

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

THIS EIGHTH AMENDATORY AGREEMENT is made and entered into this 16 day of June 2009 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, TRLIA and CONSULTANT entered into the fourth Amendatory Agreement to provide basic services dated January 16, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the fifth Amendatory Agreement to provide basic services dated February 6, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the sixth Amendatory Agreement to provide basic services dated March 27, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the seventh Amendatory Agreement to provide basic services dated August 19, 2008.

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 eight AMENDMENT.

2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by \$569,000 from: \$3,775,771 to \$4,344,771.
3. Article 2 of the AGREEMENT shall be revised to extend the "TERM" of the agreement to December 30, 2010.

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

This Amended agreement is hereby executed on this day of 16 day of June 2009.

**THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY**

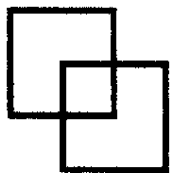
BY: 
Paul G. Brunner, Executive Director

CONSULTANT

BY: 
BENDER ROSENTHAL, INC.

APPROVED AS TO FORM:


ANDREA CLARK
TRLIA, General Counsel



**BENDER
ROSENTHAL, Inc.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

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May 28, 2009

Mr. Paul Brunner, P.E.
Three Rivers Levee Improvement Authority
1114 Yuba St., Suite 218
Marysville, CA 95901

RE: Three Rivers Levee Improvements – Phase 4 – Yuba River - Simpson Lane
to the Gold Fields

Dear Mr. Brunner:

Bender Rosenthal, Inc. (BRI) is pleased to submit this scope for Right of Way Acquisition for Phase 4 – Yuba River – Simpson Lane to the Gold Fields. 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 as we have been intimately involved with TRLIA over the past 2 years providing right of way services for phases 1 thru 3, and the initial phase 4 work of the project. We have also been involved in various team meetings regarding the planning for the remaining phase 4 work.

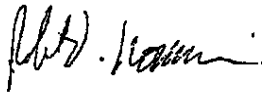
BRI has a clear understanding of your needs to finalize phase 4, and have outlined below 10 areas of the right of way process you may want to consider for this final phase of the project. They are.

1. Right of Way (ROW) Planning and Management
- 1A. DWR Coordination
2. Rights of Entry for Environmental and Geotechnical Work
3. Right of Way Engineering (Land Net)
4. Plats and Legals / ROW Field Staking
5. Appraisals
6. Appraisal Review
7. Acquisition
8. Relocation Assistance
9. Title and Escrow Support
10. Condemnation Support

As you know, BRI offers full service multi-dimensional Right of Way / Real Estate services under one roof, with experience second to none. The appraisal staff includes, in addition to the three principals, another MAI-designated appraiser and a six-person research and support staff. An additional ten person staff specializes in right-of-way acquisition and relocation activities. All staff members are fully licensed to meet federal, state, and local requirements. Our scope of work covers all the major real estate issues facing the project. It also includes a schedule of how we propose to proceed, as well as a detailed staffing plan to meet that schedule.

As always, I am available to discuss any questions or concerns you may have about our proposal. I can be reached at (916) 978-4900.

Sincerely,



BOB MORRISON, PE, PMP, CA RE Broker
Vice President

Cc: Ric Reinhardt – MBK Engineers

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ATTACHMENTS

- A. PARCEL LIST AND SPREADSHEET**

I. PROJECT UNDERSTANDING

The Three Rivers Levee Improvement Authority is responsible for improving the levees along the Yuba River, 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 Yuba Levee at a specific location and was completed in 2004. Phase two was completed in spring 2007, and included improvements to the Bear River, Yuba River and the WPIC. Phase three construction was completed in Fall of 2006 and included the setback levee along the Bear River. The initial Phase 4 work included construction along the Feather River and Yuba River, with the Feather River repairs currently in construction.

The remaining Phase 4 work includes levee improvements along the Yuba River from State Route 70 to the Gold Fields. This work will be broken into two areas:

1. Waterside Levee slope flattening improvements from State Route 70 to UPRR
2. Levee under seepage mitigation improvements from Simpson Lane to the Gold Fields

Bender Rosenthal is already under contract for improvements on Phase 4, segments 1, 2 and 3. This proposal is for Right of Way services related to Segment 4 – Yuba River.

The waterside Levee slope flattening improvements will require right of way acquisition from one parcel for construction staging. The majority of the right of way work will be involved with the Levee improvements from Simpson Lane to the Gold Fields.

The reach of levee from Simpson Lane to the Gold Fields is 20,000+ feet long. BRI is assuming right of way will need to be acquired for up to 4000 linear feet for a seepage berm, 300 feet wide. Along the remaining 16,000+ feet, a 50 foot maintenance corridor will be required to meet the USACE and CVFPB requirements. Staging areas along the waterside will also be required.

There are 22 parcels on the land side owned by 15 property owners. The land uses on the land side include mobile home, residential, irrigated agricultural, and dairy. BRI is assuming up to 4 mobile home units may need to be relocated.

There are 13 parcels on the water side owned by 8 property owners. BRI is assuming a portion of up to 3 parcels will be required for construction staging.

The total number of parcels for budgeting purposes is 26, and includes:

1. SR 70 to UPRR – 1 parcel
2. Simpson Lane to Gold Fields – Land Side – 22 parcels
3. Simpson Lane to Gold Fields – Water Side – 3 parcels

II. RIGHT OF WAY SCOPE OF SERVICES

The following scope is for the ROW Planning and Management, Rights of Entry, Appraisal, Appraisal Review, Acquisition, Relocation Assistance, Title/Escrow Support, Condemnation Support, and Construction Services.

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:

- Developing a ROW Project Management Plan which includes scope, cost, schedule, risk, quality, and communication plans for the entire project.
- Running weekly BRI staff meetings through the appraisal and acquisition phase of the project.
- Attending Weekly PDT meetings.
- Providing Monthly progress updates to PDT and TRLIA staff.
- Coordinating design issues between engineering team and ROW team.
- Developing ROW Certification.
- ROW budgets for various alternatives.

Task 1A – DWR Coordination

In order to secure Prop.1E reimbursement for portions of the project compliance with DWR administrative requirements and regulations is mandated in addition to DWR oversight. Items include:

- Jointly develop and update with DWR a Quarterly Work Plan.
- Meeting with DWR Real Estate staff to coordinate appraisal, acquisition, and condemnation activities and resolve problems.
- DWR review and approval of all appraisals.
- DWR review and approval of all acquisition packages
- DWR review and approval of funding required by RONS, OP deposits, stipulations, and judgments for all parcels that go to eminent domain.

Prepare up to 26 final accounting acquisition packages for DWR re-imburement. These include:

- Plat and Legal
 - Appraisal
 - Acquisition Documents
 - Relocation Housing Valuation
 - Resolution of Necessity Documentation
 - Memorandum of Settlement
 - Reimbursement Dollar Summary
- Transfer final title from TRLIA to DWR for 26 parcels
 - Revised legal descriptions showing levee acquisition area, and flood control structures.
 - Create easement language for long term operation and maintenance of remediated levee.

Task 2 - Rights of Entry for Engineering / Environmental Studies

Bender Rosenthal Inc. proposes to develop all necessary contracts and letters based on TRLIA process for Rights of Entry. We will meet with the owners, and convey documents until the Right of Entry is signed. Three contacts with property owners are included in this scope. If a Right of Entry is not signed by the property owner, BRI will provide all necessary documentation to TRLIA to file a request with the courts for a Right of Entry.

Steps within the Right of Entry process are outlined below:

1. Review of the project concept and design with staff and other consultants;
2. Preparation of Right of Entry's and cover letter documents;
3. Phone contact with property owner to set up time to meet and discuss the proposed Right of Entry.
4. Meet with the property owners to discuss the project in general; review of maps and project descriptions with the property owner and obtain signed ROE.
5. Right of Entry activities are based on settlement by the third contact. A recommendation to TRLIA will be made after *impasse* has been reached.
6. Deliver signed Right of Entry or deliver a memorandum explaining *impasse* or unclosed (i.e. *impasse*) calls.

Deliverable:

- Updated Rights of Entry, or Memorandum explaining impasse with contact log for up to 35 parcels along Yuba River. Please note: this number includes all the parcels adjacent to the levee for environmental studies.

Task 3 – Right of Way Engineering (Land Net – 35 Parcels)

BRI is please to include Cooper Thorne & Associations on our team for all the project boundary and plat and legal needs. CTA proposes the following key steps to complete the project Land Net:

1. Ownership Research
2. Field Reconnaissance
3. Right of Way Surveys Fieldwork
4. Boundary Analysis and Retracement

Deliverables:

- AutoCAD drawing file containing property lines, street rights of way, levee easements and owner names with assessor parcel numbers. This task includes all the parcels that abut the water and land side of the levee from Simpson Lane to the Gold Fields.

Task 4 – Plats and Legals / Right of Way Field Staking (26 Parcels)

CTA proposes to prepare plat and legal descriptions for up to 26 parcels, and stake the proposed right of way take for each acquisition. Key steps include:

- Right to Way Calculations
- Describe the proposed take area
- Stake proposed ROW line in the field

Deliverables:

- Plats and legals covering 26 parcels
- ROW staking on 26 parcels

Task 5 - Appraisal Services (26 Parcels)

As the first order of work within this task, BRI will develop an updated right of way estimate based on preliminary design prior to commencement of the appraisals. BRI will develop complete appraisals for the Project that will state the estimated fair market value of the fee simple interest in each referenced property. The appraisal reports will be summary appraisal reports that will be prepared in conformance with and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute, which fully incorporate the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. Jurisdictional exceptions may apply in some cases.

Plats and Legals for each of the properties to be appraised will be provided to BRI by the TRLIA. Some of the items that may affect the appraisal process include:

- Complexity of the valuation;
- Impact of the interests to be acquired (e.g. Temporary Construction Easements)
- Damage Analysis (Severance Damage, Cost to Cure, Crop Damage, etc.)

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. Onsite physical inspection of the subject property with the owner.
2. Visual inspection of the comparable market data.
3. Study of community and neighborhood in which the subject is located.
4. Collection of data from appropriate governmental agencies.
5. Market investigation of vacant and improved comparable data.
6. Verification of market data with sources knowledgeable with the pertinent details of the transaction.
7. Analysis of all appropriate data in the before and after condition to arrive at an opinion of value.
8. Preparation of report.

Deliverables:

- Appraisal of up to 26 parcels along the Yuba River.
- Crop Damage Analysis on up to 5 properties
- Right of Way Estimate

Assumptions:

- Staking will be provided by Cooper Thorne & Associates
- TRLIA will be the condemning authority.
- No Appraisal Review by outside agencies.

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- Right of Way Appraisal maps, provided upon receipt of plats/legals.
 - No aggregate mining appraisals will be required.

Task 6 - Independent Appraisal Review (26 Parcels) (Optional Service)

This is currently an optional service, and is not included in the project budget. This task is not required because we are using State and Local money for the project. There is no federal funding.

Per Federal regulations, (Uniform Act) a qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary correction or revisions. In addition, the review appraiser shall certify that the opinion of fair market value is reasonably supported by an acceptable appraisal. BRI is pleased to include Mr. Mike Lahodny as the independent reviewer for the project. Mr. Lahodny will ensure the appraisals meet all Federal regulations.

Deliverables:

- Review certification for each appraisal.

Task 7 - Acquisition Services (26 parcels)

Bender Rosenthal Inc. proposes to develop all necessary contracts, conveyance documents and escrow instructions necessary to make offers based on TRLIA's process. We will meet with the owners, and convey documents until acceptance or impasse is reached. In addition, BRI will work with UPRR and the PDT to determine the specific property rights needed for the project from UPRR, and then acquire any long-term rights necessary.

Steps within the acquisition process are outlined below:

1. Review of the project concept and design with staff and other consultants.
2. Review of appraisals, title reports, maps and descriptions of the required parcels.
3. Field review the project with the Project Manager or other designated person.
4. Preparation of right-of-way contracts and other acquisition documents.
5. Meet with the property owners to discuss the project in general; review of maps and legal descriptions; confirm information about occupants/owners and make the official First Written Offer to owner. Acquire tenant consent to easement.
6. Acquisition activities are based on settlement by the third contact. A recommendation to TRLIA will be made after *impasse* has been reached. To reach *impasse* there are three requirements:

- A. Go through the *acquisition steps* outlined below; plus
- B. Make at least three contacts with owner (personal call, letter or phone call) in any combination; plus
- C. Spend up to eight hours working on the parcel acquisition.

The acquisition steps when offering compensation to the property owner include:

- A. Owner accepts offer. (Close)
- B. Owner rejects offer.
 1. Owner refuses to counter. (Impasse)
 2. Owner makes counter proposal.
 - a. Client accepts counter. (Close)
 - b. Client rejects counter. (Impasse)
 - c. Client makes new offer.
 1. Owner accepts new offer. (Close)
 2. Owner does not accept new offer. (Impasse)
7. Deliver signed right-of-way contract and signed and acknowledged grant deed for closed transaction. Deliver a memorandum explaining impasse or unclosed (i.e. impasse) calls.
8. Final report, including transfer of all pertinent correspondence and files, to TRLIA.

Deliverables:

- Acquisition of 26 Parcels associated with Segment 4 – Yuba River.

Assumptions and Limiting Conditions:

- Escrow payments and escrow fees are by others.
- Utility coordination, permitting and utility relocation by others.
- Expert witness testimony is not included within the work scope but is available.
- Bilingual translation and communication are not included.
- Cooperative agreements and memorandums of understanding by others.
- Environmental document is complete.

Task 8 - Relocation Assistance (RAP) (As needed)

It is anticipated that up to 4 mobile home tenants may require relocation.

The following is the scope for Relocation Assistance for the four tenants listed above:

1. Conduct personal, on site interviews of prospective displacee's to ascertain relocation housing needs and special requirements including need for handicapped access or bilingual

services (please refer to assumptions).

2. Complete a relocation plan to DWR/DGS standards.
2. Complete a detailed relocation housing study.(Relocation Impact Memorandum)
3. Inform displaced persons of available relocation assistance and explain relocation process.
4. Provide advisory assistance to displacee's including referrals to community service resources.
5. Physically assist displacee's in locating replacement housing including transportation if needed.
6. Provide referrals to replacement housing.
7. Refer displacee's to public housing and other public services as necessary, including but not limited to Section 8 housing.
8. Distribute Relocation Assistance brochures 90 and 30-Day Notices to Vacate, and other notices as required. *(If you do not have one developed, we can certainly help develop the appropriate notices).*
9. Determine eligibility for and proposed amount of relocation benefits, including moving payments, rental/down payments assistance, and replacement housing payments.
10. Inspect replacement dwellings to determine if they meet "decent, safe and sanitary" requirements.
11. Monitor the move to replacement site, as necessary.
12. Prepare necessary payment documentation and deliver benefit checks and other appropriate payments to claimants.
13. Provide displacee's with on going advisory services to minimize tenant hardship.
14. Meet with TRRIA staff and/or consultants to coordinate relocation activities.
15. Maintain current and accurate files and records of all contacts with each displacee and include them in a Final Report.

Deliverable:

- Relocation Impact Memorandum.
- Relocation Plan.
- Relocation Housing Valuations.
- Relocation Assistance.

Assumptions:

- No second moves or interim relocation.
- No storage cost of business inventory.
- Standard relocation limited to one tenant.
- Claim for Relocation benefits occur within contract period.

Task 9 - Title / Escrow Support (26 Parcels)

In order to facilitate the closing of the various right of way transactions, the TRLIA is requesting escrow and title support as part of the scope of work. BRI is very knowledgeable in this area and has the staff necessary to help the TRLIA with their title and escrow needs. This task is very difficult to quantify for a scope. For example, we have been very instrumental in providing lenders additional information as it relates to a proposed acquisition (especially if the acquisition has little or no affect to the real estate).

This has eliminated the Bank's desire to charge for an additional appraisal. However, it is very difficult to "mandate" a lender to address a partial reconveyance of a deed of trust. Tasks to be considered include:

1. Order Title Reports from Fidelity Title.
2. Upon opening escrow Prepare and fax Request for Invoice and Demand to the Title Company.
3. Copy and forward a copy of escrow, grant deed and purchase agreement to TRLIA for "acceptance" of the agreement. TRLIA to forward to title company.
4. Receive executed purchase agreement from TRLIA. Forward an executed copy to property owner.
5. Prepare transmittal to forward closed file to TRLIA Project Manager.
6. Research and secure Trust Certificates.

Deliverable:

- Title Reports for up to 26 parcels.
- Escrow for up to 26 parcels.

Assumptions:

- BRI will contract with escrow company and bill TRLIA.

Task 10 - Condemnation Support

BRI will provide skilled acquisition services that should minimize the number of parcels that proceed to condemnation. However, given the number of properties involved, it is likely that some will become subject to the Eminent Domain Process. While many of the owners of parcels subject to legal action typically settle, it has been our experience that inclusion of a condemnation process description and budget is important, since these services may ultimately prove to be necessary. In order to assist the TRLIA in the eminent domain process, BRI will provide the following services:

1. Prepare letter to property owners emphasizing that their property will be going to a resolution of necessity.
2. Prepare up to 5 Board Packages for TRLIA staff review. Once approved, TRLIA staff

will forward to the Board a Resolution of Necessity (RON). Items included in the package include:

- Board Letter indicating the parcels involved in the RON.
- Board Resolution for all parcels involved.
- Attachments: maps and legal descriptions for each parcel.
- Notice of Hearing Letter (15 day notice letter) for each parcel.

3. Present issues related to RON at Board Meeting (up to 5 RONs or 2 board meetings).

Deliverables:

- Board Packages and letters as outlined above.
- RON presentations at 2 board meetings.

Assumptions:

- Expert witness testimony will be paid on a case by case basis. Hours and fee will be negotiated based on a scope of work change based on the attached fee schedule.

III. PROPOSED SCHEDULE

The estimated timeline for the Right of Way portion of the project is 12 months for BRI to complete the ROW work needed for the Phase 4 – Yuba portion of the project.

1	Right of Way (ROW) Planning and Management	May 2009-April 2010
2	Rights of Entry for Environmental and Geotechnical Work	May 2009-July 2009
3	Right of Way Engineering (Land Net)	July 2009
4	Plats and Legals / ROW Filed Staking	August 2009
5	Appraisals	Aug. 2009 - Oct 2009
6	Appraisal Review	Aug. 2009 - Oct 2009
7	Acquisition	Oct. 2009 – Jan. 2010
8	Relocation Assistance	Oct. 2009 – Mar 2010
9	Title and Escrow Support	Oct. 2009 – May 2010
19	Condemnation Support	Jan. 2010 – Mar. 2010

IV. PROPOSED BUDGET

The attached detailed budget is for the Tasks 1 thru Task 10. The estimate was based on beginning the project as soon as possible, and staffing up immediately to meet the project schedule outlined above. The total cost for work proposed is:

Task 1 - Right of Way (ROW) Planning and Management • 60 hrs/mos for 12 months @ 175/hr	\$126,000
Task 1A – DWR Coordination Efforts • 40 hrs/mos for 12 months @ \$130/hr	\$ 62,400
Task 2 - Rights of Entry for Environmental and Geotechnical Work • 35 @ \$500/ea	\$ 17,500
Task 3 - Right of Way Engineering (35 parcels)	\$ 31,500
Task 4 - Plats and Legals / ROW Field Staking (26 parcels) • 26 P/L @ \$850/ea • 26 parcels staked @ \$500/ea	\$ 35,100
Task 5 – Appraisals • 26 Parcels @ \$4500/ea	\$117,000
Task 6 - Appraisal Review(Optional Task)	\$ TBD
Task 7 – Acquisition • 26 Parcels @ \$3500/ea	\$ 91,000
Task 8 - Relocation Assistance • 4 Owners/Tenants @ \$8500/EA	\$ 34,000
Task 9 - Title and Escrow Support • 26 @ \$800/ea	\$ 20,800
Task 10 - Condemnation Support • 5 @ \$1200/ea	\$ 6,000
Direct Expenses • 35 title reports @ \$550/ea • mileage, color prints, etc..	\$ 27,000
Total	\$569,000

***Budget for Appraisal Review not included in final Total, nor included in base contract.

The following are the assumptions behind the budget:

1. Full documentation to Federal and State standards for all tasks.
2. No expert witness testimony.
3. The actual costs may differ from task to task, but the overall budget will not exceed the "Total Budget" shown in the above spreadsheet.
4. No Coordination with State or Federal right of way departments, other than listed in scope.
5. No significant severance damage analysis required for the appraisals. This fee also assumes that no significant structures, or improvements will be acquired, other than those listed in the 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

- BRI will charge original contract rates times yearly increase for any extra services outside the scope outlined above.