

**GRANT AGREEMENT between
YUBA COUNTY WATER AGENCY and THREE RIVERS LEVEE IMPROVEMENT AUTHORITY**

This agreement is made this 1st day of November, 2022 by and between the Yuba County Water Agency, a public agency (“Agency”), and the Three Rivers Levee Improvement Authority (“Grantee”), who agree as follows:

1. **Grant.** The Agency agrees to provide grant funds to the Grantee in a sum not to exceed \$10,000,000, subject to the terms of this Agreement. The grant shall be used by the Grantee for to be leveraged as a local match against State and Federal for additional flood risk reduction in South Yuba County. On January 3, 2023, the Yuba Water Agency Board of Directors approved an additional 1,000,000 in grant funds bringing the total to \$10,000,000. Given the close proximity of dates between initial grant approval and the increase in funding, staff prepared this sole grant agreement for the updated figure. By approving this Agreement, the Agency determines that the grant will directly further and support Agency purposes and objectives consistent with the Yuba County Water Agency Act and that the grant is an authorized and appropriate expenditure of Agency funds.
2. **Work to Be Performed.** Grantee shall fully perform the work described on **Exhibit A**, a grant request submitted by the Grantee on October 24, 2022, hereafter referred to as the “Work”. Grantee acknowledges that the grant proceeds are restricted funds and that the proceeds will be used solely for the purposes described in Exhibit A and for no other purpose.
3. **Method of Payment.** The **Grantee** shall pay all invoices, bills, statements, and other expenses for the Work, and the Agency shall reimburse Grantee upon request. Reimbursement requests shall be submitted to the Agency by the Grantee by way of an email to **accountspayable@yubawater.org** and shall include satisfactory copies of subject invoice(s), bill(s), statement (s), and/or other proof of the cost of the item(s).

Upon verification by the Agency that invoices, bills, statements, and other expenses for the Work are eligible for reimbursement to the Grantee and are otherwise in compliance with this Agreement, the Agency will process reimbursement within 30 days of receipt thereof. The total reimbursement shall not exceed the grant amount.

4. **Term & Termination.**

- 4.1. This Agreement shall take effect at the date entered above. Grantee must complete the Work, and all grant fund reimbursement requests must be submitted to the Agency by December 31, 2027, unless extended by mutual agreement of the parties. Any grant funds not expended by this date shall be forfeited by the Grantee and retained by the Agency.
- 4.2. Agency may terminate this Agreement at any time for cause by giving 14 days prior written notice to Grantee. Cause shall mean (a) Grantee violates this Agreement, and

such violation continues for a period of 30 days after notice of violation from Agency which notice shall specify the violation; (b) Grantee files or there is filed against Grantee a bankruptcy petition (unless, in the case of a petition filed against Grantee, the same is dismissed or stayed within 60 days); (c) Grantee makes an assignment for the benefit of creditors; (d) Grantee becomes insolvent or there shall occur a material adverse change in the financial conditions of Grantee; (e) Grantee applies for or consents to the appointment of a receiver, trustee, or conservator, or such appointment is made without Grantee's consent and is not vacated within 60 days; (f) Grantee files a petition or resolution of application for reorganization; or (g) Agency suffers a significant loss of revenue and/or deposits/reserves, resulting in a loss of sufficient funds for this grant.

5. **Reports.** Grantee shall submit quarterly reports to Agency outlining progress made during the quarter for the tasks shown in Exhibit A. Each quarterly report shall give a summary of expenses during the quarter and the grant in total. Quarterly reports are due within 45 days after the end of each quarter. Grantee shall submit a final report to the Agency within 60 days after completion of a project or program, or at the point in time when Yuba Water grant or loan funds have been exhausted. The final report shall demonstrate the use of agency funds and overall success of the project or program. All reports shall be emailed to: grants@yubawater.org.
6. **Compliance.** Grantee shall perform the Work in compliance with all applicable federal, state and local laws, regulations and codes, including acquisition of and compliance with all required permits, licenses, entitlements and authorizations.
7. **Public Works Requirement.** If the Work consists of public works, as defined in Labor Code sections 1720 to 1720.4, then Grantee and its contractors and subcontractors shall comply with California statutes and regulations applicable to public works projects, including, but not limited to, the following requirements: payment of prevailing wage rates; employment of apprentices; hours of labor limitations and overtime; payroll records; workers' compensation insurance; payment/labor and materials bond (if grant amount exceeds \$25,000); non-discrimination laws; contractors' state license requirements; contractor registration with the State Department of Industrial Relations; and California Environmental Quality Act environmental review.
8. **Inspections.** Agency reserves the right to inspect any Work to determine whether it is being performed in accordance with this Agreement. Agency may withhold grant payments if it finds Work nonconforming, until Grantee remedies the nonconformity.
9. **Record Keeping.**
 - 9.1 Grantee shall keep and maintain accurate bookkeeping records, accounts, and documentation pertaining to the receipt, disbursement, and use of the grant proceeds to pay vendors, contractors, suppliers, and others who perform the Work for Grantee,

including all invoices, receipts, canceled checks, contracts, purchase orders, and other source documents.

9.2 These records shall be retained for a period of not less than three years from the final grant payment.

9.3 These records shall be accessible and available for inspection or audit by Agency, or by its employees, accountants, attorneys or agents, at reasonable times and upon reasonable notice.

9.4 If the grant exceeds \$10,000, then (as required by Government Code section 8546.7) this Agreement and performance and payments under it are subject to examination and audit by the State Auditor General for three years following final payment.

10. **Indemnification.** Grantee shall indemnify, defend, protect, and hold harmless Agency, and its officers, employees, volunteers and agents from and against any and all liability, losses, claims, damages, expenses, demands, and costs (including but not limited to, attorney, expert witness and consultant fees and litigation costs) of every nature arising out of Grantee's performance of the Work and caused by the negligent or willful act or omission of Grantee and its contractors or subcontractors or their employees, agents, and subcontractors, except where caused by the active negligence, sole negligence or willful misconduct of Agency or as otherwise provided or limited by law. Grantee's obligations under this indemnification provision shall survive the termination of, or completion of Work under, this Agreement.

11. **General Provisions.**

11.1 **Integration.** This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of terms of this contract among the parties concerning the subject matter addressed in this Agreement, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Agreement, except those other documents that are expressly referenced in this Agreement.

11.2 **Waiver.** The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to and subsequent default or matter.

11.3 **Successors and Assignment.** This Agreement shall bind and inure to the benefit of the respective successors, assigns, heirs, devisees, and personal representatives of the parties.

11.4 **Governing Law and Venue.** Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

11.5 Attorney's Fees. In the events any legal action is brought to enforce or construe this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, expert witness and consultant fees, litigation costs, and costs of suit.

11.6 Amendment. This Agreement may be modified or amended only by a subsequent written agreement approved and signed by both parties. Amendment by Agency requires the approval of its Board of Directors.

11.7 Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement shall be in writing and either served personally or sent by prepaid, first class U.S. mail addressed as follows:

Yuba County Water Agency:

General Manager
Nicholas Whittlesey Jr.
1220 F. Street
Marysville, CA 95901

Grantee:

Kevin Mallen
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Any party may change its address by notifying the other party of the change in the manner provided above.

YUBA COUNTY WATER AGENCY

THREE RIVERS LEEVE IMPROVEMENT AUTHORITY

By: 

By: 
Kevin Mallen (Feb 8, 2023 16:13 PST)

Nicholas Whittlesey Jr., General Manager

Kevin Mallen, Executive Director

Attachment

Exhibit A – Grant Request Support Material



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218

Marysville, CA 95901

Office (530) 749-7841 Fax (530) 749-6990

Nov 1, 2022

Mr. Ryan McNally
Director of Water Resources and Flood Risk Reduction
Yuba Water Agency
1220 F Street
Marysville, CA 95901

Subject: FEMA Building Resilient Infrastructure and Communities (BRIC) Grant Application and California Department of Water Resources (CA DWR) Urban Flood Risk Reduction (UFRR)— Yuba Water Agency Local Share Funding Request and Letter of Support for the TRLIA Climate Resiliency Project

Dear Mr. McNally:

Three Rivers Levee Improvement Authority (TRLIA) is seeking funding through both the CA DWR UFRR and FEMA BRIC programs to improve flood protection for the Reclamation District 784 (RD 784) urban levee system and ensure it is resilient to climate change. This funding request will support one project and one study. The first is the Climate Resiliency Project (Project) and includes design and construction of improvements to specific levee segments to provide a uniform level of flood protection for the communities of Plumas Lakes, Linda and Olivehurst which have a history of flooding from levee breaks during the 1986 and 1997 floods. The (Project) will improve segments of the RD 784 urban flood control system which have the lowest levels of performance to address levee superiority concerns (differing flood protection levels) within the existing system and ensure that FEMA 100-year and CA-state 200-year urban level of protection requirements are maintained in the future considering potential flood flow increases from climate change. The second element is the Goldfields Multi Benefit Project Feasibility Study that is intended to address the need to replace the 100 year embankment and identify habitat opportunities by potentially replacing the South Training Wall with another structure that would allow expanding of the Yuba River Floodway

CA DWR UFRR & FEMA BRIC Project Elements

TRLIA funding requests made under both the CA DWR UFRR and FEMA BRIC programs require a local share funding commitment. Tasks to be completed under the CA DWR UFRR program will include finalizing existing project designs for the Yuba Goldfields West Levee, Bear River North Levee, and Western Pacific Interceptor Canal and preparing 65% designs for reaches along the Feather River East Levee, Bear River Setback Levee, and HWY 70 Wind Wave Buffer. This grant also includes preparation of the Goldfields Multi Benefit Project Feasibility Study. Funding provided by the CA DWR UFRR program that is associated with the Climate Resiliency Project is eligible to be considered as the local share funding under the FEMA BRIC program which would reduce the amount of local share required.

Tasks to be completed under the FEMA BRIC program will include finalizing designs for reaches along the Feather River East Levee, Bear River Setback Levee, and HWY 70 Wind Wave Buffer as well as permitting, ROW acquisition and construction of all project elements.

Total Project Cost

The project cost for the TRLIA Climate Resiliency Project is currently being updated and may be as high as \$38M. The total cost for the Goldfields Multi-Benefit Feasibility Study is \$500k.

Local Share Funding Request & Schedule

TRLIA requests funding for the local share from Yuba Water Agency (YWA) for the Climate Resiliency Project as noted below:

- FEMA BRIC Program (70% FEMA / 30% local) – Total Cost \$38M: *\$26.6M (FEMA) \$11,400,000 (YWA Request/Local Share)*
- CA DWR UFRR Program (Climate Resiliency Project Element) (85% State / 15% local) – Total Cost \$3.073M: *\$2.612M (CA DWR) \$461k (YWA Request/Local Share)*
- FEMA BRIC Subapplication Preparation Cost - \$110,000

- *TRLIA Climate Resiliency Project Local Share Request: \$8.9M*

CA DWR UFRR program funding for the TRLIA Climate Resiliency Project, can be leveraged as local share within the FEMA BRIC Program. This reduces the local share request to \$8.9M.

TRLIA request funding for the local share from YWA for the Goldfields Multi-Benefit Feasibility is noted below:

- CA DWR UFRR Program (Goldfields Multi-Benefit Project Feasibility Study) (85% State / 15% local – Total Cost \$500k; *\$425,000 (CA DWR) \$75,000 (YWA Request/Local Share)*

- *TRLIA Goldfields Multi-Benefit Project Feasibility Study Local Share Request: \$75,000*

The total local share funding request for both projects is \$9.0M

The YWA funding request will leverage \$29M of state and federal funds to reduce flood risk in Yuba County.

The YWA share of funding under the CA DWR UFRR program (\$536,000) would be expended in 2023. The YWA share of the FEMA BRIC grant funding (\$8.9M) would be needed in the second half of 2024 through 2027.

Operation & Maintenance Responsibility

As a requirement to receive FEMA BRIC funding, operations and maintenance of the constructed project is required. In support of the project, RD 784 has been identified as the local maintainer as it currently performs maintenance responsibilities for the project features which will be improved.

Operating Line of Credit Increase Request

TRLIA currently has an approved line of credit with YWA which provides cash flow flexibility for various grant agreements. The current agreement expires June 30, 2023. To support the TRLIA Climate Resiliency Project, TRLIA requests an increase in credit to \$5M and extending the agreement term through June 30, 2028.

TRLIA, is pleased to support the local share funding request to YWA and proposed project, as it will further the goal of flood risk reduction in our region.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kevin Mallen', with a stylized flourish at the end.

Kevin Mallen
TRLIA Executive Director



Agenda Item Details

Meeting	Jan 03, 2023 - Board of Director's Regular Meeting 9:00 A.M.
Category	DISCUSSION ITEMS
Subject	3. Consider increasing a previous match fund commitment of \$9,000,000 to \$10,000,000 as a local match for Three Rivers Levee Improvement Authority (TRLIA) to apply for State and Federal funds for additional flood risk reduction in South Yuba County.
Type	

Background

As the Three Rivers Levee Improvement Authority (TRLIA) is scaling down its operation in South Yuba County, it has been working with Yuba Water, Yuba County and RD 784 to finalize and close the State of California Proposition 1E source funding that made the levee projects in South Yuba County possible.

However, several projects remain to expand on the levee work in South Yuba County that are identified in Yuba Water's Comprehensive Flood Management Plan, which is expected to be finalized over the next few months. Two of those projects are the Climate Resiliency project and the Goldfields Multi-Benefit Project.

The Climate Resiliency project consists of additional levee work on the Yuba, Feather, and Bear Rivers to provide substantially more protection to people in South Yuba County. When complete, the project will increase the level of protection from the current 200-year to 300-year, and again from 300-year to a 500-year level of protection when operated in conjunction with the proposed ARC Spillway. More importantly, the Climate Resiliency project also addresses an anticipated revision to U.S. Army Corps of Engineers (USACE) levee standards that could potentially make the levees constructed over the past 20 years obsolete.

The Goldfields Multi-Benefit Project will address the 100-year embankment in Goldfields that we know will need a permanent replacement in the not-so-distant future as Teichert continues to mine the area. The existing embankment is in an area expected to be depleted by mining, and more permanent work will be necessary to continue protecting South Yuba County from the Yuba River.

Consistent with Yuba Water's mission to help leverage local funds toward protecting the people of Yuba County from flood risk, the Board approved up to \$9,000,000 for TRLIA's local match funding on November 1, 2022. However, since that time, the project team has identified cost increases associated with labor, materials and escalation, with the latter being ineligible for reimbursement through the Building Resilient Infrastructure and Communities (BRIC) program.

Discussion

The cost to construct the Climate Resiliency project is estimated at \$41,485,590 and the BRIC program commands a 30% local cost share. However, because increases associated with escalation are not eligible expenses under the BRIC program, the local match has increased from \$11,400,000 to \$12,455,677. Nevertheless, and because DWR has agreed to reallocate TRLIA's remaining Proposition 1E funds toward the final design of this project, DWR's portion, \$2,612,000, would be applied to the local cost share associated constructing the project through the BRIC program. The overall local share cost, with the addition of \$110,000 cost for applying to the grant, would effectively reduce the local share from \$12,455,667 to \$9,843,677.

TRLIA is asking for, and Yuba Water staff recommends, amending the local match grant from \$9,000,000 to \$10,000,000.

The local match funding will allow TRLIA to design and construction the Climate Resiliency project and address an anticipated vulnerability that will occur in the Goldfields with the Goldfields Multi-Benefit Project Feasibility Study. The design and potential implementation of the projects will provide a clear path toward unprecedented levels of flood protection to the urban areas in South Yuba County by leveraging State and Federal dollars 4 to 1 over our local cost share.

Fiscal Impact

TRLIA is requesting a \$1,000,000 increase to the previous commitment of \$9,000,000 to \$10,000,000 from Yuba Water for local match to leverage \$41,500,000 in State and Federal grant funds. The local match will only be expended if/when the project is successfully awarded through the competitive process.

Prior Board Action

[Link to 11/1/2022 BOD Agenda Item](#)

Signature: *Kevin Mallen*
Kevin Mallen (Feb 8, 2023 16:13 PST)

Email: kmallen@co.yuba.ca.us

Title: TRLIA Executive Director

Signature: 

Email: wwittlesey@yubawater.org

Title: General Manager











Agreement-TRLIA 10M South County Projects 11-01-22

Final Audit Report

2023-02-16

Created:	2023-02-08
By:	Jim Mitrisin (JMitrisin@yubawater.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAtoqhrQaySNcfGZu4aBZk1FuUHRwBq43I

"Agreement-TRLIA 10M South County Projects 11-01-22" History

-  Document created by Jim Mitrisin (JMitrisin@yubawater.org)
2023-02-08 - 11:46:17 PM GMT
-  Document emailed to kmallen@co.yuba.ca.us for signature
2023-02-08 - 11:49:46 PM GMT
-  Email viewed by kmallen@co.yuba.ca.us
2023-02-09 - 0:11:36 AM GMT
-  Signer kmallen@co.yuba.ca.us entered name at signing as Kevin Mallen
2023-02-09 - 0:13:19 AM GMT
-  Document e-signed by Kevin Mallen (kmallen@co.yuba.ca.us)
Signature Date: 2023-02-09 - 0:13:21 AM GMT - Time Source: server
-  Document emailed to Willie Whittlesey (wwhittlesey@yubawater.org) for signature
2023-02-09 - 0:13:22 AM GMT
-  Email viewed by Willie Whittlesey (wwhittlesey@yubawater.org)
2023-02-09 - 0:13:30 AM GMT
-  New document URL requested by Willie Whittlesey (wwhittlesey@yubawater.org)
2023-02-16 - 10:30:27 PM GMT
-  Email viewed by Willie Whittlesey (wwhittlesey@yubawater.org)
2023-02-16 - 10:30:37 PM GMT
-  Document e-signed by Willie Whittlesey (wwhittlesey@yubawater.org)
Signature Date: 2023-02-16 - 10:31:03 PM GMT - Time Source: server

✔ Agreement completed.

2023-02-16 - 10:31:03 PM GMT