THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AGENDA
SPECIAL MEETING

MARCH 15, 2006 (WEDNESDAY)
Yuba County Government Center
Board of Supervisors’ Chambers
915 Eighth Street, Suite 109A
Marysville, California

Unless otherwise indicated

3:00 P.M. I CALL TO ORDER

II ROLL CALL – Directors Rick Brown, Mary Jane Griego, Dan Logue, Richard Webb

III ACTION ITEMS

A. Receive financial report for Fiscal Year 2005/06 and take action as appropriate. (Continued from March 7, 2006)

B. Approve agreement with The Handen Company for a construction project manager and authorize Chairman to execute same.

C. Approve Advance Funding and Credit Agreement with Reynen and Bardis regarding Woodbury Specific Plan and authorize Chairman to execute same.

D. Approve contract with Nordic Industries, Inc. for construction of the Bear River Setback Levee embankment and authorize Executive Director to execute following submittal of bond documents and approval of Counsel.

E. Approve minutes of the meetings of February 14, 21, and 28, 2006.

IV BOARD AND STAFF MEMBERS’ REPORTS

V PUBLIC COMMUNICATIONS: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today’s agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes.

VI CLOSED SESSION

Potential litigation pursuant to Government Code §54956.9(b) - One Case

VII ADJOURN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
GOVERNMENT CENTER – 915 8TH STREET, SUITE 115
MARYSVILLE, CA 95901-5273
(530) 749-7575 (530) 749-7312 Fax

March 15, 2006

TO: Three Rivers Levee Improvement Authority Board
FROM: Charles K. McClain, TRLIA Executive Director
Robert Bendorf, County Administrative Officer
SUBJECT: TRLIA Program Budget Overview

Recommended Action
1. Direct staff to continue current pace on all levee project work including Feather River design and evaluate appropriate pace for further work in light of available revenues when the design contract for Feather River Phase 4 is presented to the Board.
2. Direct staff to prepare regular biweekly updates regarding the status of the overall financing plan for all Phase 4 work and direct staff to target the completion of a financing plan acceptable to TRLIA and County of Yuba by June 1, 2006.
3. Establish a Finance Review Committee (FRC) composed of the Auditor-Controller, Treasurer-Tax Collector, County Administrator or designate, Public Works Director, TRLIA Executive Director and TRLIA Program Manager to review all financial matters. Should there be any unresolved issues over a proposed course of action, the respective Chairman of the Board of Supervisors and Reclamation District 784 will meet with the FRC and either resolve those issues or refer the unresolved issues to their respective Boards for policy direction.

Discussion
At the March 7, 2006 Three Rivers meeting, following the joint workshop with Yuba County and RD 784, Director Logue made a motion that was seconded by Chairman Webb to direct staff to take action consistent with alternative option #2 from the March 7, 2006 staff report. After extensive discussion with new information presented at the meeting, the Board moved to continue its agenda item until March 15, 2006, leaving on the table the motion made by Director Logue.

Much of the discussion during the meeting was based on the differences between alternative option #2 and a proposal presented at the meeting by the landowners represented by Seth Merewitz. For purposes of understanding the differences between these two proposals, the alternatives are compared here:
<table>
<thead>
<tr>
<th>Alternative Option #2</th>
<th>Landowner Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continue with the current pace of completing construction on Phases 2 and 3.</td>
<td>Continue with the current pace of completing construction on Phase 2 and 3.</td>
</tr>
<tr>
<td>Continue with the current pace of Phase 4 Yuba design (UPRR to Simpson Lane)</td>
<td>Continue with the current pace of Phase 4 Yuba design (UPRR to Simpson Lane)</td>
</tr>
<tr>
<td>Minimize expenses on Phase 4 Feather contracts and continue until June 15th or the Phase 4 finance plan is complete.</td>
<td>Continue with preliminary engineering and environmental work required for Phase 4 Feather River levee improvements and direct staff to return with a contract to commence design for Contract 1 of the Phase 4 Feather River levee improvements.</td>
</tr>
<tr>
<td>Establish a Financial Review Committee (FRC) composed of the Auditor-Collector, Treasurer-Tax Collector, Assistant County Administrator, Public Works Director, TRLIA Executive Director and TRLIA Program Manager to review all financial matters, and if there is disagreement within the FRC all three Boards would need to concur with the recommended action.</td>
<td>Direct staff to provide frequent updates to the TRLIA Board of Directors concerning the completion of the comprehensive financing plan and issues related to the completion of the levee improvements program.</td>
</tr>
</tbody>
</table>

The two key distinctions between these proposals were the process for informing the Board of the financial impact of contract decisions, and the rate of incurring expenses over the next several months.

Regarding the rate of incurring expenses, both of these proposals presumed design and environmental work being performed to ensure that construction of Phase 4 on the Feather River would be initiated in 2007 and completed in 2008. The difference regarding timing of expenses relates to the “burn rate,” or rate at which the expenses would be incurred by Three Rivers. The alternative option #2 proposal sought to minimize expenses until additional certainty existed on Phase 4 funding, while still allowing construction to be completed by 2008. In contrast, the Landowner proposal sought to continue to aggressively pursue Phase 4 design so as to reduce the risk of later project delays and costs associated with those delays. The following table demonstrates the key financial differences between the two proposals:

<table>
<thead>
<tr>
<th>Alternative Option #2</th>
<th>Landowner Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs postponed to the future by combination of (i) slowing work already under contract (and already included in table of project expenses), and (ii) delaying award of design contract for Feather River</td>
<td>Approximately $300,000</td>
</tr>
</tbody>
</table>
This difference in costs shifted to the future could be more than offset by negotiations with the East Linda landowners since March 7, 2006, which are expected to increase project revenue by more than $3 million.

As a separate issue, new information has been discovered that identifies the two-month pre-construction costs "burn rate" for design work on Phase 4 Feather River from March 1, 2006 through May 31, 2006 as $720,000, not the $350,000 to $400,000 that was presented at the March 7, 2006 Board meeting. However, maintaining the pace of the current Phase 4 Feather River effort (under the landowner proposal) versus slowing down the pace (under alternative option #2) is still estimated as representing a difference of $300,000.

In addition to note is the heightened awareness of flood control problems in the Sacramento region creates a potential supply issue for qualified engineering and other technical staff. Consequently, projects that exhibit an ebb and flow of staff due to financial considerations can adversely affect the ability to retain quality consulting staffing through the duration of a project.
March 14, 2006

TO: Three Rivers Levee Improvement Authority Board
FROM: Ric Reinhardt, Program Manager
SUBJECT: Consider Contractual Agreement with The Handen Company, Inc. for Construction Management Efforts for TRLIA Construction Program

Recommended Action

Approve a contract with The Handen Company, Inc. for a Construction Project Manager for the TRLIA Construction Program. The specific contract terms are detailed in the attached document (i.e., the contract document).

Discussion

The TRLIA Board has approved an organizational structure which includes a Construction Project Manager to oversee TRLIA construction activities. Applications were received and interviews held with several qualified applicants. Douglas Handen of The Handen Company, Inc. has been recommended for this position. The TRLIA Board is asked to approve a contract with The Handen Company Inc. for Construction Management efforts through December 31, 2006. The contract is flat and materials, not to exceed, $107,200. The attached document provides the contract details.

Fiscal Impact

This new contract is for services through December 31, 2006 on a time-and-expenses basis, to a maximum amount not exceeding $107,200 without prior authorization by TRLIA.
AGREEMENT FOR
PROFESSIONAL SERVICES

THIS AGREEMENT for Consulting services ("Agreement") is made as of the
Agreement Date set forth below by and between the THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY of Yuba, a political subdivision of the State of California ("the
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY"), and The Haselden Company, Inc.
("CONTRACTOR").

In consideration of the Services to be rendered, the sums to be paid, and each and every
covenant and condition contained herein, the parties hereto agree as follows:

OPERATIVE PROVISIONS

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A",
Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner

2. TERM.

Commencement Date: March 7, 2006

Termination Date: December 31, 2006

Notwithstanding the term set forth above, and unless this contract is terminated by either
party prior to its termination date, the term of this Agreement shall be automatically extended
from the termination date for ninety days. The purpose of this automatic extension is to allow
for continuation of services, and to allow THREE RIVERS LEVEE IMPROVEMENT
AUTHORITY time in which to complete a novation or renewal contract for CONTRACTOR
and THREE RIVERS LEVEE IMPROVEMENT AUTHORITY approval.

CONTRACTOR understands and agrees that there is no representation, implication, or
understanding that the services provided by CONTRACTOR pursuant to this Agreement will be
purchased by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY under a new
agreement following expiration or termination of this Agreement, and CONTRACTOR waives
all rights or claims to notice or hearing respecting any failure to continue purchase of all or any
such services from CONTRACTOR.
3. PAYMENT.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billings for said services to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY in the manner specified in Attachment "B".

4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, unless an exception to this requirement is provided in Attachment "A", Provision A-4.

5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

7. DESIGNATED REPRESENTATIVES.

Charles K. McClain, Executive Director, is the representative of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and will administer this Agreement for the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. Douglas J. Handen, President, is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - Additional Provisions
- Attachment D - General Provisions
9. TERMINATION. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and CONTRACTOR shall each have the right to terminate this Agreement upon 30 days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ________________, 2006.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY OF YUBA

__________________________
Chairman

Douglas J. Handen, President
The Handen Company, Inc.

ATTEST:
DONNA STOTTMeyer,
SECRETARY

APPROVED AS TO FORM:
DANIEL G. MONTGOMERY
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY COUNSEL

__________________________
Deputy
ATTACHMENT A

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

See Appendix

A.2. TIME SERVICES RENDERED.

Services shall be rendered from the date of execution of this contract until December 31, 2006.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

CONTRACTOR shall, at its/her sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
APPENDIX

SCOPE OF WORK

Services Provided - Project Management Consulting:

1. Attend weekly management meetings
2. Participate in weekly construction meetings
3. Participate in weekly design meeting/conference calls
4. Conduct regular site visits to current projects
5. Conduct site visits to future project sites
6. Coordinate with Construction Management team and Contractors
7. Provide contract oversight
8. Review and process contract change orders
9. Assist in the preparation of future bid and contract documents
10. Track construction schedules
11. Prepare staff reports and make presentations to the TRLIA Board as necessary

Fee and Payment:

The above referenced services shall be billed monthly at the following rates.

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$135/hour</td>
</tr>
<tr>
<td>Support Staff</td>
<td>$60/hour</td>
</tr>
<tr>
<td>Transportation</td>
<td>$0.445/mile</td>
</tr>
</tbody>
</table>

Budget

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 principal hours/week @ $135/hr</td>
<td>$3,375</td>
</tr>
<tr>
<td>5 hours/week staff @ $60/hr</td>
<td>$300</td>
</tr>
<tr>
<td>Expenses/week</td>
<td>$125</td>
</tr>
</tbody>
</table>

Total $3,800/week

Attachment A – Page 2 of 2.
ATTACHMENT B

PAYMENT

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay CONTRACTOR as follows:

B.1 BASE CONTRACT FEE. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay CONTRACTOR a contract fee not to exceed $167,200; CONTRACTOR shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. In no event shall total compensation paid to CONTRACTOR under this Provision B.1 exceed $167,200 without an amendment to this Agreement approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

B.2 TRAVEL COSTS. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall not pay CONTRACTOR for meals, lodging or other travel costs not included in this Agreement unless said costs are approved in advance by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY representative (Operative Provision 7) and then THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay THREE RIVERS LEVEE IMPROVEMENT AUTHORITY per diem rates in effect on the date of invoice upon presentation of invoices.

B.3 AUTHORIZATION REQUIRED. Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid for by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. Payment for additional services shall be made to CONTRACTOR by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY if, and only if, this Agreement is amended by both parties in advance of performing additional services.
ATTACHMENT C

OTHER TERMS

See Appendix
ATTACHMENT D

GENERAL PROVISIONS

D.1 INDEPENDENT CONTRACTOR STATUS. At all times during the term of this Agreement, the following apply:

D.1.1 All acts of CONTRACTOR shall be performed as an independent contractor and not as an agent, officer or employee of THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. It is understood by both CONTRACTOR and THREE RIVERS LEVEE IMPROVEMENT AUTHORITY that this Agreement is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

D.1.2 CONTRACTOR shall have no claim against THREE RIVERS LEVEE IMPROVEMENT AUTHORITY for employee rights or benefits, including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

D.1.3 CONTRACTOR is solely obligated to pay all applicable taxes, deductions and other obligations, including, but not limited to, federal and state income taxes, withholding and Social Security taxes, unemployment and disability insurance and Workers’ Compensation and Medi-Care payments.

D.1.4 As an independent contractor, CONTRACTOR is not subject to the direction and control of THREE RIVERS LEVEE IMPROVEMENT AUTHORITY except as to the final result contracted for under this Agreement. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY may not require CONTRACTOR to change its manner of doing business, but may require it to redirect its efforts to accomplish what it has agreed to do.

D.1.5 CONTRACTOR may provide services to others during the same period service is provided to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY under this Agreement.

D.1.6 If in the performance of this Agreement any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision and control of CONTRACTOR. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the CONTRACTOR.
D.2 LICENSES, PERMITS, ETC. CONTRACTOR represents and warrants to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed. Failure of the CONTRACTOR to comply with this provision shall authorize the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY to immediately terminate this agreement notwithstanding Operative Provision No. 9.

D.3 TIME. CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR'S obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

D.4 INSURANCE. Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR or its subcontractors shall acquire and maintain during the term of this Agreement, insurance coverage, through and with an insurer acceptable to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, naming the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and any related agency governed by the Board of Supervisors which is letting the contract or for whom the services under the contract are being provided, and THREE RIVERS LEVEE IMPROVEMENT AUTHORITY'S, or related agency's, officials, employees, and volunteers as additional insured, (hereinafter referred to as "the insurance"). The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

D.4.1 TERM. Policies of insurance shall be in effect during the term of this Agreement and shall provide that they may not be canceled without first providing THREE RIVERS LEVEE IMPROVEMENT AUTHORITY with thirty (30) days written notice of such intended cancellation. If CONTRACTOR fails to maintain the insurance provided herein, THREE RIVERS LEVEE IMPROVEMENT AUTHORITY may secure such insurance and deduct the cost thereof from any funds owing to CONTRACTOR.

D.4.2 MINIMUM SCOPE OF INSURANCE. CONTRACTOR shall procure insurance covering general liability, automobile liability, and workers' compensation. Coverage shall be at least as broad as:
(a) Insurance Services Office (ISO) Commercial General Liability Occurrence form number CG 0001 or equivalent ISO form. A non-ISO form must be reviewed and approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Risk Manager prior to acceptance of the Agreement.

(b) Insurance Services Office Business Auto Coverage form number CA 0001 0127 covering Automobile Liability, code 1 "any auto" and Endorsement CA 0029.

(c) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

(d) If this Agreement is for the provision of professional services, Professional Errors and Omissions Liability Insurance, with a coverage form subject to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY approval.

D.4.3 OTHER INSURANCE PROVISIONS. The policies are to contain, or be endorsed to contain the following provisions:

(a) General Liability and Automobile Liability Coverages.

(i) The THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and the public entity awarding the contract if other than the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, and their officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, leased, occupied, or used by the CONTRACTOR; or automobiles owned, leased, hired, or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees or volunteers.

(ii) The CONTRACTOR'S insurance coverage shall be primary insurance as respects the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers and any

Attachment D – Page 3 of 12.
other insureds under this Agreement. Any insurance or self-insurance maintained by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers or other insureds shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.

(iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers or other insureds under this Agreement.

(iv) The insurance policy required by this clause shall be endorsed to state that the CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(b) Worker’s Compensation and Employers Liability Coverage
The insurer shall agree to waive all rights of subrogation against the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers or other insureds under this Agreement.

(c) All Risks. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

D.4.4 ACCEPTABILITY OF INSURERS. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII.

D.4.5 MINIMUM LIMITS OF INSURANCE. CONTRACTOR shall maintain limits no less than:

(a) Commercial General Liability: One Million Dollars ($1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply

Attachment D – Page 4 of 12.
separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: $1,000,000 combined single limit per accident for bodily injury or property damage.

(c) Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars ($1,000,000) per accident.

(d) Professional Errors and Omissions Liability (if required): Policy limits of not less than One Million Dollars ($1,000,000) per incident and One Million Dollars ($1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars ($2,500). Coverage may be made on a claims-made basis with a "Retro Date" either prior to the date of the Agreement or the beginning of the Agreement services. If claims-made, coverage must extend to a minimum of twelve months beyond completion of the services. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a "Retro Date" prior to the Agreement effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of twelve (12) months after completion of services.

D.4.6 SUBCONTRACTORS. In addition to the above policies, if CONTRACTOR hires a subcontractor under this Agreement CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. If CONTRACTOR requires subcontractors to provide insurance coverage, then CONTRACTOR shall be named as an additional insured under such policy or policies.

D.4.7 DEDUCTIBLES AND SELF-INSURED RETENTIONS. Except as otherwise provided in this Agreement, any deductibles or self-insured retentions must be declared to and approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. At the option of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY either the insureds shall reduce or eliminate such deductibles or self-insured retentions as respects the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers; or, the
CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D.4.8 VERIFICATION OF COVERAGE.

(a) CONTRACTOR shall furnish THREE RIVERS LEVEE IMPROVEMENT AUTHORITY with Certificates of Insurance and with original endorsements effecting coverage required by this clause. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) and endorsement(s) are to be on forms provided by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY or on forms received and approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY before work commences. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY reserves the right to require complete, certified copies of all required insurance policies at any time.

(b) CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance and endorsement(s) to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, THREE RIVERS LEVEE IMPROVEMENT AUTHORITY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of time sufficient to cover the term of the Agreement, including THREE RIVERS LEVEE IMPROVEMENT AUTHORITY'S acceptance of CONTRACTOR'S work. It is understood and agreed that thirty (30) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY certificate(s) and endorsement(s) evidencing a renewal or new policy to take the place of the policy expiring.

0.5 INDEMNITY. CONTRACTOR shall defend, indemnify, and hold harmless THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise

Attachment D – Page 6 of 17.
from the intentional or negligent acts or omissions of CONTRACTOR in the performance of services rendered under this Agreement by CONTRACTOR, or any of CONTRACTOR's officers, agents, employees, contractors, or subcontractors.

D.6 CONTRACTOR NOT AGENT. Except as THREE RIVERS LEVEE IMPROVEMENT AUTHORITY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of THREE RIVERS LEVEE IMPROVEMENT AUTHORITY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind THREE RIVERS LEVEE IMPROVEMENT AUTHORITY to any obligation whatsoever.

D.7 ASSIGNMENT PROHIBITED. CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

D.8 PERSONNEL. CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of its desire for removal of such person or persons.

D.9 STANDARD OF PERFORMANCE. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in CONTRACTOR'S profession.

D.10 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code, §107. For all purposes of compliance by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Assessor and the contracting parties hereto. A taxiable possessory interest may be created by this contract; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.
D.11 TAXES. CONTRACTOR hereby grants to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY the authority to deduct from any payments to CONTRACTOR any THREE RIVERS LEVEE IMPROVEMENT AUTHORITY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

D.12 TERMINATION. Upon termination of this Agreement as otherwise provided herein, CONTRACTOR shall immediately cease rendering service upon the termination date and the following shall apply:

D.12.1 CONTRACTOR shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

D.12.2 THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall have full ownership and control of all such writings or other communications delivered by CONTRACTOR pursuant to this Agreement.

D.12.3 THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY as work accomplished to date; provided, however, THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY such financial information as in the judgment of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall be final. The foregoing is cumulative and does not affect any right or remedy which THREE RIVERS LEVEE IMPROVEMENT AUTHORITY may have in law or equity.

CONTRACTOR may terminate its services under this Agreement upon thirty (30) days written notice to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

D.13 NON-DISCRIMINATION. Throughout the duration of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR.
or of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.14 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990. In addition to application of the non-discrimination provision of this Agreement, above, CONTRACTOR agrees to comply with all provisions of section 504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

D.15 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, and CONTRACTOR agrees to deliver reproducible copies of such documents to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY on completion of the services hereunder. The THREE RIVERS LEVEE IMPROVEMENT AUTHORITY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

D.16 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.17 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations,
conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

D.18 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.19 ATTORNEY'S FEES. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

D.20 CAPTIONS. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.21 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

D.21.1 NUMBER AND GENDER. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

D.21.2 MANDATORY AND PERMISSIVE. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

D.22 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement "term" shall include any extensions of such term.

D.23 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto,

shall be binding upon and inure to the benefit of such party, its successors and assigns.

D.24 MODIFICATION. No modification or waiver of any provision of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

D.25 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
D.26 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.27 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

D.28 JURISDICTION. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of Yuba, State of California.

D.29 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

D.30 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term a condition herein.

D.31 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.32 CONFLICT OF INTEREST. Neither a THREE RIVERS LEVEE IMPROVEMENT AUTHORITY employee whose position in THREE RIVERS LEVEE IMPROVEMENT AUTHORITY enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR herein, or have any other direct or indirect financial interest in this Agreement.

CONTRACTOR may be subject to the disclosure requirements of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY conflict of interest code if in a position to make decisions or influence decisions that could have an effect on the CONTRACTOR'S financial interest. The THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Administrator shall determine in writing if CONTRACTOR has been hired to perform a range of duties that is limited in scope.

Attachment D – Page 11 of 12.
and thus is not required to fully comply with the disclosure requirements described in the Yuba County Conflict of Interest Code.

D.38 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "THREE RIVERS LEVEE IMPROVEMENT AUTHORITY":
With a copy to:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Charles K. McClain, Executive Director
915 8th Street, Suite 115
Marysville, CA 95901

If to "CONTRACTOR":

The Handen Company, Inc.
Douglas J. Handen, President
3250 Monier Circle, Suite D
Rancho Cordova, CA 95742

Attachment D – Page 12 of 12.
March 15, 2006

TO: Board of Directors

FROM: Robert Bendlof, Executive Director

BY: Randy Margo, Deputy Executive Director

SUBJECT: Consider Approval of Advance Funding & Credit Agreement with Reynen & Bardsis Regarding Proposed Woodbury Specific Plan

Recommended Action

Approve the attached "Advance Levee Funding And Credit Agreement Regarding Proposed Woodbury Specific Plan."

Background

The Three Rivers Levee Improvement Authority has been implementing a levee improvement program for the Bear, Feather, and Yuba River Levees and the Western Pacific Interceptor Canal Levee. To date, that program has been funded by grants from the Department of Water Resources, Fish and Game, Yuba County Water Agency, and FEMA, monies raised through the creation of a Community Facilities District, and from funds advanced by landowners located primarily in the Plumas Lake area. Three Rivers, in conjunction with Yuba County, is developing a financing plan to raise the necessary funds to finish the program. As part of that effort, Yuba County will consider the creation of a further Community Facilities District and the adoption of a levee improvement impact fee.

Reynen and Bardsis is currently developing the Edgewater project in East Linda. As part of a dialogue between Three Rivers, the County, and Reynen and Bardsis on the possible imposition of a levee impact fee on the Edgewater project, Reynen and Bardsis has asserted that the County is legally precluded from imposing such a fee because of a pre-existing development agreement. However, in order to assist with the funding of the levee improvement program, which does provide a benefit to the Edgewater property, Reynen and Bardsis has agreed to provide funding which may be credited against a future project proposed by Reynen and Bardsis.

Discussion

The attached Agreement would be a three-way contract between Three Rivers, the County, and Reynen and Bardsis. Under the Agreement, Reynen and Bardsis would agree to fund $1 million for the Three Rivers levee improvement program, with payments to be made in equal installments over the next three months. In the future, if Reynen and Bardsis’ Woodbury project is approved by the County, this $1 million would be credited toward any levee improvement fees.
imposed on that project. If the Woodbury project is not approved, Three Rivers and the County are not obligated to return the funds.

Under the Agreement, the County also agrees to diligently process the Woodbury EIR and the project entitlements for Woodbury. However, the Agreement explicitly states that this commitment does not obligate the County to certify the Woodbury EIR or to approve the proposed project and does not constitute a waiver or delegation of any duty of the County or the Board of Supervisors with respect to any final decision regarding the Woodbury EIR or any facet of the proposed project. In addition, the Agreement confirms the existing relationship between Reymen and Bardis and the County in that Reymen and Bardis will fund all of the cost associated with such processing by the County.

**Fiscal Impact**

This Agreement has no cost implications, but does result in an additional $1 million of revenue for the Three Rivers Program.
ADVANCE LEVEE FUNDING AND CREDIT AGREEMENT
REGARDING PROPOSED WOODBURY SPECIFIC PLAN

THIS ADVANCE LEVEE FUNDING AND CREDIT AGREEMENT (the
"Agreement") dated as of Tuesday, March 15th, 2006 for convenience, is entered into by and
between the COUNTY OF YUBA, a political subdivision of the State of California (the
"County"), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers
authority providing levee improvements in southern Yuba County (the "TRILIA"), and RAB
LAND INVESTMENTS, LLC, a California limited liability company ("Reynen & Bardis"),
with respect to the following facts:

RECITALS:

A. Reynen & Bardis owns options to acquire certain real property (the "Property")
within the proposed Woodbury Specific Plan (the "Woodbury Specific Plan") which it intends
to acquire and develop. Such Property is described in Exhibit A-1 and shown on Exhibit A-2,
which are attached hereto and made a part hereof.

B. Reynen & Bardis has submitted an application with the County for certain land
use entitlements related to its planned development of the Property, including preparation of an
Environmental Impact Report (the "Woodbury EIR") and approval of a general plan
amendment, the Woodbury Specific Plan, rezoning, financing plan, and large-lot and small-lot
tentative subdivision maps for the Property (collectively, the "Proposed Entitlements").

C. TRILIA is currently in the process of designing and installing improvements to the
overall levee system for southern Yuba County, which improvements will benefit the Property
and other property within the County (the "Levee Improvement Area"). TRILIA has completed
Phase 1 of its levee improvement program and is in the process of completing construction of
Phases 2 and 3 thereof. As the next step in this program, TRILIA will soon begin the design for
Phase 4 of its levee improvement program. TRILIA believes it has identified adequate funding to
complete Phases 2 and 3. TRILIA, in cooperation with County, is in the process of developing a
funding source to fund the design and implementation of Phase 4 of its levee improvement
program. However, TRILIA needs additional funding to continue the Phase 4 program in
advance of, and in conjunction with, funds to be provided by the levee improvement financing
plan being developed by TRILIA and the County to be imposed against developing properties
within the Levee Improvement Area (the "Levee Improvement Financing Plan").

D. Reynen & Bardis is willing to advance $1.0 million for Phase 4 of TRILIA's levee
improvement program (including design, engineering, environmental, and related overhead)
subject to County committing to diligently process the Proposed Entitlements and providing
credits against any levee improvement fee, special tax, assessment or other such charge
collectively, a "Levee Fee") that may be imposed against development of the Property as part
of TRILIA's Levee Improvement Financing Plan.

E. County is willing, subject to the limitations contained herein, to agree to diligently
process the Woodbury EIR and Proposed Entitlements and to provide credits for the advance
funding against any Levee Fee that may be adopted by the County and imposed against the
Property, in accordance with the terms and conditions of this Agreement.

[Signature]
AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Advance Funding for Phase 4 Levee Program. Use of Funds by TRLIA.

(a) Reymen & Bardus shall advance to TRLIA the sum of One Million Dollars ($1,000,000.00) which funds shall be used by TRLIA solely for TRLIA's levee improvement program (including design, engineering, environmental, and related overhead). TRLIA use of the funds shall be limited to those costs associated with the levee improvement program on the Yuba River levees, and shall not be used for costs uniquely associated with the levee improvement program on the Feather River levees.

(b) Reymen & Bardus shall provide the funds to TRLIA on the following schedule: (i) $333,333 15 days following of execution of this Agreement by all parties; (ii) 333,333 30 days following the date of the first payment; and (iii) 333,334 30 days following the date of the second payment.

3. Diligent Processing No. Covenant to Agree. In consideration of this advance funding by Reymen & Bardus, the County shall use good faith diligent efforts to process the Woodbury EIR and the Proposed Entitlements consistent with a processing schedule to be developed by the parties. For purposes thereof, the County will dedicate appropriate staffing to process, prepare and schedule for consideration, consistent with the Processing Schedule, the Woodbury EIR and application for the Proposed Entitlements submitted for the Property by Reymen & Bardus. The County's obligation to timely process the application shall be contingent on Reymen & Bardus timely providing the information and plans, and timely responding to the County's requests for additional information and plans, consistent with the processing schedule. The County's diligent processing shall also be contingent on Reymen & Bardus timely paying to the County the funds required to cover the County's costs incurred or paid to process the Woodbury EIR and the Proposed Entitlements. The County's good faith efforts under this section shall be measured in light of the County's available resources, and shall be subject to the County's determination, in its sole discretion, of the appropriate allocation of those resources to all issues to be considered by the County in light of the health and safety needs of the residents of Yuba County.

Notwithstanding the County's covenant to diligently process the application consistent with the Processing Schedule, this commitment does not obligate the County to certify the Woodbury EIR or to approve the Proposed Entitlements and does not constitute a waiver or delegation of any duty of the County or the Board of Supervisors with respect to any final decision regarding the Woodbury EIR or any of the Proposed Entitlements.

4. Credits for Advance Funding. If the Proposed Entitlements, or any other land use entitlements permitting development of the Property are approved by the County, and if the County adopts a Levee Fee that would be required to be paid upon development of the Property, then, the County shall apply the $1,000,000 advanced heretofore by Reymen & Bardus as a credit against the Levee Fee for the benefit of the Property. The credit shall be applied against the full
amount of the Levee Fee, including any amount for administration thereof, until exhausted. The credit shall apply solely with respect to the Property and may be assigned by Reynen & Bardis only to the owners or subsequent purchasers of the Property, or portions thereof. Reynen & Bardis shall have no right to assign these credits to any other landowner, developer, or property unless approved in writing by the County, in the County’s sole discretion. If the Levee Fee is adopted in the form of a special tax or assessment, then this credit shall be applied to reduce the amount of the special tax or assessment otherwise payable by the Property.

5. **No Reimbursement.** Reynen & Bardis acknowledges that no reimbursement of any portion of the amount advanced hereunder shall be due or payable to Reynen & Bardis from the County or TRIIA, whether or not the Proposed Entitlement or any other entitlements are approved for the Property and whether or not the County adopts a Levee Fee that requires payment of any Levee Fee by the Property upon development thereof. Furthermore, Reynen & Bardis acknowledges that no reimbursement shall be due or payable if the amount advanced hereunder exceeds the amount of the Levee Fee imposed against the Property.

6. **Notices.** Any notice to be provided pursuant to this Agreement shall be delivered to the following addresses:

**Reynen & Bardis:**
R&B Land Investments, LLC
10630 Mather Boulevard
Mather, CA 95655
Attention: Randy Collins

**County:**
Yuba County
915 Eighth Street, Suite 115
Marysville, CA 95901
Attention: County Administrative Office

**TRILIA:**
Executive Director
Three Rivers Levee Improvement Authority
County of Yuba Government Center
915 Eighth Street, Suite 115
Marysville, California 95901-5273

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

7. **Assignment.** Except as provided in Paragraph 4 above regarding the limited right to assign any Levee Fee credits, Reynen & Bardis may not assign any other rights or interests in this Agreement without the prior written consent of the County.

8. **Severability.** Each provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement, so long as the provisions determined to be illegal or invalid do not materially alter the essential terms of this Agreement.
9. Entire Agreement. This Agreement (including all Exhibits attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be amended or terminated except by written instrument signed by both parties.

10. Attorney Fees. In the event any action is initiated by either party seeking to enforce any of the terms or provisions of this Agreement, the prevailing party in such action shall be entitled to an award of its reasonable attorneys' fees and costs from the other party hereof.

11. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

12. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the County, TRUA, and Reynan & Bardis, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13. Termination. This Agreement shall terminate and Reynan & Bardis shall have no further rights under section 4 on the tenth (10th) anniversary of the date of this Agreement unless expressly amended by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

COUNTY OF YUBA, a political subdivision of the State of California

By: ____________________________
Name: _________________________
Title: __________________________
Attest: _________________________

By: ____________________________
Name: _________________________
Title: __________________________

Clerk of the Board

Approved as to form: ____________________________

BY: ____________________________

County Counsel

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority of the State of California

By: ____________________________
Name: _________________________
Title: __________________________

Attest: _________________________

Clerk of the Board

Approved as to form: ____________________________

General Counsel

R&B LAND INVESTMENTS, LLC,
a California limited liability company
EXHIBITS:

Exhibit "A-1" - Legal Description of Property
Exhibit "A-2" - Map of Property
EXHIBIT "A-1"

All that certain real property situated in the County of Yuba, State of California, being a portion of sections 2, 3, 4, 9 and 10 of Township 14 North, Range 4 East and a portion of Sections 32, 33, 34 and 35 of Township 15 North, Range 4 East, M.D.M., described as follows:

Commencing at Northwest corner of said Section 33, Township 15 North, Range 4 East, thence North 88°36'22" East along the North line of said Section 33, and the centerline of a county road known as Little Road, a distance of 233.02 feet to the TRUE POINT OF BEGINNING of the hereinafter described parcel of land; thence from said True Point of Beginning continuing along said Section line, Course No. 1, North 88°36'22" East 924.08 feet; thence leaving said section line along the centerline of an existing drainage ditch the following courses: Course No. 2, South 31°03'18" East 387.44 feet; thence Course No. 3, South 54°04'28" East 64.77 feet; thence Course No. 4, South 81°40'48" East 266.52 feet; thence Course No. 5, North 00°03'57" East 228.14 feet; thence Course No. 6, North 07°08'17" East 107.96 feet; thence Course No. 7, North 27°47'47" East 113.94 feet; thence Course No. 8, North 04°25'47" East 160.64 feet to a point on the North line of said Section 33; thence Course No. 9, North 88°36'22" East along said North line of Section 33, a distance of 792.72 feet to the North one-quarter corner of said Section 33; thence continuing along said Section line, Course No. 10, North 88°29'49" East 625.06 feet; thence leaving said Section line, Course No. 11, South 00°33'42" East 710.10 feet; thence Course No. 12, North 88°29'49" East 666.00 feet; thence Course No. 13, North 00°33'42" West 399.10 feet; thence Course No. 14, South 88°29'49" West 32.00 feet; thence Course No. 15, North 00°33'42" West 15.00 feet; thence Course No. 16, North 88°29'49" West 32.00 feet; thence Course No. 17, South 00°33'42" West 298.60 feet to a point on the North line of said Section 33; thence along said Section line, Course No. 18, North 88°29'49" East 1367.85 feet to the Northeast corner of said Section 33; thence Course No. 19, South 00°26'11" East along the East line of said Section 33, a distance of 1325.34 feet; thence Course No. 20, North 88°32'24" East 2641.43 feet; thence Course No. 21, South 00°08'21" East 2641.00 feet; thence Course No. 22, North 88°29'57" East 1324.68 feet; thence Course No. 23, South 00°06'28" East 1322.42 feet to the North line of said Section 3; thence along the North line of Sections 3 and 2, Course No. 24, North 88°25'36" East 2631.88 feet, more or less, to a point in the center of a county road; thence Course No. 25, South 23°38'10" East along the centerline of said county road a distance of 32.37 feet; thence leaving said county road westerly along a line 30 feet distant measured at right angles southerly of said section line, Course No. 26, South 88°25'36" West 2644.80 feet; thence Course No. 27, South 00°30'30" East 1223.87 feet; thence Course No. 28, South 88°09'19" West 1369.08 feet; thence Course No. 29, North 01°55'19" East 1276.25 feet in the North one-quarter corner of said Section 3; thence along the North line of said Section 3, Course No. 30, North 88°30'36" West 2626.84 feet to the Northwest corner of said Section 3;
thence along West line of said Section 3, Course No. 31, South 02°01'14" West 2992.46 feet to the West one-quarter corner of said Section 3; thence Course No. 32, North 88°27'01" East 1314.08 feet; thence Course No. 33, South 00°17'11" East 2672.02 feet; thence Course No. 34, South 87°48'11" West 2216.85 feet; thence Course No. 35, North 07°48'59" East 780.27 feet; thence Course No. 36, South 88°21'43" West 515.47 feet; thence Course No. 37, South 01°19'55" West 744.28 feet; thence Course No. 38, South 28°18'04" West 56.96 feet; thence Course No. 39, North 48°23'48" West 320.34 feet to the beginning of a curve concave to the Northeast, having a radius of 5355.00 feet, through a central angle of 14°10'17"; the chord of which bears North 41°20'39" West 1365.53 feet; thence Course No. 40, on the arc of said curve a distance of 1369.00 feet; thence Course No. 41, North 55°44'29" East 80.59 feet; thence Course No. 42, North 00°42'36" East 2356.72 feet; thence Course No. 43, North 48°45'07" West 150.19 feet; thence Course No. 44, North 68°39'33" West 68.65 feet; thence Course No. 45, South 88°19'41" West 1492.25 feet; thence Course No. 46, North 65°53'47" West 38.55 feet; thence Course No. 47, North 33°36'44" West 1385.36 feet; thence Course No. 48, North 01°46'07" West 207.90 feet; thence Course No. 49, North 33°37'28" West 350.71 feet; thence Course No. 50, North 00°07'15" East 779.58 feet to the Northwest corner of said Section 4, Township 14 North, Range 4 East; thence Westerly along the Section line between Section 5, T., 14 N., R. 4 E., and Section 32, T. 15 N., R. 4 E., Course No. 51, South 88°41'17" West 525.72 feet; thence leaving said Section Line, Course No. 52, North 33°37'26" West 114.68 feet; thence Course No. 53, North 52°47'58" West 264.46 feet; thence Course No. 54, North 33°37'28" West 2380.84 feet; thence Course No. 55, North 01°28'14" West 238.63 feet; thence Course No. 56, North 88°31'46" East 1942.18 feet; thence Course No. 57, South 01°28'14" East 50.00 feet; thence Course No. 58, North 88°32'39" East 400.00 feet; thence Course No. 59, North 00°43'07" West 2805.48 feet to the point of beginning containing 1694.76 acres.
March 15, 2006

TO: Three Rivers Levee Improvement Authority Board
FROM: Ric Reinhardt, Program Manager
SUBJECT: Consider Contractual Agreement with Nordic Industries, Inc. for Construction of the Embankment of the Phase 3 Bear River Sedbock Levee.

Recommended Action

Recommend the Executive Director be authorized to execute a contract in the amount of $10,476,680 with Nordic Industries, Inc. for the construction of the Bear River Sedbock Levee embankment once the appropriate bonding documents have been provided and approved.

Discussion

Bids were received for construction of the Bear River Sedbock Levee embankment on February 14, 2006. This is the second element of the Phase 3 component of the levee remediation program and completes Phase 3 work initiated in 2005. Four contractors submitted bids. A memorandum from GHI Consultants, the design consultant for this portion of the project, presenting evaluations of the bids is attached. Nordic Industries, Inc. is the apparent lowest responsive, responsible bidder and award of the contract to Nordic is recommended. The award amount is for the base bid, which assumes simultaneous degradation of the existing levee while the new levee is being constructed. Staff is working with the California Reclamation Board and the Corps of Engineers to reach agreement on the simultaneous degradation. Work on this contract is expected to occur from April through October of 2006.

Fiscal Impact

The contract price is below the budgeted amount for this item. Sufficient funds currently exist to cover the cost of this bid.
Memo

To: Ani Bhattacharyya
From: Alberto Pueli

Date: March 9, 2006

Subject: Review of Proposals for Bear River Sediment Levee Construction Contract PHS-2005-06-02

Bid proposals were received for the subject contract on February 22, 2006 from the following pre-qualified bidders:

- Nordic Industrial, Inc., Marysville, CA
- Envirotec, Inc., Sacramento, CA
- Ebyler Field, Inc., Fallon, CA
- Ford Construction Company, Lodi, CA

A bid tabulation is attached. The apparent lowest responsive, responsible bidder is Nordic Industries, Inc. (Nordic). Our review of the bids did not reveal any reasons for awarding the contract to any firm other than the apparent lowest responsive, responsible bidder. Therefore, we recommend that TRU proceed to award the subject contract to Nordic.

Nordic's schedule shows completion of the initial one-third of the levee embankment over a four-week period (May 22 to June 21). A six-day, double-shift, operation would be required. This extremely aggressive schedule is in part driven by an anticipated Notice-to-Furnish (NTF) date of no later than April 12, 2004 and a completion milestone for this portion of the embankment of June 21, 2006. This schedule is believed that the duration of this initial embankment construction activity is too short, particularly at the beginning of earthwork operations. We recommend that measures be adopted to extend the duration of this activity, and allow the schedule to withstand some flexibility for recovery should unanticipated difficulties be encountered. Unanticipated difficulties could include weather-related rain delays, additional archaeological finds, foundation issues, and inspections and difficulties meeting embankment material specifications. The issue was discussed in a March 5, 2006 pre-award meeting attended by TRU, Nordic and B-EEAI.

A willingness was expressed by the three parties to address this issue. Measures that were discussed and will be considered to extend the duration of construction of the first one-third of embankments include:

- Providing NTF to Nordic on March 27, 2004, instead of April 10. The NTF date, originally planned for March 27, was postponed to April 10, 2004 via Addendum 4 due to concern that the Section 9061 Department of Fish and Game permit and the Section 106 State Historical Preservation Office consultation (and thus the Corps of Engineers Section 404 permit) will not be issued until April. However, based on our review of the Nordic's bid schedule, we believe that the early work by Nordic will be covered by the Stage 1 permits and up-frontness (which includes preparation and acquisition of the determination basis). Therefore, it is the team's opinion that Nordic can proceed with the early work subject to the restrictions already described in the contract documents.
• Delaying the embankment milestone date by one week from June 21 to June 30, 2008: it was agreed that the one-week delay in the initial embankment milestone will be considered post contract award.

• Allowing embankment placement on portions of the levee footprint while the foundation in being prepared in other portions of the footprint: it was agreed that a modification of the embankment sequencing specification will be considered post contract award.

B-EAME recommends that the duration of the first one-sided of embankment construction be extended from four to eight weeks to enable single-shift construction. A double shift could be started if needed to recover schedule.
THREE RIVERS LEVEL IMPROVEMENT AUTHORITY

MINUTES - BOARD OF DIRECTORS

FEBRUARY 14, 2006

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Grego, and Richard Webb. Director Dan Logue was absent. Also present were Executive Director Kent McClain, Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stuttlemeyer. Chairman Webb presided.

ACTION ITEMS

A. Pump Station Number 6 Capacity: Program Manager Ric Reinhardt pulled the matter from consideration.

B. HDR Engineering Inc.: Phase 4: Following presentation from Program Manager Rick Reinhardt, upon motion of Director Grego, seconded by Director Brown, and carried with Director Logue being absent, the Board approved a contract amendment in the amount of $118,935 with HDR Engineering Inc. for Phase 4/Yuba River Construction and authorized the Chairman to execute same.

C. Bender Rosenthal, Inc.: Phase 4 Right of Way: Following presentation from Program Manager Rick Reinhardt regarding contract negotiations, upon motion of Director Grego, seconded by Director Brown, and carried with Director Logue being absent, the Board approved a contract amendment in the amount of $397,878 with Bender Rosenthal, Inc. (BEI) for Phase 4/Yuba River Right of Way Acquisition services and authorized the Executive Director to execute amendment following review and approval of County Counsel.

D. Power Line Relocation: Following a brief report from Executive Director Kent McClain, upon motion of Director Grego, seconded by Director Brown, and carried with Director Logue being absent, the Board authorized the Executive Director to execute a contract and issue payment in the amount of $142,840 to Pacific Gas & Electric Company for relocation of power lines in the vicinity of the Bear River Slimback Levee.

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BOARD AND STAFF MEMBERS REPORTS

Reports were received on the following:

Director Griego:
- Setback requirements for development projects adjacent to levees
- Flood control legislation and funding

Program Manager Ric Reinhardt:
- Erosion control measures and compliance oversight with Envirocon Inc.

Right-of-Way Agent Bob Morrison:
- On-going negotiations regarding Raetz property proceedings

PUBLIC COMMUNICATIONS

No one came forward.

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 3:44 p.m. by Chairman Webb.

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Chairman

ATTEST: DONNA STOTLEMEYER
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

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Approved: ________________

2/14/06
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
MINUTES – BOARD OF DIRECTORS
FEBRUARY 21, 2006 – SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Griego, and Richard Webb. Director Dan Logee was absent. Also present were Executive Director Kent McClain, Counsel Daniel Montgomery, and Clerk of the Board of Supervisors Secretary Donna Stottlemeyer. Chairman Webb presided.

ACTION ITEM

Amendment/State of California: Following presentation by Executive Director Kent McClain and Board inquiries, upon motion of Director Griego, seconded by Director Brown, and carried with Director Logee being absent, the Board adopted Resolution 06-05, which is entitled: “RESOLUTION ACCEPTING AMENDMENT 2 TO THE DESIGN GRANT FROM THE STATE OF CALIFORNIA FOR PREPARATION OF DESIGN DOCUMENTS FOR PHASE 2 LEVEE IMPROVEMENTS,” and authorizing the Executive Director to execute documents upon review and approval of Counsel.

ADOPT RESOLUTION 06-05

CLOSED SESSION

The Board retired into closed session at 2:10 p.m. to discuss the following:

Personnel pursuant to Government Code §54957 – Public Appointment – Construction Project Manager

The Board returned from closed session at 2:46 p.m. with all Board and staff members present as indicated. There was no announcement from closed session.
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 2:46 p.m. by Chairman Webb.

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Chairman

ATTEST: DONNA STOTTLMEYER
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

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Approved: __________________________________
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES - BOARD OF DIRECTORS

FEBRUARY 28, 2006 - SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Dan Logue, Rick Brown, Mary Jane Greige, and Richard Webb. Director was absent. Also present were Executive Director Kent McClain, Chief Deputy Counsel Angel Montes-Jones, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

Executive Director Kent McClain advised closed session regarding threatened litigation was not needed for discussion.

ACTION ITEMS

Pump State & Funding Agreement: Following presentation from Special Counsel Scott Shortino and Public Works Director Kevin Mallon regarding negotiations and capacity logistics and Board inquiries, Chairman Webb continued the meeting to March 7, 2006.

CLOSED SESSION

The Board retired into closed session at 1:56 p.m. to discuss the following:

Personnel pursuant to Government Code §54957 - Public Appointment/Executive Director Interviews

The Board returned from closed session at 5:09 p.m. with all Board and staff members present as indicated above. There was no announcement.
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 5:09 p.m. by Chairman Webb.

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Chairman

ATTEST: DONNA STOTTLEMEYER
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

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Approved: ___________________