



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

APRIL 5, 2011 – 3:30 P.M.

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 regular and special meetings of March 15 and 25, 2011.
- B. Adopt resolution approving application for grant funds from the Flood Corridor Program under 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.
- IV **ACTION ITEMS**
- A. Approve reissuance of construction documents for re-bid on the Upper Yuba Levee Repair Project, Simpson Lane to Yuba Goldfields.
- B. Adopt resolution authorizing Executive Director to approve Change Orders for construction work on awarded projects, up to the statutory maximum of \$210,000, as long as budgeted funds are available.
- V **BOARD AND STAFF MEMBERS' REPORTS**
- VI **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

MARCH 15, 2011

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 2:01 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, 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 Crippen absent.

II CLOSED SESSION – The Board retired into closed session at 2:02 p.m. to discuss the following:

A. Pending litigation pursuant to Government Code §54956.9 – TRLIA vs. Mann YCSCCVED 07-0000438

B. Conference with real property negotiator pursuant to Government Code §54956.8 - Negotiating Parties: TRLIA/Churchill/Morrison; Terms of Payment; regarding the following properties:

013-010-048 Smith	020-201-009, 010/Arnold Craft
013-010-045 Stewart	020-201-008, 012/Monty and Debra Hecker
013-010-001,002/020-360-054/Linda Water	020-201-005/Quintilia Naranjo
020-360-004/020-330-007/RD784	020-201-004/Robert Hamilton
022-330-009/RD 784	020-201-003/Currier Family Trust
020-360-060, 061, 062/Cooper	020-201-002/Ava Joy Clark
020-360-057, 058, 063/TRLIA	020-171-015/Mary Cress
020-360-064/Khang	020-171-014/Currier Family Trust
020-020-027/UPPR	020-171-013/Maria Mendoza, et al
020-330-008/State of California	020-171-011, 012/Billy J. and Clara J. Bean
020-201-011/Alan Young/Alma Rodriguez	

Director Crippen joined closed session at 2:05 p.m.

The Board returned from closed session at 2:36 p.m. There was no report from closed session.

III PUBLIC COMMUNICATIONS – No one came forward.

IV 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: John Nicoletti SECOND: Jerry Crippen
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None ABSTAIN: None ABSENT: None

A. Approve minutes of the meeting of March 1, 2011. Approved as written.

V ACTION ITEMS

- A. Approve RD 784 Levee System Approach to provide 200-year certification for Senate Bill 5 and authorize the Executive Director to take actions necessary for 200-year certification.

Executive Director Paul Brunner and Program Manager Ric Reinhardt recapped the criteria for urban level of protection, provided a power point presentation regarding same, and responded to Board inquiries.

There were no public comments.

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

- B. Authorize the Executive Director to award and execute contract to the low bidder for the Upper Yuba Levee Improvement Project.

Executive Director Paul Brunner recapped the approvals received to date advising awaiting approval of Section 104 credits and planned award of contract by March 31, 2011 if approval was received. Mr. Brunner and Counsel Shapiro responded to Board inquiries.

There were no public comments.

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

- C. Approve termination agreement with E. Platter and Sons, Inc., and JTS Communities Inc. granting right to enter and remove soil from property and authorize the Executive Director to execute same.

Construction Manager Doug Handen recapped the need for the agreement and responded to Board inquiries.

There were no public comments.

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

- D. Approve assignment of Nieschulz Trust agricultural lease agreement to beneficiaries of the trust and authorize the Executive Director to execute same pending approval from State and further negotiations by Counsel.

Executive Director Paul Brunner recapped the need for the assignment and responded to Board inquiries.

There were no public comments.

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

- E. Adopt resolution authorizing proposal to obtain funding for Feather Floodway Corridor through California Department of Water Resources early implementation program and authorizing the Executive Director to execute necessary document for same.

Executive Director Paul Brunner provided a power point presentation recapping the use of grant funds if received, local cost share, and timeframe of 2 - 3 years to complete the project. Mr. John Carlon, River Partners, recapped current restoration efforts and use of local partners. Mr. Brunner and Mr. Carlon responded to Board inquiries.

The following individuals spoke:

- Mr. Jerry Hollands, Plumas Lake
- Mr. Steve Fordice, General Manager RD 784

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

Adopted Resolution No. 2011-1 entitled: "A RESOLUTION BY THE BOARD OF DIRECTORS OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING PROPOSAL TO OBTAIN FUNDING FOR FEATHER FLOODWAY CORRIDOR."

VI BOARD AND STAFF MEMBERS' REPORTS – Reports were received on the following:

Counsel Scott Shapiro:

- Introduction of Assistant Counsel Amanda Pearson
- FEMA criteria for certification

Executive Director Paul Brunner:

- American Society of Civil Engineers Region 9 Outstanding Flood Management Award receipt
- Upper Yuba Construction project public meeting scheduled April 6 from 6:30 – 8:30 p.m. in the Board Chambers
- Central Valley Flood Control Board regarding encroachment permit for elderberry site on March 25, 2011 agenda
- Water Education Foundation video for a film on levee system projects

VII ADJOURN – 4:36 p.m. by Chair Griego.

Chair

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

Approved: _____



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MARCH 25, 2011 – SPECIAL MEETING

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 4:31 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Directors Jerry Crippen and John Nicoletti were absent. Also present were Executive Director Paul Brunner 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 – Directors Crippen and Nicoletti absent.

II CLOSED SESSION: The Board retired into closed session at 4:34 p.m. to discuss the following:

A. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Mann YCSCCVED 07-0000438

The Board returned from closed session at 5:11 p.m. with all present as indicated above. There was no reportable action.

III ADJOURN: 5:11 p.m. by Chair Griego.

Chair

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

Approved: _____



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218

Marysville, CA 95901

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April 5, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PB*
SUBJECT: Funding for the Feather Floodway Corridor

Recommended Action

Approve Attached Updated Resolution by the Board of Directors of Three Rivers Levee Improvement Authority Authorizing Proposal to Obtain Funding for the Feather Floodway Corridor and authorize Chair to sign.

Background

At its March 15, 2011 meeting, the TRLIA board considered and approved a resolution authorizing the application for funding through DWR's Flood Corridor Program for the Feather River Floodway Corridor. The March 15, 2011 staff report includes an extensive summary of this project and the proposed funding.

After approval of that resolution, it came to the attention of TRLIA staff that DWR has a preferred template resolution for its Flood Corridor grant program, which contains language that was not included in the TRLIA resolution approved by the board on March 15, but that DWR requires as part of the application package. In order to ensure that funding for TRLIA's Feather Floodway Corridor is not jeopardized, staff recommends that the board approve this updated resolution, which will be used in the application package in lieu of the prior approved resolution.

Attachment:

- Proposed Resolution

RESOLUTION NO. 2011-__

**A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY APPROVING THE
APPLICATION FOR GRANT FUNDS FROM THE FLOOD CORRIDOR PROGRAM UNDER
THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL,
RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84) AND THE
DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006
(PROPOSITION 1E)**

WHEREAS, the Three Rivers Levee Improvement Authority (TRLIA or the Applicant), a joint exercise of powers authority of which the County of Yuba (the “County”) and Reclamation District 784 (“RD 784”) are the members, has implemented the Feather River Levee Repair Project (FRLRP) as part of a more comprehensive program to repair and improve the Feather River and Yuba River levees within RD 784; and

WHEREAS, as part of the FRLRP, TRLIA has performed habitat mitigation work in the Feather River Setback area, which is part of the Feather River Floodway; and

WHEREAS, the Department of Water Resources (DWR) formed the Lower Feather River Floodway Corridor Management committee to develop a land management plan for the Feather River Floodway corridor, in part to allow floodway maintenance to occur with limited restrictions in areas that contain threatened or endangered species; and

WHEREAS, TRLIA is a partner in this committee with the goal of helping to develop an acceptable approach to floodway maintenance for all parties, including the Central Valley Flood Protection Board, local maintenance districts, counties, and other interested stakeholder groups; and

WHEREAS, TRLIA wishes to seek funding for its Feather Floodway Corridor efforts through DWR’s Flood Corridor Program; and

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, DWR has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by DWR require a resolution certifying the approval of application(s) by the Applicant’s governing board before submission of application(s) to the State; and

WHEREAS, TRLIA, if selected, will enter into an agreement with the State of California to carry out its Feather Floodway Corridor project.

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

1. TRLIA approves the filing of an application for the Feather Floodway Corridor project; and
 2. TRLIA certifies that it understands the assurances and certification in the application;
- and

3. TRLIA certifies that it will have sufficient funds to operation and maintain the project (s) consistent with the land tenure requirements; or will secure the resources to do so; and

4. TRLIA certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code; and

5. If applicable, TRLIA certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction all applicable permits will have been obtained; and

6. The Executive Director of the Board of Directors of Three Rivers Levee Improvement Authority is hereby authorized and directed as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

* * * * *

PASSED AND ADOPTED this 5th day of April, 2011, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST: DONNA STOTTEMEYER,
CLERK OF THE BOARD

APPROVED AS TO FORM: GENERAL COUNSEL





THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218

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April 5, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul G. Brunner, Executive Director *PGB*
Doug Handen, Construction Manager
Scott Shapiro, General Counsel
SUBJECT: Contract No. PH4 2010-01
Upper Yuba Levee Improvement Project
Approval for Issuance of Documents to Rebid

Recommended Action

Provide approval to issue for re-bid the construction documents for the Upper Yuba Levee Repair Project, Simpson Lane to Yuba Goldfields (Sta 102+00 to 303+59).

Discussion

Construction documents for the Upper Yuba Levee Repair Project (UYLIP) have been prepared to the "Approved for Construction" design level and include plans and specifications that are being prepared for issuance to rebid.

- **Prior Bid**
TRLIA accepted bids for the UYLIP on August 26, 2010. Magnus Pacific was the lowest responsive bidder with a total bid amount of \$7,541,469.80. The Bid Documents for this project allowed for TRLIA to award the project prior to March 31, 2011, subject to obtaining all required approvals and permits. In addition, the Board previously delegated to the Executive Director the authority to make the award. However, TRLIA was unable to award the project within the specified deadline due to the absence of the issuance of the Section 104 Credit approval. Staff evaluated the option of seeking to extend the award period, but felt that in light of the uncertainty associated with the timing for the remaining 104 credit approval, coupled with the long period since the construction documents were originally put out to bid, the award period should not be extended for this particular project, and instead TRLIA should rebid. In addition, staff has evaluated the timing associated with a new bid period, and believes that the project can be rebid quickly, so that TRLIA will not lose needed construction time.
- **Section 104 Credit Approval**
Our latest communications with Corps headquarters and the office of the Assistant Secretary of the Army (ASA) suggest that TRLIA may receive approval as quickly as next week, or further delays could occur. To obtain these approvals we have been working through Congressman Herger's office and his staff has been very helpful. Once the 104 credit approval is provided TRLIA will be in a position to award the contract.

- Project Cost and Funding/EIP Program
The original Engineer's Estimate for the cost of this project was \$ 15,000,000. The State has approved the UYLIP for EIP funding and will share in the construction cost. The final cost sharing is Local 30% and State 70% .

- Bid Documents

- Permits

The "Instructions to Bidders" included in the bid documents will describe that an Award of the project will be subject to the confirmation of permitting and agency approval.

- Material Borrow Sources:

The bid documents describe that material required to complete the levee (~181,000 CY) shall be obtained in two separate ways. The majority of the material (approximately 80%) will be obtain from a contiguous borrow site (The Sohal Property), included in the construction documents. TRLIA has obtained confirmation from the State Mining and Geology Board that this material is "exempt" from the State Mining and Reclamation Act (SMARA) permit requirements subject to TRLIA's completion of the environmental documents required for the project.

The bid documents instruct the bidders that the Contractor is responsible for obtaining the balance of the material (approximately 20%). TRLIA has identified the Teichert Aggregate Plant in Marysville as a potential source for contractors to acquire the material as a Contractor option.

- Award

Award will be based on lowest acceptable bid. The bid documents state TRLIA reserves the right to award a contract based the availability of funding and permits. Bid results will be presented to the TRLIA Board for award. Bid documents will specify that bids are good until July 1, 2011.

- Anticipated schedule

The following are projected milestone dates and schedule for the construction of the Project:

<i>Advertise for Bid</i>	<i>April 11, 2011</i>
<i>Open Bids</i>	<i>May 4, 2011</i>
<i>Award of Bid</i>	<i>May 10, 2011</i>
<i>Notice to Proceed</i>	<i>May 11, 2011</i>
<i>Construction Period</i>	<i>May 11, 2011 to October 31, 2011</i>

Fiscal Impact:

Funding for this project is from the State/TRLIA Upper Yuba River Levee Improvement EIP Funding Agreement. Both State (70% cost share) and local funds (30% cost share) are available for this project.



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April 5, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PAB*
Scott Shapiro, General Counsel
SUBJECT: **Delegation of Authority Regarding Change Orders**

Recommended Action:

Authorize the Executive Director to approve change orders for construction work required in support of Three Rivers Levee Improvement Authority ("TRLIA") awarded projects, up to the statutory maximum (currently \$210,000), as long as budgeted funds are available.

Discussion:

TRLIA is a joint powers authority formed for the purpose of carrying out flood control projects along the Bear, Feather, and Yuba Rivers and the Western Pacific Interceptor Canal. In this role, it must enter into large construction contracts that are subject to the requirements of the Public Contract Code. From time to time changed circumstances or new information result in the need to make changes to the contracts to provide for additional work, payment, and/or time. Sometimes these changes must be made quickly to avoid the potential damage or wasted costs that could result from any delay. For example, sometimes in the field the design engineers will make a decision that a slurry wall needs to be dug deeper, or a seepage berm needs to be constructed wider, or any sort of other scenarios.

The Public Contract Code¹ limits the ability of a public agency to make changes to its construction contracts, especially when the contracts in question are required to be awarded on the basis of competitive bids. Such contracts may be modified only if such modification is authorized. Section 20142 of the Public Contract Code provides such an authorization by permitting the Board, by ordinance, resolution, or board order, to authorize an officer to order changes in the work being performed under construction contracts. Under current statute these changes may be awarded up to \$210,000 without being considered by the Board. However, under section 5.2 of the County's Manual (which TRLIA adopted upon its creation) the designated Purchasing Agent may only approve changes of up to \$25,000 or 10% of the contract value, whichever is less, which is obviously less than the \$210,000 allowed by the Legislature.

¹ As a Joint Powers Authority whose powers must be exercised in the same manner provided to Yuba County, TRLIA is generally subject to the provisions of sections 20120-20145 of the Public Contract Code, which apply generally to counties, and the provisions of sections 20150-20150.15, which specifically apply to small counties. The general county provisions apply to the extent they are not inconsistent with the small county provisions, and as the small county provisions do not address change orders, the general county provisions addressing change orders are controlling here.

This action would explicitly extend to the Executive Director the authority allowed under State law to approve such needed change orders that do not exceed the statutory maximum, thus avoiding the need for each such change order to come to the Board. As provided for in State law, today's action would apply both retroactively and prospectively, and as has happened in the past, such change orders will continue to be accounted for and audited by the State pursuant to our funding agreement under Proposition 1E.

Fiscal Impact:

It is not expected that this action will have any fiscal impacts as each change order is required in support of the TRLIA program and may only be approved if consistent with the adopted TRLIA budget.

RESOLUTION NO. 2011-__

**A RESOLUTION BY THE BOARD OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
IN REGARD TO CHANGE ORDERS**

WHEREAS, TRLIA is a joint powers authority formed for the purpose of carrying out flood control projects along the Bear, Feather, and Yuba Rivers and the Western Pacific Interceptor Canal and in this role it must enter into large construction contracts that are subject to the requirements of the Public Contract Code;

WHEREAS, from time to time changed circumstances or new information result in the need to make changes to the contracts to provide for additional work, payment, and/or time and sometimes these changes must be made quickly to avoid the potential damage or wasted costs that could result from any delay;

WHEREAS, the Public Contract Code limits the ability of a public agency to make changes to its construction contracts, especially when the contracts in question are required to be awarded on the basis of competitive bids; instead such contracts may be modified only if such modification is authorized;

WHEREAS, Section 20142 of the Public Contract Code provides such an authorization by permitting the Board, by ordinance, resolution, or board order, to authorize an officer to order changes in the work being performed under construction contracts and under current statute these changes may be awarded up to \$210,000 without being considered by the Board;

WHEREAS, this action would explicitly extend to the Executive Director the authority allowed under State law to approve such needed change orders that do not exceed the statutory maximum, thus avoiding the need for each such change order to come to the Board; and

WHEREAS, as provided for in State law, today's action would apply both retroactively and prospectively, and as has happened in the past, such change orders will continue to be accounted for and audited by the State pursuant to TRLIA's funding agreement under Proposition 1E.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board hereby authorizes the Executive Director to approve change orders for construction work required in support of TRLIA awarded projects, up to the statutory maximum (currently \$210,000), as long as budgeted funds are available.

PASSED AND ADOPTED this _____ day of April, 2011, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO


