

Local Public Entity
Local Projects Implementation
Grant Agreement No. 4600004327

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND THE

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

FOR AN IMPLEMENTATION GRANT FOR

UNIT 1 OF THE
BEAR-FEATHER RIVERS LEVEE SETBACK ELEMENT

OF THE
YUBA-FEATHER SUPPLEMENTAL FLOOD CONTROL PROJECT

UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM
OF THE
CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,
WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

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Grant Agreement No. 4600004327

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND THE
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM
OF THE CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,
WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

(Water Code Section 79068.6 et seq.)

THIS GRANT AGREEMENT is entered into by and between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State" and the Three Rivers Levee Improvement Authority, a public agency in the County of Yuba, State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Local Public Entity", which parties do hereby agree as follows:

GRANT AGREEMENT SPECIAL PROVISIONS

SECTION 1. PURPOSE OF GRANT

This grant is made by the State to the Local Public Entity to assist in financing the implementation of a flood protection project pursuant to Water Code Division 26, Chapter 5, Article 8, beginning with Section 79068, and regulations adopted in accordance with that Article.

SECTION 2. INCORPORATION OF STANDARD CONDITIONS AND PERFORMANCE REQUIREMENTS

This Grant Agreement incorporates Exhibit A, "Grant Agreement Standard Conditions" (hereinafter referred to as "Standard Conditions") and Exhibit B, "Grant Agreement Performance Requirements" (hereinafter referred to "Performance Requirements"). The Local Public Entity accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Grant Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by the Local Public Entity in the application, documents, amendments, and communications filed in support of its request for Yuba Feather Flood Protection Program financing.

SECTION 3. LOCAL PUBLIC ENTITY AGREEMENT

The Local Public Entity agrees to use the grant funds to complete a flood protection project in accordance with the Implementation Plan/Scope of Work, budget and schedule, copies of which are attached hereto as Exhibit C and incorporated by reference, as it may be revised from time to time with the mutual consent of the parties.

SECTION 4. ESTIMATE OF IMPLEMENTATION COST

The reasonable cost of the implementation of the Project or Implementation Unit is estimated to be \$17,758,500, as shown in Exhibit C. Grant funds may be used only for such eligible implementation costs as defined in the Implementation Plan/Scope of Work, any revisions thereof, and Article A-3 of the Grant Agreement Standard Conditions.

SECTION 5. GRANT AMOUNT

Pursuant to the Yuba Feather Flood Protection Program of the California Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act, its applicable rules and regulations, and subject to the availability of funds, the State will grant to the Local Public Entity in accordance with the terms of this Grant Agreement an amount not to exceed \$12,445,950, as shown in Exhibit C. The remaining costs, if any, for the implementation of the Project or Implementation Unit will be met by other sources, as shown in Exhibit C.

SECTION 6. REQUIREMENTS FOR DISBURSEMENT

The Local Public Entity shall meet all applicable conditions precedent to the disbursement of money under this Grant Agreement, including Basic Conditions Precedent under Article A-5 of the Standard Conditions. Failure by the Local Public Entity to comply with this requirement may, at the option of the State, result in termination of the Grant Agreement under Article A-33 of the Standard Conditions.

SECTION 7. RELATIONSHIP OF PARTIES HERETO

The Local Public Entity, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Grant Agreement shall act in an independent capacity and not as officers, employees or agents of the State.

The Local Public Entity is solely responsible for the implementation and operation and maintenance of the Project or Implementation Unit. Review or approval of plans, specifications, project documentation, bid documents or other documents by the State is solely for the purpose of proper administration of grant funds by the State and shall not be deemed to relieve or restrict the Local Public Entity's responsibility.

SECTION 8. PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Local Public Entity shall be responsible for obtaining any and all permits, licenses, easements, rights-of-way and approvals required for performing any work under this Grant Agreement. The Local Public Entity shall be responsible for observing and complying with any applicable federal, state and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental, procurement and safety laws, rules, regulations and ordinances.

SECTION 9. SUPERVISION OF WORK AND SUBMISSION OF PROGRESS REPORTS

The Local Public Entity shall submit quarterly progress reports on the status of the implementation of the Project or Implementation Unit to the Department of Water Resources, commencing three months from the effective date of this contract. The quarterly progress report shall provide a complete description of the work performed during the quarter including, but not limited to, legal, engineering, environmental and administrative tasks associated with the implementation; a detailed breakdown of costs incurred during the quarter; and a schedule showing actual progress in comparison to the planned schedule as set forth in the Implementation Plan/Scope of Work. Timely submittal of the progress reports is a requirement for continued disbursement of grant funds under Section A-5 of Exhibit A.

The Local Public Entity shall give personal supervision to any work in progress that is required under this Grant Agreement or employ a competent representative, satisfactory to the State, with the authority to act for the Local Public Entity. The Local Public Entity or its authorized representative shall be present while work is in progress. The Local Public Entity shall give attention to fulfillment of the Grant Agreement and completion of the Project or Implementation Unit, and shall keep work under control. The Local Public Entity shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Local Public Entity's contractors and subcontractors. The State will not mediate disputes between the Local Public Entity and any other entity concerning responsibility for performance of work.

SECTION 10. PROJECT OFFICIALS AND NOTICES

The Department of Water Resources' Program Manager for the Yuba Feather Flood Protection Program shall act as the State Project Manager.

The State Project Manager shall be the State's representative for administration of the Grant Agreement and shall have authority to make determinations and findings with respect to any controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Grant Agreement. Disputes shall be resolved in accordance with Article A-26 of Exhibit A.

The Local Public Entity Project Manager shall be Charles K. McClain, Executive Director. The Local Public Entity Project Manager shall be the Local Public Entity's representative for the administration of the Grant Agreement and shall have full authority to act on behalf of the Local Public Entity. All communications given to the Project Manager shall be as binding as if given to the Local Public Entity.

Either party may change its Project Manager upon written notice to the other party.

Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Grant Agreement shall be in writing. Notices may be sent by any of the following means: (i) by delivery in person; (ii) by certified U.S. mail, return receipt requested, postage prepaid; (iii) by "overnight" delivery service; provided that next-business-day delivery is requested by the sender; or (iv) by facsimile transmission, followed submittal of a hard copy. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given five (5) business days after the date deposited with the U. S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent by facsimile will be effective on the date of successful transmission, which is documented in writing. Notices required to be given in writing to the Local Public Entity under this Grant Agreement shall be sent to:

Three Rivers Levee Improvement Authority
915 Eighth Street, Suite 115
Marysville, California 95901-5273
Attention: Executive Director

Notices required to be given in writing to the State under this Grant Agreement shall be sent to:

State of California
Department of Water Resources
Division of Flood Management
Yuba Feather Flood Protection Program
Post Office Box 942836
Sacramento, California 94236-0001
Attention: Program Manager

A change of address for delivery of notice may be made by either party by written notice of such change of address to the other party a minimum of seven days prior to the change.

SECTION 11. SPECIAL INDEMNIFICATION PROVISION

In addition to agreeing to the condition set forth under Article A-18 and before any funds are disbursed under this Grant Agreement, the Local Public Agency must provide assurances that the County of Yuba and Reclamation District No. 784 have also agreed to defend, indemnify and hold the State, including its agencies, departments, boards, and commissions, and their respective officers, agents, employees, successors and assigns, safe and harmless of and from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, that directly or indirectly arise out of the performance under this Grant

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Agreement, and to discharge this obligation to the extent allowed by law. This does not preclude the Local Public Entity or its member agencies from contracting to apportion indemnity and the responsibility to defend amongst themselves, but such apportionment shall not limit the rights of the State to full defense and indemnification from these parties.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement to be effective upon the date last signed below:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

By _____
Rodney G. Mayer, Acting Chief
Division of Flood Management

By Charles K. McClain
Charles K. McClain
Executive Director

Date: _____

Date: 18 Oct 05

Approved as to Legal Form
And Sufficiency:

Approved as to Legal Form
And Sufficiency:

By _____
Nancy J. Saracino
Chief Counsel

By Daniel G. Montgomery
Daniel G. Montgomery
Authority Counsel Deputy

Date: _____

Date: _____

EXHIBIT A

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
GRANT AGREEMENT STANDARD CONDITIONS

ARTICLE A-1. GOVERNING LAW

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

ARTICLE A-2. TIMELINESS

Time is of the essence in this Grant Agreement.

ARTICLE A-3. DEFINITIONS

Whenever the following terms are used in this Contract, their meaning shall be as follows unless the context clearly requires otherwise:

Grant Agreement: The Grant Agreement including all exhibits appended thereto.

Days: Calendar days unless otherwise expressly indicated.

Months: Calendar months unless otherwise expressly indicated.

Years: Calendar year unless otherwise expressly indicated.

Local Public Entity: Any political subdivision of the State of California, including but not limited to any county, city, city and county, district, joint powers agency, or council of governments within the geographic area specified in the Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act.

Project: A proposed flood protection project as described in Water Code Section 79068.6, which is part of Article 8, Yuba Feather Flood Protection Program, of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act.

Implementation: Those actions taken to put a designed project into effect, including both the construction of project works and carrying out a program for flood damage reduction that does not require construction.

Implementation Unit: All or a designated portion of a flood protection project that constitutes the whole or a portion of a design or aggregate of designs, designated for implementation.

Eligible Implementation Costs: The reasonable and necessary costs to implement the Project or Implementation Unit, as shown in Exhibit C of this Grant Agreement. Eligible costs may also include those reasonable and necessary costs incurred by the applicant to prepare the application and to establish eligibility prior to or after the effective date of this Grant Agreement, but not before September 26, 2000. Any revisions to the eligible implementation costs depicted in Exhibit C are subject to the approval of the State. Upon approval by the State, the Grant Agreement amendment process will commence until an amendment is executed or determined to be unnecessary.

ARTICLE A-4. TERM OF GRANT AGREEMENT

Subject to the provisions of Article A-5, this Grant Agreement shall become effective upon signature by the State and the Local Public Entity, and shall remain in effect until the Post-Implementation Report is accepted in writing by the State, but no longer than five years from the execution of this Grant Agreement.

ARTICLE A-5. BASIC CONDITIONS PRECEDENT

The State shall have no obligation to disburse money under this Grant Agreement unless and until the Local Public Entity has satisfied the State that the disbursement is in accordance with requirements of the Yuba Feather Flood Protection Program regulations, California Code of Regulations, Title 23, Division 2, Chapter 2.5.2, and the following conditions:

- (a) The Local Public Entity provides a copy of a resolution adopted by its governing body accepting the grant, and designating a representative to execute this Grant Agreement and to sign requests for disbursement of State funds.
- (b) The Local Public Entity has submitted all periodic progress reports due at the time of disbursement in accordance with Section 9 of this Grant Agreement.
- (c) The Local Public Entity submits a written statement that it has obtained all easements, rights-of-way and approvals as may be required by other state, local or federal agencies prior to commencement of any work done under this contract, as specified in Section 8 of this Grant Agreement.
- (d) The Local Public Entity demonstrates the availability of sufficient funds to complete the Project or Implementation Unit.
- (e) The Local Public Entity demonstrates that it has complied with all applicable requirements of the California Environmental Quality Act and the National Environmental Policy Act, when applicable, prior to initiating implementation.

ARTICLE A-6. GRANT DISBURSEMENTS BY STATE

(a) Cost Statements

After all applicable conditions of the Basic Conditions Precedent in Article A-5 are met, the State will disburse the whole, or portions of the grant commitment to the Local Public Entity following receipt from the Local Public Entity of a detailed cost statement of incurred eligible implementation costs. This cost statement shall identify the tasks or subtasks included in the Implementation Plan/Scope of Work that were worked on, as well as the total hours charged by the Local Public Entity staff and all subcontractor costs. This cost statement shall also include the cost of any interest in real property that have been necessarily required for the Project or Implementation Unit for the implementation, operation, or maintenance of the Project or Implementation Unit. Requests for state funds shall be filed at least quarterly but not more often than monthly.

After the implementation of the Project or Implementation Unit has been completed or terminated, the Local Public Entity shall furnish to the State, within sixty (60) days, a final statement of incurred eligible implementation costs and disposition of funds disbursed. Periodic costs statements and the final statement of costs shall clearly delineate those costs claimed for reimbursement from the State's grant commitment and those costs that represent the Local Public Entity's costs.

(b) Disbursement

Following the review by the State of each statement of costs and relevant progress reports, the State will disburse to the Local Public Entity the amount approved, subject to the availability of funds and annual appropriations and bond sales. Disbursements will be made in arrears at intervals not more often than monthly. Any and all money disbursed to the Local Public Entity under this Grant Agreement and any and all interest earned by the Local Public Entity on such money shall be used solely to pay eligible implementation costs.

(c) Withholding of Grant Disbursements by Local Public Entity

The Local Public Entity may retain up to ten percent (10%) from any contract or combination of contracts it enters into with third parties for the implementation of all or part of the Project or Implementation Unit until all defined tasks and results are completed.

ARTICLE A-7. WITHHOLDING OF GRANT DISBURSEMENTS BY STATE

(a) Conditions for Withholding

The State may withhold up to ten percent (10%) of the funds requested by the Local Public Entity for reimbursement of eligible implementation costs until the Project or Implementation Unit is completed and the certification of a California Registered Civil Engineer, required by Article A-13, is accepted by the State.

(b) Additional Conditions for Withholding

If the State determines that the Project or Implementation Unit is not being implemented substantially in accordance with the provisions of this Grant Agreement, or that the Local Public Entity has failed in any other respect to substantially comply with the provisions of this Grant Agreement, and if the Local Public Entity does not remedy any such failure to the State's satisfaction, the State may withhold from the Local Public Entity all or any portion of the grant commitment and take any other action that it deems necessary to protect its interests.

(c) Withholding Entire Grant Commitment

If the State notifies the Local Public Entity that it has decided to withhold the entire grant commitment from the Local Public Entity pursuant to Subdivision (b) of this Article, this Grant Agreement shall terminate upon receipt of such notice by the Local Public Entity and shall no longer be binding on either party.

(d) Withholding Balance of Grant Commitment

Where a portion of the grant commitment has been disbursed to the Local Public Entity and the State notifies the Local Public Entity that it has decided to withhold the balance of the grant commitment from the Local Public Entity pursuant to Subdivision (b) of this Article, the portion that has been disbursed shall thereafter be repaid immediately with interest as directed by the State. Refusal of the Local Public Entity to so repay may, at the option of the State, be considered a material breach of contract and may be treated as default under Article B-2 of Exhibit B.

ARTICLE A-8. IMPLEMENTATION SCHEDULE AND COMPLETION

(a) Implementation Completion Date

The Local Public Entity shall expeditiously undertake the implementation of the Project or Implementation Unit in strict accordance with this Grant Agreement, and shall complete it no later than (date) . Said date for completion may be extended upon written request by the Local Public Entity and written approval by the State. Upon approval by the State, the Grant Agreement amendment process will commence until an amendment is executed or determined to be unnecessary.

(b) Post-Implementation Report

Within ninety (90) days after completion of the Project or Implementation Unit, the Local Public Entity shall prepare and submit to the State a Post-Implementation Report. This report shall include: 1) an Executive Summary; 2) a comparison between the planned schedule in the Grant Agreement and actual timeline and explain the differences; and 3) a discussion of major problems that occurred in meeting the Project or Implementation Unit goals and objectives as proposed and how and if they were resolved. The final report shall also contain a detailed description and analysis of project results, including but not limited to as-built drawings, and a summary of costs incurred and disposition of funds disbursed. The final report shall be provided in hard copy and digital format prior to

final payment of grant funds retained by the State.

(c) Determination of Implementation Completion

For the purposes of this Grant Agreement, the implementation of the Project or Implementation Unit shall be considered to be completed when a Post-Implementation Report is accepted by the State, or to be terminated when so determined by the State.

(d) Audit Requirement

Pursuant to Government Code Section 8546.7, the Grant Agreement shall be subject to the examination and audit of the State, including the State Auditor, for a period of three years after final payment under this Grant Agreement with respect to all matters connected with the performance of the Grant Agreement, including, but not limited to, the cost of administering this Grant Agreement. All records of the Local Public Entity, its contractors or subcontractors involving this Grant Agreement shall be retained for this purpose for that period.

ARTICLE A-9. OPERATION AND MAINTENANCE OF PROJECT

For the useful life of the Project or Implementation Unit and in consideration of the Grant made by the State, the Local Public Entity agrees to expeditiously commence and to continue operation of the Project or Implementation Unit and shall cause the Project or Implementation Unit to be operated in an efficient and economical manner; shall provide for all repairs, renewals, and replacements necessary to the efficient operation of the same; and shall cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted. Refusal of the Local Public Entity to operate and maintain the Project or Implementation Unit in accordance with this provision may, at the option of the State, be considered a breach of this Grant Agreement and may be treated as default under Article B-2.

ARTICLE A-10. ACCOUNTING AND DISPOSITION OF GRANT DISBURSEMENTS

(a) Separate Accounting of Grant Disbursements and Interest Records

The Local Public Entity shall account for the money disbursed pursuant to this Grant Agreement separately from all other Local Public Entity's funds. The Local Public Entity shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Local Public Entity shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Local Public Entity shall require its contractors and subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.

(b) Disposition of Money Disbursed

All money disbursed pursuant to this Grant Agreement shall be deposited, administered, and accounted for pursuant to the provisions of law applicable to the Local Public Entity. Any unexpended funds that were disbursed to the Local Public Entity that were not needed to pay eligible costs shall be remitted to the State of California within sixty (60) days from completion of the implementation of the Project or Implementation Unit.

(c) Interim and Final Audits

The State reserves the right to conduct an audit at any time between the execution of this Grant Agreement and the completion of the Post-Implementation Report. After completion of the implementation of the Project or Implementation Unit, the State shall require the Local Public Entity to conduct a final audit, at the Local Public Entity's expense; such audit to be conducted by and a report prepared by an independent Certified Public Accountant, in compliance with generally accepted auditing standards and government auditing standards. Upon completion, the audit report shall be submitted to the State for review and acceptance.

Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial

failure to comply with this Grant Agreement, and the State may elect to pursue any remedies provided in Article A-7 or take any other action it deems necessary to protect its interests.

ARTICLE A-11. COMPETITIVE BIDDING AND PROCUREMENTS

The Local Public Entity shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in the Local Public Entity's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by the State under the Grant Agreement.

ARTICLE A-12. INSPECTIONS OF WORK BY STATE

The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Grant Agreement. This right shall extend to any subcontracts, and the Local Public Entity shall include provisions ensuring such access in all its contracts and subcontracts entered into pursuant to its Grant Agreement with the State.

ARTICLE A-13. FINAL INSPECTIONS AND CERTIFICATION OF A REGISTERED CIVIL ENGINEER

Upon completion of the implementation of the Project or Implementation Unit, the Local Public Entity shall provide for a final inspection and certification by a California Registered Civil Engineer that the Project or Implementation Unit has been completed in accordance with submitted final plans and specifications and any modifications thereto and in accordance with the Grant Agreement. The Local Public Entity shall notify the State's Project Manager of the inspection date at least fourteen (14) days prior to the inspection in order to provide the State the opportunity to participate in the inspection.

ARTICLE A-14. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION

The Local Public Entity shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project or Implementation Unit without prior permission of the State. The Local Public Entity shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Local Public Entity to meet its obligations under this Grant Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State.

ARTICLE A-15. NONDISCRIMINATION CLAUSE

During the performance of this Grant Agreement, the Local Public Entity, its contractors and subcontractors shall not deny the Grant Agreement's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. The Local Public Entity shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

The Local Public Entity, its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.5) and the regulations or standards adopted by the State to implement such articles.

The Local Public Entity, its contractors and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

The Local Public Entity shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the Grant Agreement.

The Local Public Entity's signature on this Grant Agreement shall constitute a certification under the penalty

of perjury under the laws of the State of California that the Local Public Entity has, unless exempted, complied with the nondiscrimination program requirements of Government Code, Section 12990, and Title 2, California Code of Regulations, Section 8103.

ARTICLE A-16. WORKERS' COMPENSATION CLAUSE

The Local Public Entity affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Local Public Entity affirms that it will comply with such provisions before commencing the performance of the work under this Grant Agreement and will make its contractors and subcontractors aware of this provision.

ARTICLE A-17. SUCCESSORS AND ASSIGNS

This Grant Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Grant Agreement or any part hereof, rights hereunder, or interest herein by the Local Public Entity shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

ARTICLE A-18. STATE TO BE HELD HARMLESS

The Local Public Entity and its member agencies, if any, agree jointly and severally to defend, indemnify and hold the State, including its agencies, departments, boards, and commissions, and their respective officers, agents, employees, successors and assigns, safe and harmless of and from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, that directly or indirectly arise out of the performance under this Grant Agreement, and to discharge this obligation to the extent allowed by law.

ARTICLE A-19. REMEDIES NOT EXCLUSIVE

The use by either party of any remedy specified herein for the enforcement of this Grant Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

ARTICLE A-20. AMENDMENTS

This Grant Agreement may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Local Public Entity for amendments must be in writing stating the amendment request and the reason for the request.

ARTICLE A-21. OPINIONS AND DETERMINATIONS

Where the terms of this Grant Agreement provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE A-22. CONTRACTING OFFICER OF THE STATE

The contracting officer of the State shall be the Director of the Department of Water Resources of the State of California and his successors, or their duly authorized representatives. The contracting officer shall be responsible for all discretionary acts, opinions, judgments, approvals, reviews, and determinations required by the State under the terms of this Grant Agreement.

ARTICLE A-23. WAIVER OF RIGHTS

None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties hereto that from time to time either party may waive any of its rights under this Grant Agreement unless contrary to law. Any waiver by either party hereto of rights arising in connection with this Grant

Agreement shall not be deemed to be a waiver with respect to any other rights or matters and such provisions shall continue in full force and effect.

ARTICLE A-24. NOTICES

All notices that are required either expressly or by implication to be given by one party to the other under this Contract shall be signed for the State by its contracting officer, or designee, and for the Local Public Entity by such officers, as from time to time, it may authorize in writing to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed postage-prepaid envelope and deposited in a United States Post Office for delivery.

ARTICLE A-25. INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Grant Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Grant Agreement. Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial failure to comply with this Grant Agreement, and the State may withhold disbursements to the Local Public Entity or take any other action it deems necessary to protect its interests, as provided in Article B-2.

ARTICLE A-26. CLAIMS DISPUTE CLAUSE

Any claim that the Local Public Entity may have regarding the performance of this Grant Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources within thirty (30) days of the Local Public Entity's knowledge of the claim. The State and the Local Public Entity shall then attempt to informally negotiate a resolution of the claim. If this attempt fails, the next step shall be resolution of the claim through non-binding mediation. Once a resolution is reached, its terms may be implemented through an amendment to this Grant Agreement.

ARTICLE A-27. DRUG-FREE WORKPLACE CERTIFICATION

By signing this Grant Agreement, the Local Public Entity, its contractors and subcontractors hereby certify under penalty of perjury, under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

(a) Prohibition of Controlled Substances

Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors and subcontractors for violations, as required by Government Code Section 8355(a).

(b) Drug-Free Awareness Program

Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(b), to inform employees, contractors and subcontractors about all of the following:

- (1) The dangers of drug abuse in the workplace;
- (2) The Local Public Entity's policy of maintaining a drug-free workplace;
- (3) Any available counseling, rehabilitation and employee assistance program; and
- (4) Penalties that may be imposed upon employees, contractors and subcontractors for drug abuse violations.

(c) Drug-Free Policy Statement

Provide, as required by Government Code 8355(c), that every employee, contractor and subcontractor who works under this Grant Agreement:

- (1) Will receive a copy of the Local Public Entity's drug-free policy statement; and
- (2) Will agree to abide by terms of the Local Public Entity's statement as a condition of employment or contract/subcontract award.

(d) Penalties

This Grant Agreement may be subject to suspension of payments or termination, or both, and the Local Public Entity may be subject to debarment if the State determines that:

- (1) The Local Public Entity, its contractors or subcontractors have made a false certification; or
- (2) The Local Public Entity, its contractors or subcontractors violates the certification by failing to carry out the requirements noted above.

ARTICLE A-28. AMERICANS WITH DISABILITIES ACT

By signing this Grant Agreement, the Local Public Entity assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

ARTICLE A-29. UNION ORGANIZING

The Local Public Entity, by signing this Grant Agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to the Grant Agreement. Furthermore, the Local Public Entity, by signing this Grant Agreement, hereby certifies that:

- a) No State funds disbursed by this Grant Agreement will be used to assist, promote or deter union organizing;
- b) The Local Public Entity shall account for State funds disbursed for a specific expenditure by this Grant Agreement to show those funds were allocated to that expenditure;
- c) The Local Public Entity shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the grant program; and
- d) If the Local Public Entity makes expenditures to assist, promote or deter union organizing, the Local Public Entity will maintain records sufficient to show that no State funds were used for those expenditures and that the Local Public Entity shall provide those records to the Attorney General upon request.

ARTICLE A-30. CONFLICT OF INTEREST

(a) Current State Employees

- (1) No State officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
- (2) No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

(b) Former State Employees

- (1) For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a Grant Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the

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- contract while employed in any capacity by any State agency.
- (2) For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a Grant Agreement with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

ARTICLE A-31. NO THIRD PARTY RIGHTS

The parties to this Grant Agreement do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

ARTICLE A-32. SEVERABILITY

Should any portion of this Grant Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Grant Agreement shall continue as modified.

ARTICLE A-33. TERMINATION

The State may terminate this Grant Agreement under Article B-2 of Exhibit B.

EXHIBIT B

GRANT AGREEMENT PERFORMANCE REQUIREMENTS

ARTICLE B-1. PERFORMANCE AND ASSURANCES

The Local Public Entity agrees to faithfully and expeditiously perform or cause to be performed all Project or Implementation Unit implementation work as approved or as later amended and approved by the State under this Grant Agreement and to apply State funds received only to eligible implementation costs in accordance with applicable provisions of the law. In the event the State finds it necessary to enforce this provision or any right of power under this Grant Agreement in the manner provided by law, the Local Public Entity agrees to pay all costs incurred by the State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

ARTICLE B-2. DEFAULT PROVISIONS

- (a) The Local Public Entity will be in default under this Grant Agreement if any of the following occur:
 - (1) Substantial breach of this Grant Agreement, or any supplement or amendment to it;
 - (2) Making any false warranty, representation, or statement with respect to this Grant Agreement;
 - (3) Failure of the Local Public Entity to make any remittance required by this Grant Agreement; or
 - (4) Prior to any claim of default, the State shall provide the Local Public Entity with notice of the potential default and a reasonable opportunity, of not less than forty-five days, to cure such potential default.
- (b) Should an event of default occur, the State may do any or all of the following:
 - (1) Demand the grant be immediately repaid, with interest, which shall be equal to the State of California general obligation bond interest rate in effect at the time of the default;
 - (2) Terminate any obligation to make future payments to the Local Public Entity;
 - (3) Terminate the Grant Agreement; and
 - (4) Take any other action that the State deems necessary to protect its interests.
- (c) The Local Public Entity agrees that any remedy provided in this Grant Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State as a result of a breach of this Grant Agreement by the Local Public Entity, whether such breach occurs before or after completion of the implementation of the Project or Implementation Unit.
- (d) No waiver by the State of any breach or default will be a waiver of any breach or default occurring later. A waiver will be valid only if signed by the State or its authorized agent.

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EXHIBIT C

IMPLEMENTATION PLAN/SCOPE OF WORK, BUDGET, AND SCHEDULE

ARTICLE C-1. IMPLEMENTATION PLAN/SCOPE OF WORK

ARTICLE C-2. BUDGET

ARTICLE C-3. SCHEDULE

EXHIBIT C

IMPLEMENTATION PLAN/SCOPE OF WORK, BUDGET, AND SCHEDULE

ARTICLE C-1. IMPLEMENTATION PLAN/SCOPE OF WORK

ARTICLE C-2. BUDGET

ARTICLE C-3. SCHEDULE

ARTICLE C-1:

Implementation Plan/ Scope of Work

Task Description
Bear River Setback Levee Implementation
Unit 1

The Bear River Setback Levee will be constructed in the 2005 and 2006 construction seasons. The levee foundation work and Feather River tie-in buttress will be constructed in 2005 as part of Unit 1. The setback levee will be constructed in 2006 as part of Unit 2. This staged construction will assure that the levee will be completed before the 2006-07 flood season and allow use of material in the existing Bear River levee for construction of the setback levee in 2006.

UNIT 1 –FOUNDATION AND TIE-IN CONSTRUCTION

Unit 1 includes all the activities associated with the construction of the foundation of the setback levee and the tie-in of the setback levee to the existing Feather River levee.

The tasks required for completion of Unit 1 are listed below:

- **Construction**
- **Land Acquisition**
- **Construction Management**
- **Program Management and Administration**

Each task is briefly described below:

Task 1.1 Construction

The Unit 1 construction activities are estimated to take three months to complete, with a completion date near the end of December 2005. The primary Unit 1 construction activities will include the following:

- **Clearing, Grubbing And Striping Of Setback Levee Foundation** – Portions of the levee footprint will be cleared and grubbed of all objectionable matter, such as trees, brush, vegetation, loose stone, abandoned structures, existing utilities, buried pipelines, and other deleterious buried materials. After clearing and grubbing, the foundation will be stripped to remove low growing vegetation and topsoil to a depth of at least six inches, although local areas with extensive tree roots or deep organic soils will require excavation to a depth of three feet or greater. Excavated material

not suitable for inspection trench backfill or tie-in embankment construction will be placed in an excess material berm on the waterside toe of the setback levee.

- **Excavation and Backfilling of Inspection Trench** - After stripping, a four-foot-deep-minimum, approximately 9,500-foot-long inspection trench will be excavated along the setback levee alignment, backfilled, and compacted to provide a continuous barrier to shallow underflow. The inspection trench will be constructed integrally with the slurry wall.
- **Construction of Soil-Bentonite Slurry Cutoff Wall** – An approximately 9,500-foot-long (430,000 sf) slurry cutoff wall will be constructed through the backfilled inspection trench to cutoff relatively shallow strata of permeable sands and gravels that exist in the foundation. The purpose of the cutoff wall is to reduce the hydraulic gradient and seepage flows through the foundation soils adjacent to the cutoff wall to safe levels.
- **Construction Of Setback Levee Tie-In Embankment With Existing Feather River Levee** - The tie-in with the existing left Feather River levee will consist of buttressing a 500-foot-long section of the existing levee approximately centered about the point of intersection of the two levees. The tie-in will not include removal and reconstruction of the complete levee section in this reach. A relatively shallow excavation will be made at the existing landside slope to prepare it for placement of the buttress.
- **Installation Of Two Relief Wells** – Construction of the Feather River Tie-in embankment will require destruction of two existing relief wells installed by the Corps in 2004. Two new relief wells will be constructed at the toe of the tie-in embankment to replace the Corps relief wells.
- **Drainage and Storm Water Pollution Prevention** – Sediment and erosion control measures using Best Management Practices will be implemented to minimize erosion and pollution of storm water. This includes the activities needed to temporarily control the drainage along both sides of the cutoff wall work areas during construction of the cutoff wall. After construction of the cutoff wall, shallow culverts will be installed at backfilled ditch crossings to enable continued operation of the drainage ditches during the following winter. The Unit 1 Contractor will maintain the sediment and erosion control facilities until Unit 2 construction begins.

Task 1.2 Land Acquisition

Approximately eight parcels are affected by the Phase 3 construction (Unit 1 and Unit 2). TRLIA will acquire access to the parcels for construction via permit or permanent right of way as needed for individual parcels.

TRLIA will follow all the steps outlined in the State and Federal Uniform Act for acquisition of the permanent rights. The steps include but are not limited to:

- Appraisal of the property
- Good Faith First Written Offer
- Relocation of displaces
- Notice of intent of resolution of Necessity (RON)
- Resolution of Necessity
- Order of Possession

TRLIA currently has possession of all properties required for construction of Unit 1, and most of the properties required for Unit 2. All properties for Unit 2 construction are anticipated to be obtained by February 2006.

Task 1.3 Construction Management

Construction Management will include the following activities and responsibilities:

- **Contract Administration** - Contractor work plans, schedules, budgets, and cash flow projections will be reviewed. Value engineering proposals submitted by the construction Contractor will be evaluated. Contractor claims, changes, extra work, and change orders will be identified, documented, evaluated, monitored, and negotiated if justified and approved. Independent cost estimates and change order justifications will be prepared. Work completed for progress payments and Contractor invoices for progress payment will be evaluated. Monthly cash flow projections will be submitted to TRLIA for the construction contract and CM's services based on the project schedule and actual progress.
- **Meetings** - A preconstruction meeting with the Contractor and TRLIA will be conducted. It will cover the overall project objectives, responsibilities of key personnel and agencies, schedules, pricing schedule (bid breakdown), procedures for handling submittals, correspondence, utility relocations, permit requirements,

requests for information, progress payments, change orders, and other pertinent project information.

A weekly construction progress meeting with the Contractor, the CM team and TRLIA will be conducted to discuss and resolve issues related to the work. The meetings typically will cover progress, schedules, submittals, Requests for Information (RFIs), Field Instructions, Change Orders, field coordination, Quality Control/Quality Assurance, environmental compliance, and other relevant topics.

- **Coordination with Corps Staff** – It is understood that the Corps intends on maintaining a presence at the site to provide independent inspections and QA testing. The CM team will work with Corps staff, communicating issues of concern, providing required information, and responding to questions.
- **Contractor Submittals** – Contractor submittals will be reviewed for the purpose of determining whether information contained in the submittal conforms to the requirements of the contract documents. Submittals that do not conform to the requirements will be returned to the Contractor for correction.
- **Requests for Information - Contractor Requests for Information (RFIs)** will be reviewed and written responses will be provided. Responses to RFI's that require changes to the design will be coordinated with TRLIA and the pertinent regulatory agencies.
- **Construction Inspections - Construction activities will be observed and oversight services will be provided to ensure that Contractors' work is performed in accordance with construction plans and specifications, and is consistent with the intent of the design. Field staff will interface with the home office design staff on technical issues and concerns. The Construction Inspector's activities will include:**
 - Inspecting materials and quality of work for conformance to the plans and specifications
 - Verifying depth and alignment of the foundation.
 - Logging of trench wall installation.
 - Recording quantities of materials received or used during specified periods
 - Inspecting material delivered for conformance with the contract documents

- Maintaining a daily log of construction and inspection activities and comparing the log with the Contractor generated progress reports
- The slurry trench excavation and backfilling will be observed and QA tests performed as described under QA Testing below.
- Verifying the proper placement and compaction of levee embankment materials in conformance with the contract documents.
- Designer Field Visits – Regular visits to the site by design personnel will be conducted to ensure the following:
 - Design assumptions and principles are consistent with site conditions observed during construction.
 - Project personnel are given assistance in adapting project designs to actual site conditions as they are revealed during construction.
 - Engineering issues, not fully assessed in original design are observed, evaluated, and appropriate actions taken.
- Quality Assurance Testing – The CM team will conduct QA testing to ensure compliance with the requirements of contract documents. QA testing will be conducted for the slurry mix, embankment material, and other project features. The CM team will also check the effectiveness and adequacy of the Contractors quality control (QC) program and take action to have deficiencies corrected.
- Start-Up, Closeout and Acceptance – The CM team will implement procedures for the systematic, orderly and timely completion, acceptance, and transfer of facilities constructed, as well as the closeout of contracts. A detailed project punch list will be prepared at closeout of the project. Upon correction of deficiencies, and prior to acceptance of work, a final walk-through will be scheduled and conducted with the Contractor and TRILIA.

Task 1.4 Program Management and Administration

Program management includes attending team meetings, reviewing reports and technical memoranda, preparing progress reports, and overall project coordination with team members and DWR, and regulatory agencies, and stakeholder outreach.

Program administration includes review of all progress reports, TRLIA review and approval of invoices, and preparation and maintenance of the project accounting and tracking project schedule. This task also includes agency and stakeholder outreach.

ARTICLE C-2:

Budget

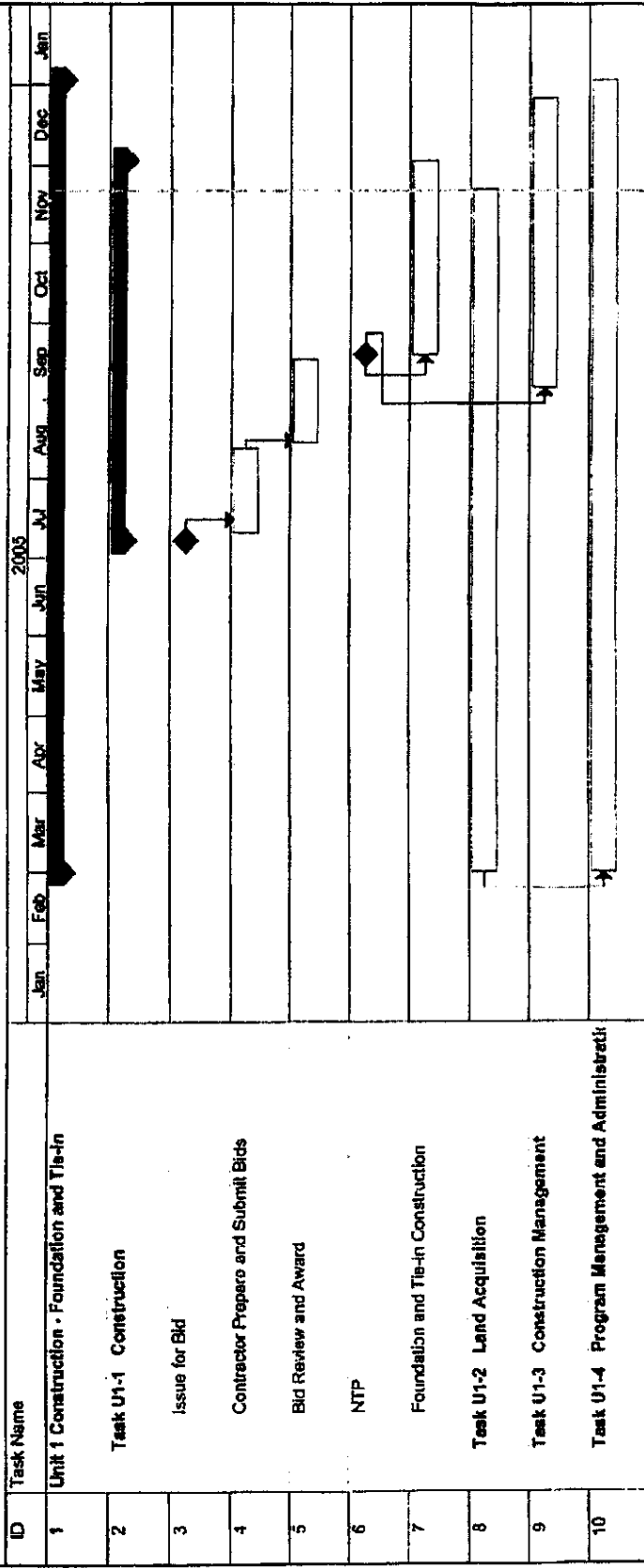
Exhibit C
Summary of Initial Construction Cost Estimate
Three Rivers Levee Improvement Authority, Bear River Setback Levee – Unit 1

<u>Task</u>	<u>Estimated Cost</u>
1. Construction	\$8,405,000
2. Land Acquisition and Real Estate	\$11,078,000
3. Construction Management	\$1,009,000
4. Program Management and Administration	\$524,000
Total Estimated Cost, Phase 3, Unit 1 Construction	\$21,016,000
Funds from water code Section 79068.14 (15.5%)	\$3,257,500
Subtotal	\$17,758,500
70 percent of total estimated construction cost (Prop 13 Share)	\$12,430,950
Cost of Preparing Grant Application	\$15,000
Total reimbursable from Prop 13 Funds (\$12,430,950+\$15,000)	\$12,445,950

ARTICLE C-3:

Schedule

**ATTACHMENT B-2
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
PHASE 3 IMPLEMENTATION SCHEDULE - UNIT 1**



Project: TR/LIA Phase 3 Implementation
Date: draft 11/21/05

Task

Milestone

Summary