolution authorizing the Authority to accept funds from the State of California in the amount of \$47.475 million for the Upper Yuba River Levee Improvement Project, and authorizing the Executive Director to execute funding agreement with the California Department of Water Resources and requests for disbursements to be made under this Funding Agreement; and
 - ii) Authorize the Executive Director to execute the agreement with Reclamation District (RD) 784 whereby the District agrees to execute an agreement with the State to ensure operation and maintenance of the levee system; and
 - iii) Authorize the Executive Director to execute agreement with Yuba County Water Agency whereby the Agency agrees to work with the State to obtain federal credit for the funds provided by the State.
- B. Approve minutes of the special meeting of May 19, 2009.

IV **BOARD AND STAFF MEMBERS' REPORTS**

V **ADJOURN**

The complete agenda, including backup material, is available at the Yuba County Government Center, 915 8th Street, Suite 109, the County Library at 303 Second Street, 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 of Directors less than 72 hours prior to the meeting are available for public inspection at Suite 109 during normal business hours.

In compliance with the American 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

1114 Yuba Street, Suite 218
Marysville, CA 95901
(530) 749-7841 Fax (530) 749-6990

May 26, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PJB 5-26-09*
Andrea Clark, Assistant General Counsel
SUBJECT: Approval of Funding Program for Upper Yuba River Levee Improvement Project

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 Upper Yuba River Levee Improvement Project*" (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 (YCWA) 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 to execute the final version of the State Funding Agreement (Attachment 5).

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. This comprehensive levee improvement program implemented by the Authority consists of four phases of work. Work for Phases 1-3 has been completed and has received certification from the U.S. Corps of Engineers ("Corps"). Phase 4 consists of

multiple projects on the Feather River and Yuba River. In February 2008 this board approved the resolution entitled “*Resolution Authorizing Specific Actions in Regard to the Funding Program for Phase 4 Feather River and Yuba River Levee Improvements.*” That resolution authorized the Executive Director to enter into a State Funding Agreement for Phase 4 work in the amount of \$138.51 million. This resolution addresses a portion of Phase 4 Yuba River work between Highway 70 and the goldfields west boundary that is now necessary due to recent updates to hydraulic modeling as described below.

Modeling work completed in 2006 showed that a limited amount of work was required on the upper Yuba River levee to provide 200-year protection. The only work identified was erosion control along a 2,000 foot ditch at the upstream end of the levee (just downstream of the Goldfields). At the time, costs for this erosion site were estimated at \$5.397 million and included in the funding agreement for Phase 4 work.

In 2008, Authority staff and the Corps updated the hydraulic model for water flowing out of the Goldfields. Results of the model showed a significant increase in the stage of the 100- and 200-year water surface on the Yuba River Patrol Road levee. As a result, the Authority immediately began reevaluating the levee with the updated hydraulic modeling results. The preliminary 200-year floodplain shows extensive flooding throughout the area within the Authority’s jurisdiction. Preliminary design work is underway and indicates a significant amount of additional levee improvement will likely be required along the Upper Yuba River levee to achieve 200-year protection. In order to fund this work the Authority applied to the State of California for, and has been selected to receive, funding in the amount of \$47,475,000 for slope flattening, construction of a slurry wall, and erosion protection work (the “Upper Yuba River Improvement Project”). The funding is also for other Yuba River south levee, Western Pacific Interceptor Canal, and Bear River levee improvements that have been previously completed to achieve levee 100-year FEMA certification or the goal of 200-year protection stated above.

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 Upper Yuba River Improvement Project.

Discussion: Four 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 an agreement with 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. Finally, the Resolution authorizes 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 the State Funding 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 5).

The State Funding Agreement (at Attachment 5) uses a standard form approved by both the Department of Water Resources and the Department of General Services. It is substantially the same as the funding agreement for the Phase 4 work. It provides for a grant of up to \$47.475 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 \$47.475 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 seven million dollars of work, 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 (the State has actually beefed up this language in light of the State's current financial situation), but does not 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.

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 5.

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 Upper Yuba River levee 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 June 2, 2009. 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 Corps 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 May 26, 2009.

Financial Impact: The State Funding Agreement approved by this action provides the funding for the Authority's Upper Yuba River Levee Improvement Project and the budget previously approved by this Board.

Attachments:

1. Resolution No. 2009-__ - *"Resolution Authorizing Specific Actions In Regard To The Funding Program For the Upper Yuba River Levee Improvement Project"*
2. Resolution No. 2009-__ - *"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. State Funding Agreement

RESOLUTION NO. 2009-__

**A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING
SPECIFIC ACTIONS IN REGARD TO THE FUNDING PROGRAM
FOR THE UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT**

(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, due to updated hydraulic modeling, the final phase (Phase 4) of this work now requires additional work on the Upper Yuba River levee that involves slope flattening, construction of a slurry wall and erosion protection work to provide 200-year protection (the “Upper Yuba River Levee Improvement Project”); and

WHEREAS, in order to fund the Upper Yuba River Levee Improvement Project the Authority applied to the State of California for, and has been tentatively selected to receive, funding in the amount of \$47.475 million for this work and for other Yuba River levee south, Western Pacific Interceptor Canal, and Bear River levee improvements that were previously completed; and

(Authority to Sign State Agreement)

WHEREAS, as a condition of receiving the \$47.475 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 \$47.475 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 Upper Yuba River levee 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 \$47.475 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

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 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 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.

* * * * *

PASSED AND ADOPTED this 26th day of May, 2009, 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

RESOLUTION NO. 2009-__

**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 a portion of the final phase of the Authority's program, the Authority applied to the State of California for, and has been tentatively selected to receive, funding in the amount of \$47.475 million for the Upper Yuba River Levee Improvement Project; and

WHEREAS, as a condition of receiving the \$47.475 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 Upper Yuba 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 26th day of May, 2009, 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 \$47.475 million for slope flattening, construction of a slurry wall, and erosion protection work (the “Upper Yuba River Levee Improvement Project”);

WHEREAS, as a condition of receiving the \$47.475 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 Upper Yuba River levee 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 for the Upper Yuba River Levee Improvement Project, 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 _____ 2009.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

RECLAMATION DISTRICT NO. 784

BY: _____
Paul Brunner

BY: _____

ATTEST: DONNA
STOTTLEMEYER, CLERK OF
THE BOARD OF DIRECTORS

APPROVED AS TO FORM:
CARL LINDMARK RD 784
GENERAL COUNSEL

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

Attachment 4:

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 \$47.475 million for slope flattening, construction of a slurry wall, and erosion protection work (the "Upper Yuba River Levee Improvement Project");

WHEREAS, as a condition of receiving the \$47.475 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 for the Upper Yuba River Levee Improvement Project, 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 May 2009.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

YUBA COUNTY WATER AGENCY

BY: _____
Paul Brunner

BY: _____
Chair, _____

ATTEST: DONNA
STOTTLEMEYER, CLERK OF
THE BOARD OF DIRECTORS

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

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

Attachment 5

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

Upper Yuba 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**

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

MAY 12, 2009 – SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:15 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 Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chair Griego presided.

ACTION ITEMS

A. Minutes: Upon motion of Director Crippen, seconded by Director Graham, and carried with Director Nicoletti being absent, the Board approved the minutes of the regular meeting of April 21, 2009, as written. APPROVE MINUTES

B. Amendment No. 7/HDR Engineering Inc./\$2,416,874: Following a recap from Design Manager Larry Dacas and Executive Director Paul Brunner and Board inquiries, the following individuals spoke:

- Mr. Tom Eres, Hofman Ranch
- Ms. Frances Hofman, Wheatland

Upon motion of Director Crippen, seconded by Director Graham, and carried with Director Nicoletti being absent, the Board approved amendment No. 7 to the agreement with HDR Engineering, Inc. in the amount of \$2,416,874 and authorized the Executive Director to execute upon review and approval of Counsel. APPROVE AMNDMNT.

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:

Executive Director Paul Brunner:

- Construction progress on Setback Levee
- Degradation of old levee
- Proposition IE funding and TRLIA finances

- Reclamation District 784 review of policies and procedures related to ? listen to tape
- State Mining and Geology Board regarding borrow sites
- Meeting with an equestrian organization regarding trails
- Water Education flood protection tour which included Yuba and Feather Rivers

Director Griego: Cap to Cap Conference in Washington DC held April 24 - 30, 2009 related to flood protection

CLOSED SESSION

The Board retired into closed session at 2:50 p.m. to discuss the following:

- A. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Davit et al
- B. Conference with Counsel on potential litigation pursuant to Government Code §54956.9(b)(3)(E) – One Case

The Board returned from closed session at 3:25 p.m. with all Board and staff members present as indicated above.

RECESS

The Board recessed at 3:26 p.m. and reconvened at 6:03 p.m. with all Board and staff members present as indicated above.

PUBLIC HEARING

Special Benefit Assessment/Levee and Flood Control Facilities: Following Chair Griego stating procedures for the hearing process, Executive Director Paul Brunner provided a Power Point presentation on the proposed benefit assessment.

Reclamation District (RD) 784 Trustee Jeff Phinney provided a Power Point presentation comparing RD 784 and California Department of Water Resources maintenance areas.

Upon motion of Director Crippen, seconded by Director Brown, and carried with Director Nicoletti being absent, the Chair Griego opened the public hearing.

OPEN
PB. HRG.

The following individuals spoke:

- Mr. Steve Spencer, Griffith Avenue
- Mr. Don Rae, Atherton Way
- Mr. John Apedaile, Vine Avenue
- Mr. Preston Christy, Arboga Road
- Mr. Elbert King, Dunsmuir Way
- Ms. Laurinda Fowler, Greens Street
- Ms. Frances Hofman, Olivehurst
- Mr. Tom Eres, Hofman Ranch

Consultants Thomas Brightbill and Seth Werzel, Engineer Larry Dacas, Special Counsel Joe Scofield, Mr. Brunner, and Board members responded to specific public inquiries.

Director Crippen left the meeting at 7:24 p.m. and did not return.

Chair Griego recessed the meeting at 7:37 and reconvened the meeting at 7:44 p.m. to allow receipt of ballots into the ballot box.

Upon motion of Director Brown, seconded by Director Graham, and carried with Directors Crippen and Nicoletti being absent, the public hearing was closed.

CLOSE
PB. HRG.

Chair Griego advised the Board would receive the tabulation of the ballots and consider a resolution to levy assessments at the Board meeting of June 2, 2009 at 3:30 p.m.

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 7:46 p.m.

Chair

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

Approved: _____