PLACE: West Sacramento Chamber of Commerce Meeting Room  
1420 Merkley Avenue, Suite 6  
West Sacramento, CA

DATE: Thursday, March 24, 2011

TIME: 10:00 AM

Special Meeting Agenda

1. Public Comment

2. Consideration of Resolution 11-03-03 Concerning the Acquisition of Real Property Interest from Certain Residentially-Zoned Parcels Within the Rivers Early Implementation Project (EIP) Area, and Authorizing and Directing the General Manager to Make Such Offers and Acquire the Property Rights for the Project

3. Adjourn

** In accordance to the Brown Act, any documents related to agenda items that are made available to the Board before the meeting will be available for review by the public at 1420 Merkley Ave., Suite 4, West Sacramento, CA 95691, 8:00 am to 4:00 pm, Monday through Friday.**
OBJECTIVE
The objective of the report is to obtain the West Sacramento Area Flood Control Agency’s (WSAFCA) approval to make offers to purchase certain property rights on residentially-zoned parcels from private owners within the boundary of the Rivers EIP area, based on appraised value, and to delegate authority to the General Manager to conduct all business as appropriate and necessary to acquire the property rights.

RECOMMENDED ACTION
It is respectfully recommended that the JPA Board:
1) Adopt Resolution 11-03-03

BACKGROUND
In late 2005, the City of West Sacramento adopted a comprehensive flood control strategy for the purposes of improving the City’s flood protection system, thereby meeting new Federal standards for evaluating levee integrity. By the fall of 2006, WSAFCA had begun funding the initial stages of a levee study. In August of 2007, upon completion of the study, the City Council hired HDR Engineering, Inc. to facilitate the environmental, design and permitting for the first phase of improvements. The result of this process identified the first round of construction sites.

In the levee improvement program, outlined in WSAFCA’s Draft Alternatives Analysis report dated November 13, 2009, three reaches of the City’s levee system were identified as priorities for immediate improvement. One of those reaches was the Sacramento River North levee. In October of 2010, HDR completed 100% construction drawings for the Rivers EIP, a portion of the Sacramento River North levee.

WSAFCA has prepared environmental impact report (EIR) under CEQA, and an environmental impact statement (EIS) under NEPA for the Rivers EIP which includes evaluation of the project specific impacts of the Rivers EIP Project. The board certified that document on March 10, 2011. At that same meeting WSAFCA also approved and formalized the offers on the all parcels zoned open space in the project. WSAFCA’s right-of-way agent, Bender Rosenthal, Inc. (BRI) has made offers on all those properties. Construction of the Rivers EIP improvements is scheduled to begin in July of this year. In order to complete the improvements during the dry season, all real property interests needed for construction must be acquired by June.

ANALYSIS
Unlike the properties previously brought before WSAFCA this year, the two vacant residentially-zoned parcels, owned by Glen and Deborah Campora (APN 014-690-090) and Simona Copaci (APN 014-690-089) are subdivided parcels configured for a single family home, which are designed to be constructed, per their existing Central Valley Flood Protection Board (CVFPB) Permit on the waterward side of the levee. The 100% designed documents, referenced above, showed that a permanent levee easement is necessary across the southern boundaries of these two parcels, more specifically where the likely utility connections and access points to Rivercrest Drive would be. The intended residential use conflicted with the template easement document contained in the Exhibits Binder, dated December 2009, for the State-Federal Flood Control System Modification Program, EIP process, as it was written. Staff worked with Department of Water Resources, the overseers for the EIP program, and received approval to modify the template easement document to reflect the
intended uses on these two parcels. As a result, the easement explicitly addresses uses consistent with a residential lot: driveways, landscaping and utilities. The proposed easement language was shared with BRI for the appraisal process. WSAFCA was granted approval to use the modified easement as shown in Attachment 1 on March 8, 2011 and as a result BRI finalized their appraisal. Resolution 11-03-03 sets just compensation for the properties and authorizes the General Manager to proceed with making offers to the property owners, to conduct negotiations, execute a right of way contract, close escrow and accept any property interest in the properties. It is WSAFCA’s obligation pursuant to Civil Code § 1263.025 to pay up to $5,000 toward a qualified independent appraisal. The proposed Resolution delegates the authority to the General Manager to meet the obligations as required by Civil Code § 1263.025(a), to allow the owner his/her right to obtain an independent appraisal at WSAFCA’s expense.

Resolution 11-03-03 establishes compensation based on appraised value for the Glen and Deborah Campora (APN 014-690-090) at $50,000, and for Simona Copaciu (APN 014-690-089) at $40,000. For APN 014-690-090 the total compensation of $50,000 is a combination of the fair market value of the permanent easement to be acquired ($28,338) and severance damages on remainder ($21,662). The appraisal states that value of remainder is reduced by the proposed acquisition of the permanent levee easement as it reduces the utility, desirability and marketability of the remainder. The same conditions exist on APN 014-690-089, where total compensation of $40,000 is comprised of the fair market value of the permanent easement to be acquired ($16,676) and severance damages on remainder ($23,324).

Strategic Plan Integration
Strategic flood control planning supports the city strategic planning principles of providing a place where people feel safe and secure, provides for a financially sound city government, and is a top priority of the 2008, 2009 and 2010 Policy Agenda.

Alternatives
1. WSAFCA adopts Resolution 11-03-03. The General Manager is authorized to proceed with the making offers to the property owners consistent with the summary appraisal reports, to conduct negotiations, execute a right of way contract, close escrow and accept any property interest in the properties.

2. WSAFCA may choose to make modifications to the Resolution or its attachments. WSAFCA may direct staff to make those changes in conjunction with legal counsel. This is not recommended as it reduces the amount of time for the property owners to review the offer by a minimum of 30 days.

3. WSAFCA may choose not adopt this resolution. This is not recommended because it will prevent the timely acquisition of the property rights needed for the project.

Alternative 1 is the staff recommendation. Staff does not recommend the alternative approaches because they could potentially delay or even prevent construction from occurring this year.

Coordination and Review
This report was coordinated with the WSAFCA, the City’s Finance Department, and legal counsel for WSAFCA and the City.

Budget/Cost Impact
The total value of the offers for the proposed permanent rights for the residentially-zoned parcels is $90,000. Appropriations for these acquisitions were included in the current Capital Improvements Project Budget, funded by a combination of property flood assessment revenue, bond proceeds, and the City of West Sacramento. Ninety-five percent of the costs are eligible for reimbursement through the State-Federal Flood Control Systems Modification Program’s Land Acquisition Process.

ATTACHMENT
Attachment 1 – Easement Document
Attachment 2 - Resolution 11-03-02
EASEMENT DEED
(INDIVIDUAL)

The Rivers Early Implementation Project
Parcel No. ____________________________

I, ____________________________, hereinafter referred to as "GRANTOR", GRANTS to the WEST SACRAMENTO
AREA FLOOD CONTROL AGENCY ("WSAFCA"), a public agency, and its successors and
assignees, exclusive perpetual rights of way and easements, with the rights of pedestrian,
equipment, and vehicular ingress and egress, in the hereinafter described real property situated in
the County of Yolo, State of California, for any present or future flood control project to:

1. Construct, reconstruct, enlarge, fence, plant with trees, shrubs, and other vegetation,
   preserve and retain all vegetative growth desirable for project purposes, remove, replace, repair, maintain,
   operate and use flood control works, which shall include, but not be limited to, access, haul, and
   patrol roads, levees, ditches, embankments, channels, berms, fences, and appurtenant structures,
   and operate and maintain said flood control works in conformity with the Code of Federal
   Regulations, Corps of Engineers' Standard Operation and Maintenance Manual, and State of
   California Standards.

2. Clear and remove from said flood control works any and all natural or artificial obstructions,
   improvements, trees, and vegetation necessary for construction, operation, maintenance, repair,
   reconstruction, and emergency flood fight.

3. Flow waters and materials and by said flow erode.

4. Place or deposit earth, debris, sediment, or other material.

5. Excavate and remove earth, debris, sediment, or other material, including that placed or
   deposited as above.

6. Locate or relocate roads and public utility facilities by grantee or others.
7. Restrict the rights of the Grantor, his successors and assigns, without limitations, to explore, extract, remove, drill, mine, or operate through the surface or upper 100 feet of the subsurface in exercise of the Grantor's interest in any minerals, including oil and gas.

8. Restrict any use by others which may interfere with any of the uses listed herein or any use necessary or incidental thereto.

GRANTOR FURTHER ACKNOWLEDGES AND AGREES THAT:

9. The property over which this right of way and easement is granted is located within an adopted plan of regulated flood control area and subject to the California Code of Regulations.

10. Because this right of way and easement area is located in a regulated flood control area, Grantor shall not place or permit to be placed any improvements in, under, or across the right of way and easement area, including but not limited to any buildings or structures, with the exception of those items specifically listed in Paragraph 11 below.

11. Notwithstanding Paragraph 10 above, Grantor may construct driveways, landscaping, and utilities in, under, or across the right of way and easement area conditioned upon Grantor's prior receipt of an encroachment permit issued by WSAFCA and by the Central Valley Flood Protection Board of the State of California.

12. This Easement Deed and the obligations of WSAFCA hereunder may be assigned by WSAFCA to any other California public agency without the prior written consent of Grantor.

TO HAVE AND TO HOLD, all and singular, the rights above described unto the Grantee and the Grantee's successors forever.

IN WITNESS WHEREOF, the Grantor has executed this indenture this _____ day of ____________________ 20____.

GRANTOR

By: ________________________________
RESOLUTION 11-03-03

A RESOLUTION OF THE WEST SACRAMENTO AREA FLOOD CONTROL AGENCY ("WSAFCA") CONSIDERATION OF RESOLUTION 11-03-03 CONCERNING THE ACQUISITION OF REAL PROPERTY INTEREST FROM CERTAIN RESIDENTIALLY-ZONED PARCELS WITHIN THE RIVERS EARLY IMPLEMENTATION PROJECT (EIP) AREA, AND AUTHORIZING AND DIRECTING THE GENERAL MANAGER TO MAKE SUCH OFFERS AND ACQUIRE THE PROPERTY RIGHTS FOR THE PROJECT

WHEREAS, WSAFCA is a Joint Powers Authority comprised of the City of West Sacramento, Reclamation District (RD) 900 and RD 537 for the purposes of constructing the improvements necessary to enhance the levee system along the Sacramento River, and

WHEREAS, WSAFCA commissioned a levee study to evaluate the entire West Sacramento Levee System,

WHEREAS, the study determined that substantial improvements to the system must be made to meet the new Federal criteria and protect the lives and livelihoods of those living and working in West Sacramento; and

WHEREAS, in August of 2007, the City Council of the City of West Sacramento approved a contract with HDR Engineering, Inc. for environmental, design and permitting to prepare an EIP to guide the first phase of improvements, selecting the sites based on the primarily on those providing the greatest public safety, with the least negative effects; and

WHEREAS, based on that criterion HDR identified a series of necessary improvements along Reach 2; and

WHEREAS, in October 2010, HDR completed its 100% construction drawings for the levee improvements for a portion of Reach 2, known as the Rivers EIP, which included the geometry for the extent of the real property interest to be acquired in support of the levee improvements, and

WHEREAS, the Glen and Deborah Campora is the fee title owner of parcel, APN 014-690-090 ("the Properties"), within the Rivers EIP, as generally shown on the plat maps attached hereto as Exhibit "A"; and

WHEREAS, the Simona Copaciu is the fee title owner of parcel, APN 014-690-089 ("the Properties"), within the Rivers EIP, as generally shown on the plat maps attached hereto as Exhibit "B"; and

WHEREAS, WSAFCA has certified the environmental impact report (EIR) under CEQA, and an environmental impact statement (EIS) under NEPA, prepared for the Rivers EIP which includes evaluation of the project specific impacts of the Rivers EIP Project,
Resolution 11-03-03
March 24, 2011

NOW, THEREFORE, BE IT RESOLVED by West Sacramento Area Flood Control Agency that:

Section 1: WSAFCA hereby finds that the recitals set forth above are true and correct, and incorporate these recitals herein by reference.

Section 2: WSAFCA's General Manager or his/her designee is hereby authorized to execute and deliver any and all documents, do any and all things, and take any and all actions that may be necessary or advisable, in their discretion, in order to make offers to purchase the necessary real property rights shown on Exhibits “A” and “B.” The offers shall not exceed the appraised fair market value as determined by the summary appraisal reports prepared by BRI.

Section 3: WSAFCA's General Manager is hereby authorized to execute a right of way contract, close escrow or accept any property interest of the Properties (or any portion thereof).

PASSED AND ADOPTED by the West Sacramento Area Flood Control on this 24th day of March, 2011, by the following vote:

AYES:
NOES:
ABSENT:

______________________________
William Denton, President

ATTEST: ________________________
Kenneth A. Ruzich, General Manager

APPROVED AS TO FORM:
______________________________
WSAFCA Attorney
James Day, Jr.
Resolution 11-03-03
March 24, 2011

Exhibit A
BEING A PORTION OF
SECTION 27, TOWNSHIP 9
NORTH, RANGE 4 EAST,
MOUNT DIABLO BASE AND
MERIDIAN IN THE CITY OF
WEST SACRAMENTO, YOLO
COUNTY, THE STATE OF
CALIFORNIA.

ABBREVIATIONS:
APN = TAX ASSESSOR PARCEL
NUMBER
MB = MAP BOOK
IN = INSTRUMENT NUMBER
DN = DOCUMENT NUMBER
NO. = NUMBER
PM = PARCEL MAP
(R) = RADIAL

SEE SHEET #3

BRASS DISK IN MONUMENT WELL
STAMPED LS 3013
AS SHOWN ON MB 17 PG. 3
NORTHING: 1981606.80
EASTING: 6697210.60

POINT OF BEGINNING
N53°04'57"W
163.32'

RIVER CREST DRIVE
FOUNTAIN DRIVE
WATERFORD DRIVE
CARRIE ROAD
ANNA STREET

BRASS DISK IN MONUMENT WELL
STAMPED LS 3013
AS SHOWN ON MB 17 PG. 4
NORTHING: 1981609.80
EASTING: 6698282.61

N85°53'30"W
1074.77'

BEARINGS AND DISTANCES ARE BASED
ON THE CALIFORNIA COORDINATE
SYSTEM, ZONE 2, NORTH AMERICAN
DATUM OF 1983. MULTIPLY GRID
DISTANCES BY 1.00003115 TO OBTAIN
GROUND DISTANCES. ALL DISTANCES
SHOWN ARE IN US SURVEY FEET.

WEST SACRAMENTO AREA
Flood Control Agency
THE RIVERS SITE
APN-014-690-09-00

K Kjeldsen
S Sinnock
N Neudeck
Inc. Civil Engineers
and Land Surveyors

Design: Sheet Number
Scale 1' = 300'
Date: AUGUST 2010

Project File No. 2044-0060
EXHIBIT B