

RESOLUTION NO. 2012- 03

**A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE
RIVERS UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)**

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, on September 28, 2010, TRLIA adopted Resolution No. 2010-6, a Resolution of Necessity for the acquisition of certain property interests from the parcels bearing Assessor's Parcel Nos. 018-200-008, 018-200-005, 018-200-007 and 018-210-035; and

WHEREAS, TRLIA's Special Counsel subsequently filed an action in eminent domain in the Yuba County Superior Court to acquire the property interests described and defined in Resolution No. 2010-6, which action is currently pending; and

WHEREAS, TRLIA has since determined that it also needs to acquire a replacement Utility Easement across a portion of the parcel bearing Assessor's Parcel No. 018-200-008, recently changed to 018-200-010 (the "Property"), for Pacific Gas and Electric Corp. ("PG&E") and AT&T in order to accomplish certain utility relocation work necessary to complete the Project; and

WHEREAS, Assessor's Parcel No. 018-200-008, recently changed to 018-200-010, is owned by Daniel J. Luis; and

WHEREAS, TRLIA has advised Daniel J. Luis of the need for the Project and offered him an opportunity for a hearing before the TRLIA Board on April 17, 2012, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property is to be acquired for the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5, Water Code section 50930, and Code of Civil Procedure section 1240.330.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal description attached hereto as Exhibit D-1, the accompanying parcel map attached hereto as Exhibit D-2, and the accompanying definition attached hereto as Exhibit D-3, which are incorporated herein by this reference.

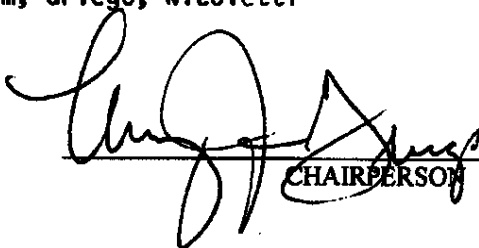
SECTION 3. The Board of Directors declares that it has found and determined as follows:

- a. The public interest and necessity require the Project.

- b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the Project.
- d. The Property described in Exhibit D-1, depicted in Exhibit D-2, and defined in Exhibit D-3 is necessary for the purpose specified in Code of Civil Procedure section 1240.330. The acquisition of the Utility Easement is necessary as substitute property for PG&E and AT&T.
- e. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.
- f. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.
- g. TRLIA possesses the statutory authority to acquire the Property by eminent domain.


PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 17th day of April, 2012, by a two-thirds (2/3) or greater vote as follows:

AYES: Directors Brown, Graham, Griego, Nicoletti
 NOES: None
 ABSTAIN: None
 ABSENT: Director Crippen



 CHAIRPERSON

ATTEST:



 Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

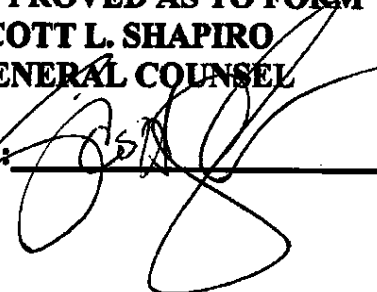
By: 

Exhibit 'D-1'

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50" East, 883.67 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 33°25'14" West, 3242.54 feet; thence along the North line of said Lot 1, South 89°59'50" West, 34.99 feet to the Point of Beginning; thence continuing along said North line, South 89°59'50" West, 25.55 feet; thence leaving said North line, South 40°25'06" West, 324.20 feet; thence South 50°12'11" East, 16.17 feet to a point hereinafter referred to as Point 'A'; thence North 40°22'00" East, 189.42 feet; thence North 42°07'40" East, 133.74 feet; thence North 38°39'20" East, 17.50 feet to the Point of Beginning, containing 0.129 acres, more or less.

TOGETHER WITH the following described strip of land:

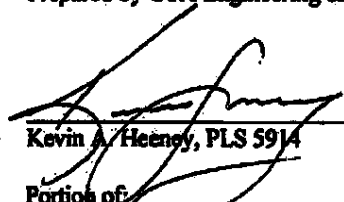
Commencing at the aforementioned Point 'A'; thence South 40°22'00" West, 175.17 feet; thence South 41°42'54" West, 33.93 feet to the Point of Beginning; thence North 49°04'21" West, 15.71 feet; thence South 40°51'30" West, 317.44 feet; thence South 40°57'11" West, 326.33 feet; thence South 40°49'46" West, 319.37 feet; thence South 42°21'11" West, 89.83 feet; thence South 09°56'00" West, 34.42 feet; thence North 41°43'11" East, 9.68 feet; thence North 41°07'29" East, 304.48 feet; thence North 40°22'00" East, 168.61 feet; thence North 43°03'51" East, 69.69 feet; thence North 40°22'58" East, 406.56 feet; thence North 41°07'05" East, 50.61 feet; thence North 41°42'54" East, 72.91 feet to the Point of Beginning, containing 0.398 acres, more or less.

See Exhibit 'D-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

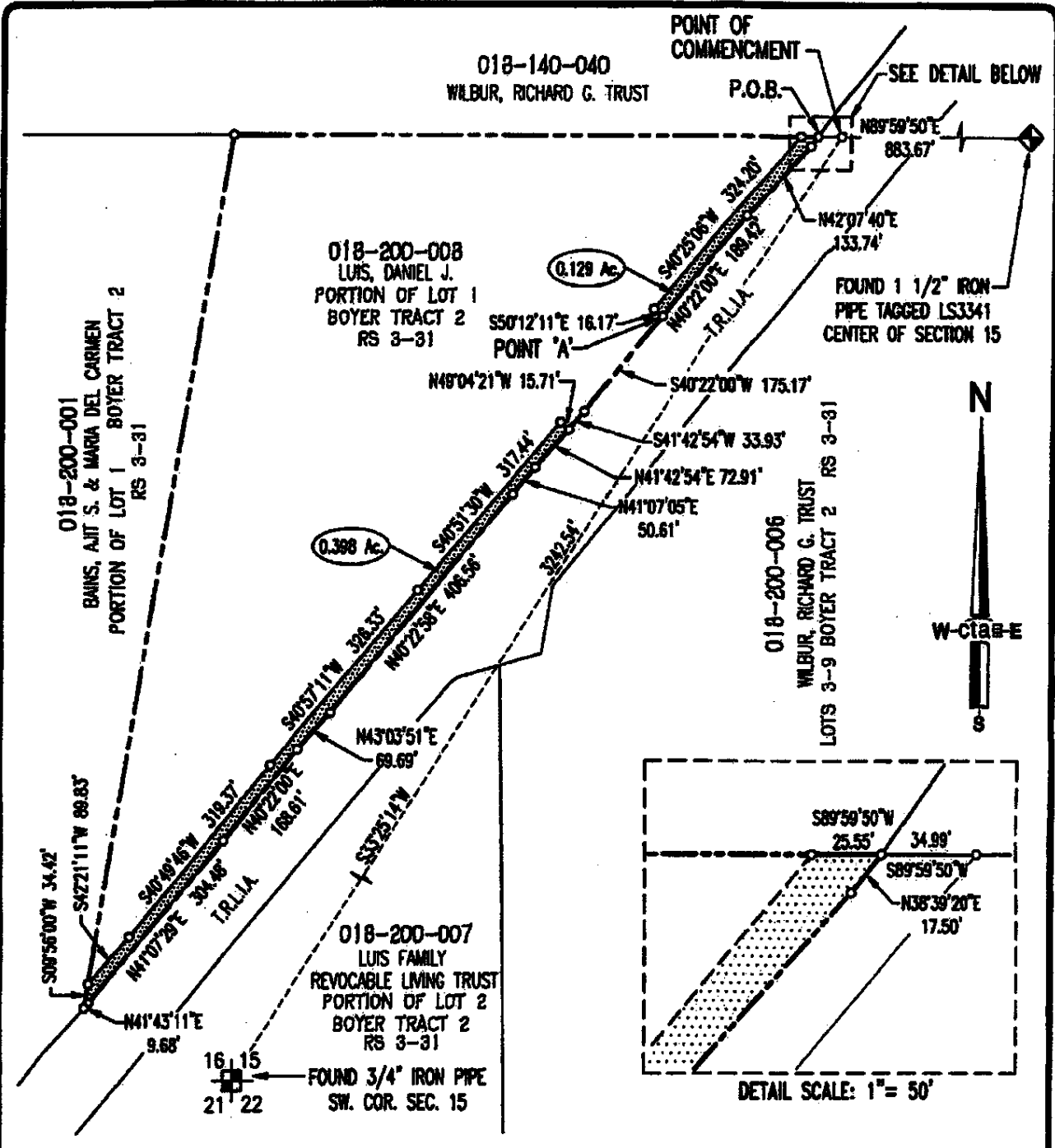
End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned


Kevin A. Heeney, PLS 5914
Portion of
APN 018-200-008

03/05/2012
Date





THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.



Exhibit 'D-2'	
OWNER:	Luis, Daniel J.
A.P.N.:	018-290-008
AREA:	EASEMENT AREA = 0.527 Ac.

DATE:	11/17/2011	DRAWN BY:	KAH	SHEET	1 OF 1
SCALE:	1"=200'	JOB NO.:	08-008-004		
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Upper Yuba Levee Improvement Project P.G. & E. Easement Portion of Lot 1, Boyer Tract No. 2 R.S. 3-31 County of Yuba State of California					

Exhibit "D-3"

UTILITY EASEMENT

DANIEL J. LUIS, hereinafter called Grantor, hereby grants to Three Rivers Levee Improvement Authority, a joint powers authority composed of Yuba County and Reclamation District 784, hereinafter referred to as Grantee, the right from time to time to construct, reconstruct, install, inspect, maintain, replace, remove, and use facilities of the type hereinafter specified, together with a right of way therefore, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the County of Yuba, State of California, described as follows:

APN 018-200-008, recently changed to 018-200-010

The parcel of land, situated in Section 15, Township 15 North, Range 4 East, MDM, described in the deed from H.W. Zimmerman, Jr. to Daniel J. Luis, dated June 14, 1991 and recorded as Recorder's Serial Number 1991-7474, Yuba County Records.

Said facilities and easement area are described as follows:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as Grantee deems necessary for the distribution of electric energy and communication purposes located within the parcel of land described and depicted in EXHIBITS "D-1" and "D-2", attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor shall not erect or construct any building or other structure or drill or operate any well within said easement area.

The provisions hereof shall inure to the benefit of and bind the successor and assigns of the respective parties hereto.

DOWNEY | BRAND
ATTORNEYS LLP

Kelly L. Pope
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621 Capitol Mall, 18th Floor
Sacramento, CA 95814
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916/444-2100 Fax
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March 12, 2012

Daniel J. Luis
c/o Brian Manning, Esq.
Desmond, Nolan, Livaich & Cunningham
15th & S Building
1830 15th St.
Sacramento, CA 95811

Via Hand Delivery

Re: Upper Yuba Levee Improvement Project
Utility Easement

Offer to Purchase – Government Code §7267.2

Dear Mr. Luis:

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area's protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to under seepage. In order to complete the Project, however, TRLIA will need to acquire a Utility Easement (UE) over a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs for the UE is approximately 0.527 acres in size. The UE is needed to relocate an existing line of utility poles that carries both a Pacific Gas & Electric power line and an AT&T communications line.

Bender Rosenthal, Inc. and Downey Brand LLP have been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained an appraisal of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Statement and Summary of the Basis for Appraisal, Summary Statement Relating to the Purchase of Real Property or an Interest Therein, proposed Easement Deed, proposed Agreement for Purchase of Utility Easement, and Information Brochure, constitutes TRLIA's offer to purchase the required real property interest for \$2,750.00.

Daniel J. Luis
March 6, 2012
Page 2

If the amount and terms of the offer are satisfactory, please sign the proposed Easement Deed with a notary's acknowledgement, plus two copies of the proposed Agreement for Purchase, and return to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned for your records. Of course, this offer is conditioned on TRLIA's ratification of the offer as approved by the TRLIA Board of Directors.

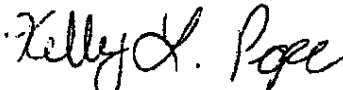
Please note that you are eligible to receive reimbursement of up to \$5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

You are welcome to contact me at (916) 520-5362 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

DOWNEY BRAND LLP



Kelly L. Pope

KLP

1164204.1

cc: Bob Morrison (w/enclosures)