

FOURTH AMENDMENT  
TO  
AGREEMENT BETWEEN  
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY  
AND  
BENDER ROSENTHAL, INC.

THIS FOURTH AMENDATORY AGREEMENT is made and entered into this 16<sup>th</sup> day of January 2007, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA"), a Joint Powers Authority, TRLIA and BENDER ROSENTHAL, INC. ("CONSULTANT")

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into a agreement to provide basic services dated March 1, 2005, ("AGREEMENT");

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement to provide basic services dated March 1, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the second Amendatory Agreement to provide basic services dated May 16, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the third Amendatory Agreement to provide basic services dated September 26, 2006.

WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement;

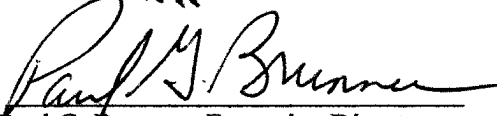
NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in Exhibit A attached to this Fourth AMENDMENT.
2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by \$100,000 from \$1,737,181.00 to: \$1,837,181.00

All other terms and conditions contained in the Agreement shall remain in full force and effort.

This Amended agreement is hereby executed on this 16<sup>th</sup> day of January 2007.

THREE RIVERS LEVEE  
IMPROVEMENT AUTHORITY

BY:   
Paul G. Brunner, Executive Director

CONSULTANT

BY:   
BENDER ROSENTHAL, INC.

APPROVED AS TO FORM,

  
DANIEL G. MONTGOMERY  
County Counsel

# BENDER ROSENTHAL, INC.

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

January 3, 2007

Mr. Paul Brunner, P.E.  
Three Rivers Levee Improvement Authority  
915 8<sup>th</sup> Street, Suite 119  
Marysville, CA 95901

RE: Three Rivers Levee Improvements – Phase 4 Right of Way Acquisition  
Feather River Setback Levee Preliminary ROW Services

Dear Mr. Brunner:

Bender Rosenthal, Inc. (BRI) is pleased to submit this revised scope for Right of Way Acquisition for Phase 4 of the TRLIA project. We have focused this scope on preliminary ROW work for the phase 4 work along the proposed Feather River Setback levee. We are pleased to include Cooper Thorne & Associates (CTA) on our team for Right of Way Engineering and Plat and Legal services.

The attached proposal is based on our knowledge of the project / real estate market gained as your consultant over the last year and during various team meetings regarding the phase 4 projects. It outlines our understanding of your needs, plus our approach in continuing to meet those needs.

The proposal includes five areas of the right of way process that may be required for the project to succeed. They include:

1. ROW Planning and Management
2. Develop Project Land Net
3. Plat and Legals
4. Pre Appraisal Services
5. Title / Escrow Support

If you have any questions, please contact Bob Morrison or myself.

Sincerely

CYDNEY G. BENDER REENTS, MAI  
President

Cc: Ric Reinhardt – MBK Engineers

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- A. COOPER THORNE SCOPE**
- B. PARCEL LIST AND SPREADSHEET**

## **I. PROJECT UNDERSTANDING**

The Three Rivers Levee Improvement Authority is responsible for improving the levees along the Feather River, Bear River and Western Pacific Irrigation Canal (WPIC). The levee improvements are being completed in four phases. Phase one included urgent repairs to the levees at specific locations along the three levees and was completed in 2004. Phase two is scheduled for completion in Summer of 2006 and includes improvements to the Bear River, Feather River and the WPIC. Phase three construction should be completed in Fall of 2006 and includes the setback levees along the Bear River. Phase 4 levee improvements along the Feather River are scheduled to begin construction in May 2007.

TRLIA recently received a grant from the Yuba County Water Authority for \$225,000. The purpose of this grant was to begin the preliminary Right of Way, Environmental, and Engineering work critical to completing a proposed Feather River Setback levee by 2008. This work will include:

1. ROW Planning and Management
2. Develop Project Land Net
3. Plat and Legals
4. Pre Appraisal Services
5. Title / Escrow Support

BRI has been directed not to contact any property owners for Rights of Entry or Appraisals. All invoices will be separated for all other TRLIA work and sent to YCWA.

## **II. RIGHT OF WAY SCOPE OF SERVICES**

The following scope is for:

1. ROW Planning and Management
2. Develop Project Land Net
3. Plat and Legals
4. Pre Appraisal Services
5. Title / Escrow Support

### **Task 1 - ROW Planning and Management**

This task includes attendance at weekly project development team meetings, monthly schedule and progress updates, and coordination efforts with the PDT and ROW teams throughout the life of the project. This also includes development of the of a right of way budgets for various alternatives studied.

#### **Deliverables:**

- 1.1 Running weekly BRI staff meetings through the appraisal and acquisition phase of the project.
- 1.2 Attending Weekly PDT meetings.

- 1.3 Providing Monthly progress updates to PDT and TRLIA staff.
- 1.4 Coordinating design issues between engineering team and ROW team.
- 1.5 ROW budgets for various alternatives.

**Task 2 – Develop Project Land Net - 30 Parcels along the Feather River**

Please see Cooper Thorne Scope of Work in appendix of this proposal. Please note, BRI and CTA are not delineating the boundary of any “Full Take” parcels. Those are parcels that will be purchased in their entirety as part of the project.

**Task 3 – Plats and Legals / Right of Way Field Staking (30 -Parcels along Feather River)**

Please see Cooper Thorne scope of Work in appendix of this proposal. Please note, BRI and CTA are preparing plats and legals for any “Full Take” parcels. Those are parcels that will be purchased in their entirety as part of the project.

**Task 4 – Pre -Appraisal Services (45 Parcels along the Feather River)**

BRI will complete the preliminary research required for the Right of Way appraisal and acquisition phase of the project. Plats and Legals for each of the properties to be appraised will be provided to BRI by CTA. The primary steps in completion of fair market value appraisals of the property rights to be acquired include but are not limited to the following:

1. Study of community and neighborhood in which the subject is located;
2. Collection of data from appropriate governmental agencies.
3. Market investigation of vacant and improved comparable data.
4. Verification of market data with sources knowledgeable with the pertinent details of the transaction.
5. Analysis of all appropriate data in the before and after condition to arrive at an opinion of value.

**Deliverables:**

- Preliminary Appraisal files for up to 45 parcels along Feather River

**Task 9 - Title Support (45 Parcels for Title reports)**

In order to facilitate the plat and legal and appraisal phases of the proposed setback BRI proposes to work with Fidelity Title to order 45 title reports and back up documents. BRI is very knowledgeable in this area and has the staff necessary to help the TRLIA with their title and escrow needs.

1. Order Title Reports from Fidelity Title

**Deliverable:**

- 45 Title Reports

**Assumptions:**

- BRI will contract with escrow company and bill TRLIA

**III. PROPOSED SCHEDULE**

Item	Yuba River Segment 9
NTP	January 9, 2006
Task 1 – ROW Project Man.	January 9, 2006 – March 1, 2006
Task 2 - Land Net	January 9 2006 – March 1, 2006
Task 3 – Plat and Legals	Feb. 1, 2006 – March 1, 2006
Task 4 – Pre Appraisals	January 9 2006 – March 1, 2006
Task 5 – Title/Escrow Support	January 9, 2006 – March 1, 2006

**IV. PROPOSED BUDGET**

Item	Yuba River Segment 9
Task 1 – ROW Project Man. 8 hrs/wk @ 7 weeks @ \$158/hr + CTA	= \$11,350
Task 2 - Land Net	= \$24,000
Task 3 – Plat and Legals	= \$25,500
Task 4 – Pre Appraisals	= \$9,200
Task 5 – Title/Escrow Support (45 @ \$550)	= \$24,750
Sub-Consultant Mark Up (10%)	= \$5,200
<b>Total</b>	██████████

The following are the assumptions behind the budget:

1. Full documentation to Federal and State standards for all tasks.
2. The actual costs may differ from task to task, but the overall budget will not exceed the “Total Budget” shown in the above spreadsheet.
3. No Coordination with State or Federal right of way departments, other than listed in scope.

**V. CHANGE OF SCOPE**

A change in scope may result in the following instances:

- A change in engineering after property has been inspected by appraiser, requiring a new inspection.
- A change in engineering after completion of the appraisal.
- Addition of a parcel.
- Addition of easements, takes, or other property rights.
- An increase in the number of damage analyses required.
- An appraisal requiring additional expertise, such as an architect/engineer to determine if a building meets the building codes or will be structurally sound in the “after condition”.

**VI. CURRENT RATE SCALE**

Below is our rate schedule for this contract through March 1, 2007. A 5% yearly contract increase will apply after that date

Stephen A. Rosenthal, MAI	\$173/hr.*
Cydney G. Bender, MAI	\$173/hr.*
David Wraa, MAI	\$173/hr.*
Project Manager	\$158/hr.
Senior Appraiser	\$121/hr.
Senior Acquisition Agent	\$110/hr.
Relocation Specialist	\$110/hr.
Acquisition Agent – Level 2	\$ 95/hr.
Acquisition Agent – Level 1	\$ 80/hr
Other Associated Professional Staff	\$ 89/hr.
Researchers	\$ 58/hr.
Administrative/Production	\$ 47/hr.

- \$265 per hour for court or briefing preparation, depositions, any pre-trial conferences, court appearances, etc., should these ever become necessary.

Scope of Services and Fee Estimate  
Three Rivers Levee Improvement Authority  
Feather River Setback Levee  
Right of Way Surveying Services

**Scope of Services**

**A. Development of Project Land Net**

1. Research – all relevant land and survey records shall be researched to recover control network information, record land net information and other information, which may be necessary for the Right of Way surveys. Sources for such information may include the County Surveyor's office, County Recorder's office, local Reclamation Districts, the Union Pacific Railroad, CalTrans and other governmental agencies.
2. Field Reconnaissance – Upon review of the record data, a field review and search will be made to identify lines and monuments of significant importance. This will include control network points, street centerline monuments, private property corners, government land boundary monuments, as well as other physical features, which could be significant in resolving the land net. A survey plan will be developed from this search and reviewed with the field personnel prior to commencing the surveys.
3. Right of Way Surveys Fieldwork – Field survey crews will conduct surveys of the control net and land net monuments using GPS and total station methods. Field notes will be maintained to accurately describe each found monument and it's relationship to record data. Found monuments that are not of record, will also be tied and evaluated with the land net.
4. Boundary Analysis and Retracement – The Project Surveyor and staff will review the record information and the compiled field data information, and perform a boundary analysis and retracement of the land net. This work will be performed in accordance with accepted professional land surveying practices and laws. In the event the Project Surveyor does not feel sufficient monuments have been found to retrace the land net, additional field surveys and inspections will be performed. The title reports (which will be provided by the client or others) will be reviewed and any easements, which can be defined and located, including levee right of ways, will be added to the land net information. *The final product to be delivered will be an AutoCAD drawing file containing the property lines, street right of ways, easements, owner names and Assessor's Parcel Numbers.*



Scope of Services and Fee Estimate  
Three Rivers Levee Improvement Authority  
Feather River Setback Levee  
Right of Way Surveying Services

**B. Preparation of Plats and Legal Descriptions**

1. Right of Way Calculations – Based upon the right of way requirements provided by the design engineer, the various forms of right of ways and/or easements will be calculated for each parcel, including areas. Closure calculations will be run for each right of way and/or easement for use in checking the final plat and legal description.
2. Plats and Legal Descriptions – Based upon the calculated right of way described above, an 8 ½" x 11" exhibit plat will be prepared for each right of way and/or easement required for each parcel. A legal description will also be prepared for each right of way and/or easement required. Both the plat and legal description will be stamped and signed by the Project Surveyor.

**C. Project Meetings**

1. Right of Way Coordination Meetings – The Project Surveyor or a staff representative will attend up to six (6) meetings to review and prioritize the on-going right of way efforts and report on the progress made to date.

**Fee Estimate**

**A. Bear River Setback Levee – Star Bend to N. of Murphy Road**

1. Development of Land Net (30 parcel basis)	\$24,000.00
2. Plats & Legal Descriptions (30 parcel basis)	\$25,500.00
3. Project Meetings	<u>\$2,500.00</u>
	\$52,000.00