THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Yuba County Government Center, Board Chambers
915 Eighth Street, Suite 109A
Marysville, California

AUGUST 19, 2008 – 2:00 P.M.

I CALL TO ORDER

II ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, Dan Logue

III 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.

IV CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.

A. Approve minutes of the regular meeting of August 5, 2008.

V ACTION ITEMS

A Award contract amendment to Teichert Construction, apparent low bidder, for additional work on Phase 4 Feather River Set Back Levee Project, authorize Chair to execute upon review and approval of Counsel, and authorize Executive Director to take necessary actions to implement amendment and issue Notice to Proceed upon review and approval of Counsel.

B Approve agreement with River Partners, in the amount of $400,000, for elderberry relocation and maintenance, and authorize Executive Director to execute upon review and approval of Counsel.

C Approve Amendment No. 7 to the agreement with Bender Rosenthal, Inc., in the amount of $825,000, for right of way services and authorize Executive Director to execute upon review and approval of Counsel.

D Adopt an amended resolution declaring the public necessity for the taking of certain property for repair, construction, installation and maintenance of the Three Rivers Levee Improvement Project as it relates to APN 020-360-002 (Khang, Jourbee and True Y.).

VI BOARD AND STAFF MEMBERS’ REPORTS

VII ADJOURN

The complete agenda, including backup material, is available at the Yuba County Government Center, 915 8th Street, Suite 109, and the County Library at 303 Second Street, Marysville. Any disclosable public record related to an open session item on the agenda and distributed to all or a majority of the Board of Directors less than 72 hours prior to the meeting are available for public inspection at Suite 109 during normal business hours.

In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board's office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.
A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 3:34 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, and Mary Jane Griego. Director Dan Logue was absent. Also present were Executive Director Paul Brunner, Assistant Counsel Andrea P. Clark, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chair Griego presided.

PUBLIC COMMUNICATIONS

No one came forward.

CONSENT AGENDA

Minutes: Upon motion of Director Crippen, seconded by Director Brown, and carried with Director Logue being absent, the Board approved the minutes of the regular meeting of July 15, 2008, Budget Hearings of July 15, 2008, and special meeting of July 22, 2008, as written.

ACTION ITEMS

Manager Larry Dacus recapped engineering and design work required for certification of the Yuba River Levee and responded to Board inquiries.

Upon motion of Director Graham, seconded by Director Crippen, and carried with Director Logue being absent, the Board approved Amendment No. 5 with HDR Engineering in the amount of $954,524 for Phase 4 Yuba River Levee work and authorized the Executive Director to execute same.

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:
Financial Consultant Seth Werzel:
- Community Facilities District No. 2006-1 and 2006-2 tax reports for Fiscal Year 2008-2009
- Yuba County Levee Financing Authority and bond issuance

Executive Director Paul Brunner:
- Corps of Engineers tour of levees on July 31, 2008
- Public Scoping meeting on Environmental Impact Statement for Phase 4 Levee Permits on August 4, 2008
- Feather River Levee Segments 1 and 3 construction progress
- Olivehurst community event regarding outreach for levee improvements on August 2, 2008
- Levee construction report at State and September 18, 2008 tour by Board
- Financial status regarding advancement of funds from the State
- Fish and Game grant funding agreement executed
- Proposition IA grant application for Yuba River project and Feather River Segment 1 to be requested

CLOSED SESSION

The Board retired into closed session at 4:03 p.m. to discuss the following:


The Board returned from closed session at 4:28 p.m. with all Board and staff members present as indicated above.

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 4:28 p.m. by Chair Griego.
Chair

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

__________________________________ Approved: ____________________
August 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Doug Handen, Construction Manager
SUBJECT: Contract No. PH4-2007-08-02
         Phase 4 Feather River Set Back Levee Project
         Contract Amendment for Award of Additional Work.

Recommended Action:
Award to Teichert Construction a contract amendment for additional work to the current contract for the Feather River Levee Set Back Project. The additional work includes portions of Schedules B and C of the bid proposal, as modified. The recommended action shall authorize the TRLIA Chair to sign and the TRLIA Executive Director to take the necessary actions to implement the contract amendment and issue a Notice to Proceed (NTP) once General Counsel has reviewed and approved as a modification the existing contract for this project. The value of this contract amendment shall be $17,095,493.50.

Background:
TRLIA accepted bids for the Feather River Segment 2 (Levee Set Back Project) on October 12, 2007 in order to be prepared to immediately start work in anticipation of the State EIP funding agreement being executed. The bid documents for this project included bid schedules A through E as approved by the TRLIA Board on August 14, 2007. The bid schedules for this project are as follows:

Bid Schedule A- Contractor Compensation for Pre-Construction Activities
Bid Schedule B- Levee Foundation
Bid Schedule C- Levee and Pump Station Construction
Bid Schedule D- Degradation of Existing Levee
Bid Schedule E- Misc. Indefinite Quantity/Indefinite Delivery Pricing

Teichert Construction was the successful “low bidder” for these bid schedules and subsequently contracted for Schedule “A” in the amount of $67,200 on October 30, 2007 and Modified Schedule “B” (portions of Schedules “B” and “C”) in the amount of $24,964,729.50 on May 20, 2008. Teichert commenced work on Modified Schedule “B” on June 10, 2008 and has completed the following work to date:

- Clearing 160 acres
- Development of borrow sites 75 acres
- Inspection Trench 14,500 linear feet
- Soil Bentonite Cutoff Wall 207,000 square feet
At the time of the Award of Modified Schedule “B”, TRLIA did not award the entire bid schedules due to uncertainty in the following:

- The timing needed to complete the Federal permitting process (EIS, 408 approval, and 404 permit), which is still in progress and impacts approximately 20% of the Segment 2 levee improvement work (e.g. levee tie-ins)
- The timing for land acquisition of key portions of the levee Right of Way and borrow sites. (e.g. Naumes)

**Discussion:**

TRLIA has subsequently obtained greater certainty toward removing these obstacles and developed a strategy to complete the work included in Bid Schedules B and C in two more steps.

- The following are highlights of this strategy:
  - Obtain approval of the Biological Opinion for this project to allow work to commence in all locations not subject to 404 and 408 permits. This will allow for immediate work on a majority of the project with the exception of primarily the tie-ins to the existing levee.
  - Obtain access to Naumes property on October 2, 2008, following completion of crop harvest by Naumes.
  - Work on all portions of the levee not subject to 404/408 permits through the fall and winter as practical based on weather and site conditions.
  - Obtain 404/408 permits in the fall of 2008 to allow for the commencement of tie-in work as early as April 15, 2009 and completion as early as July 2009. This portion of the work will be included in a future award and contract modification (step 2)

- **Major components and schedules:**

<table>
<thead>
<tr>
<th>Description of work</th>
<th>Modified Schedule “B” (prior award)</th>
<th>Anticipated Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Levee Foundation preparation:</strong></td>
<td></td>
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<tr>
<td>Station ~ 21+00 to ~ 75+00</td>
<td>June-August 2008</td>
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<tr>
<td>Station ~ 118+40 to ~ 177-30</td>
<td>July-September 2008</td>
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<tr>
<td>Station ~ 177+30 to ~ 220-70 (Naumes)</td>
<td>October-November 2008</td>
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<tr>
<td>Station ~ 220+70 to ~ 239+00</td>
<td>August-winter shutdown</td>
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<tr>
<td>Station ~ 254+00 to ~ 285+30</td>
<td>August-October 2008</td>
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<tr>
<td><strong>Levee Embankment:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Station ~ 21+00 to ~ 75+00</td>
<td>August-October 2008</td>
<td></td>
</tr>
</tbody>
</table>
This Award (step 1) – Portions of Schedules “B” and “C” (proposed award)

Description of work

**Levee Foundation preparation:**
- Station ~ 91+50 to 118+40
  - August-November 2008
- Station ~ 239+00 to 254+00
  - August 2008 (no cutoff wall req’d)

**Levee Embankment:**
- Station ~ 91+50 to 285+00
  - September 2008-July 2009

Next Award (step 2) Balance of Schedules “B” and “C” (future award, tie-ins/permit related work)

Description of work

- Station ~ 0+00 to 21+00 (southern tie-in)
  - April-July 2009
- Station ~ 285+30 to 295+00 (northern tie-in)
  - April-July 2009
- Station ~ 75+00 to 91+50 (Hadley Property)
  - November 2008-July 2009

Proposed Award – step 1 cost information:

The contract pricing for the work included in the balance of the Schedule “B” and “C” are based on the bid unit pricing from the original bid, and includes cost increases related to the phasing and the delay in the start of the work vs. the schedule outlined in the bid documents. The original bid pricing for Schedules B and C were:

- Schedule B: $17,357,375
- Schedule C: $30,134,465
- Total: $47,471,840

Prior award = $24,964,729.50 (Modified Schedule “B”)
This award = $17,095,493.50 (This Award – step 1. Portions of Schedules “B” and “C”)

Current Total: $42,060,223
Estimated amount for step 2: $13,440,000

Anticipated total for Schedules B and C: $55,500,223

Approximately $5,000,000 of this cost increase is related to:
- DWR and Corp of Engineers Design Changes since the 60% plans and specifications
  - Quantity changes
  - New design components

The anticipated costs for Schedules “B” and “C” includes approximately $3,000,000 in additional costs related to:
Phasing and Delay costs: Mobilization, Fuel/Bentonite, Labor, Overhead

Additional comments on Future Costs:

TRLIA and Teichert shall utilize unit pricing as a basis when calculating the completion costs for the permit related work (Balance of Schedules B and C) and Schedule “D” (Degrade Existing Levee) work. TRLIA shall negotiate additional price increases due to the phasing and delay costs outlined above.

The total cost of the remaining work will be impacted based on the amount of phasing and the timing of the work which shall be dependent primarily on weather and market influences to fuel and other materials (e.g. Bentonite).

The cost increases discussed above would have occurred at equal or greater costs for all the contractors that bid on the project; thus Teichert is still the low bid. The additional funding for the possible increase level of work is currently proposed to come from the overall project program contingency that is currently at $9.5 million. The State has indicated that it may offset the cost of the design changes and fuel related expenses.

TRLIA reserves the right to award bid D as a TRLIA option, based on final pricing.

Fiscal Impact:
This project is fully funded as described in the State/TRLIA funding agreement.

Attachments:
1. Contract Amendment
2. Portions of Schedule B and C cost/quantity schedule exhibit
3. Site map with stationing
Phase 4 Feather River Setback Levee Project
Contract PH4-2007-08-02

Contract Addendum #1

The agreement for this project is hereby modified to include the work per the construction documents for this project known as the TRLIA Feather River Setback Levee project. The work shall be performed as per the attached Schedules "B" and "C" (Balance of Bid Schedules B and C) and as modified by executed change order to this agreement.

Contract Addendum Amount = $ 17,095,493.50

All other terms and conditions of the existing agreement shall remain.

By __________________________
Chair of the TRLIA Board of Directors

Date__________________________

Contractor:

Mark Stacy, VP Woodland District Mgr.

Date __________________________

Attest:

______________________________
Clerk of the TRLIA Board of Directors

Date __________________________

I hereby certify that I have examined the within contract and find the same to be in Conformance with the provisions of the State Contract Act.

______________________________
Scott Shapiro, General Counsel

Date__________________________

Attachment 1
### PHASE 4 FEATHER RIVER SETBACK LEVEE
#### ADDITIONAL SCHEDULE 'B' & 'C' WORK

<table>
<thead>
<tr>
<th>Bid Item Description</th>
<th>Mod Sch B Quantity</th>
<th>UOM</th>
<th>Total Quantity</th>
<th>Additional Quantity</th>
<th>Unit</th>
<th>Total</th>
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<td>Additional Moves Between Sections</td>
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<td>14780</td>
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Phase 4 Feather River Setback Levee Project
Contract PH4-2007-08-02

Contract Addendum #1

The agreement for this project is hereby modified to include the work per the construction documents for this project known as the TRLIA Feather River Setback Levee project. The work shall be performed as per the attached Schedules “B” and “C” (Balance of Bid Schedules B and C) and as modified by executed change order to this agreement.

Contract Addendum Amount = $17,095,493.50

All other terms and conditions of the existing agreement shall remain.

Contractor:

By ________________________
Chair of the TRLIA Board of Directors

Mark Stacy, VP Woodland District Mgr.

Date ________________________

Attest:

By ________________________
Clerk of the TRLIA Board of Directors

___________________________
Scott Shapiro, General Counsel

Date ________________________
August 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Anja Kelsey, Environmental Manager

SUBJECT: Agreement between River Partners and TRLIA for Feather River Setback Elderberry Relocations, Compliance and Long Term Maintenance

Recommended Action: Approve contract with River Partners, in the amount of $400,000, for the relocation, compliance with Service requirements, and long term maintenance of the Feather River setback elderberries. Authorize the Executive Director to sign and then execute contract upon review and approval by General Counsel.

Background:

The U.S. Fish and Wildlife Service (Service) in its draft Biological Opinion for the Feather River Levee Repair Project, Segment 2 setback has provided direction to TRLIA for the relocation of approximately 45 elderberries related to project activities. The draft BO, expected to become final this month, additionally provided compliance for mitigation associated with these elderberry relocations in the form of additional elderberry seedlings and what are collectively called associate plantings. For every elderberry relocated, TRLIA is being required to provide a 1:1 ratio of elderberry seedlings and a 1:1 ratio of associate plantings including cottonwoods, willows, and other native plants used to support the new habitats. However, due to the pressing need for TRLIA's construction contractor to finalize the new levee, some shrubs will need to be relocated early, yielding a 2.5:1 mitigation ratio. These shrubs are classified as Task 1 in this contract and are located in the central and north central areas within the new levee alignment.

TRLIA has previously contracted (June 17, 2008) with River Partners to develop a conceptual design plan for the Feather setback area. The proposed relocation site is north of Murphy Road and is currently part of this design plan. For all transplants, the Service requires a minimum of three years of maintenance and monitoring, which is identified in this contract as Tasks 3 and 4.

Discussion:

This contract is the result of mitigation requirements placed onto TRLIA by the Service and may be amended based on the actual number of elderberries found at the site. Presently, TRLIA's contractors have surveyed the shrubs, but in the southern portion of the alignment, thick blackberries and ground cover exist that may alter the total number of shrub transplants.

Fiscal Impact: The total cost of this mitigation requirement is estimated to be $400,000 over four years. This expense will be paid from mitigation funds contained within the Prop IE account.
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, a political subdivision of the State of California ("the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY"), and RIVER PARTNERS ("CONTRACTOR"), a California non-profit corporation.

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 specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

   Commencement Date: August 25, 2008
   Termination Date: October 31, 2011

   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. **GENERAL PROVISIONS.**

The general provisions set forth in Attachment "C" 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.

6. **DESIGNATED REPRESENTATIVES.**

Paul Brunner, Executive Director, is the representative of the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and will administer this Agreement for the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. John Carlon is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

7. **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 - General Provisions
8. 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.

Contractors are required by law to be licensed and regulated by the State Contractors License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within 4 years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, CA 95826.

CONTRACTORS LICENSE #: 858059, C-27

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _________________________, 2008.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

__________________________________________  ____________________________________________
Chairman                                     John Carlon, President

ATTEST:                                        APPROVED AS TO FORM:
DONNA STOTLLEMEYER,                            SCOTT L. SHAPIRO
CLERK OF THE BOARD                             THREE RIVERS LEVEE IMPROVEMENT

AUTHORITY COUNSEL

__________________________________________  ____________________________________________
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 Exhibit A.

A.2 TIME SERVICES RENDERED.

See Exhibit A.

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 his/her sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
EXHIBIT A

SCOPE OF SERVICES

GENERAL

River Partners shall remove, transplant, monitor and provide reports consistent with the 1999 USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle. River Partners will transplant elderberry shrubs identified by EDAW and approved by THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (TRLIA) within the Feather River Setback Levee Project at a cost of $3,100 per transplant. In addition, River Partners will plant the required elderberry seedlings and associate native seedlings as directed by TRLIA. The transplanting of these elderberry shrubs shall occur near the end of August 2008 upon TRLIA obtaining all of the written approval from the necessary agencies. River Partners will undertake specific tasks and provide deliverables as described following in coordination with TRLIA, PBS&J and other subcontractors.

SPECIFIC TASKS

Upon written authorization from TRLIA River Partners shall begin each of the subsequent phases.

Task 1: Elderberry Transplant, August 25, 2008

- Removal of identified elderberry shrubs, estimated at 15 shrubs. In the event additional shrubs are found during the excavation process, a TRLIA representative will be informed and, upon approval, the additional plant will be relocated to the transplant area.

- Transport elderberries to TRLIA identified transplant area containing a productive well site and power.

- Place transplants in ground conforming to 1999 USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle.

- River Partners shall have a qualified biologist (monitor) on-site for the duration of the transplanting of the elderberry plants to insure that no unauthorized take of the valley elderberry longhorn beetle occurs as per the 1999 USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle.

- River Partners shall prepare and submit a transplanting report to TRLIA.

- River Partners will prepare and submit a written report, presenting and analyzing the data from the project monitoring for the year in which the transplant took place.
Task 2: Establishment of Elderberry Associates, September 1, 2008:

- River Partners will provide and install a mix of 8,000 elderberry seedlings and associates as identified in the USFWS biological opinion. This planting will cover 40 acres at a cost of $8,525 per acre over a three year period. Planting will take place in the mutually agreed upon TRLIA owned property.

- River Partners will install a drip irrigation system connecting to a pre-existing TRLIA owned well with power.

- River Partners will provide one year of plant establishment and two years of plant maintenance for the associates and transplants.

- While on site, River Partners will conduct a minimum of 2 site surveys between February 14 and June 30 of each year on site as per the 1999 USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle. Surveys will include:
  - Population census of beetles
  - Census of beetle exit holes
  - Evaluation of elderberry plants and associated native plants
  - Assessment of general condition of the habitat

- River Partners will prepare and submit a written report, presenting and analyzing the data from the project monitoring for all of the years River Partners is on site.

DELIVERABLES

- River Partners will provide 2 hard copies each of monitoring reports yearly.

- River Partners will provide 1 drip irrigation system designed to support up to 45 elderberry transplant shrubs and 8,000 elderberry seedlings and associates.

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<td>Maintain Elderberry transplant area</td>
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<tr>
<td>Complete Yearly Reporting</td>
<td>September 2008 thru December 2011</td>
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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 $387,500. CONTRACTOR shall submit requests for payment monthly no later than the tenth (10th) day of the month following attached payment schedule. In no event shall total compensation paid to CONTRACTOR under this Provision B.1 exceed $387,500 without an amendment to this Agreement approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Board of Directors.

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.

See Payment Schedule in Exhibit B.
## EXHIBIT B

### PAYMENT SCHEDULE

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Attachment B
ATTACHMENT C

GENERAL PROVISIONS

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

C.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.

C.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.

C.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.

C.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.

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

C.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.

C.1.7 As an independent contractor, CONTRACTOR hereby indemnifies and holds THREE RIVERS LEVEE IMPROVEMENT AUTHORITY harmless from
any and all claims that may be made against THREE RIVERS LEVEE IMPROVEMENT AUTHORITY based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

C.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.

C.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.

C.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 Directors 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 (excluding workers' compensation and professional liability insurance), (hereinafter referred to as "the insurance"). The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

C.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 or in the event of cancellation for non payment of premium ten (10) days written notice given to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY. 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.

C.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 CG0001 10-01 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 CA0001 10-01 covering Automobile Liability.

(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.

C.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 additional insureds 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 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 or other insureds under this Agreement.

(c) All Coverages. 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 written notice given to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY or in the event of cancellation for non payment of premium ten (10) days written notice given to THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

C.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.

C.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.
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.

C.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.

C.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 insurer 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.

C.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.

C.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 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.

C.6 CONTRACTOR NOT AGENT. Except as THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
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.

C.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.

C.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.

C.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.

C.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 taxable 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.

C.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.

C.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:

C.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.

C.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.

C.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.

C.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 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.

C.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.

C.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.

C.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.

C.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.

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

C.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' fee, 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.

C.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.

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

C.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.

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

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

C.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.

C.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.

C.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.

C.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.

C.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 provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

C.28 JURISDICTION. It is agreed by the parties hereto that unless otherwise expressly
C.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.

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

C.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.

C.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 and thus is not required to fully comply with the disclosure requirements described in the Yuba County Conflict of Interest Code.

C.33 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
Paul Brunner, Executive Director
1114 Yuba Street, Suite 218
Marysville, CA 95901

If to "CONTRACTOR":

RIVER PARTNERS
John Carlon
580 Vallombrosa Avenue
Chico, CA 95926

Attachment C
August 19, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Ric Reinhardt, Program Manager

SUBJECT: Consider Contractual Amendment to existing Agreement with Bender Rosenthal, Inc. (BRI) for TRLIA Phase 4, Feather River Right of Way Services

Recommended Action
Approve Amendment 7 to the existing contract with BRI for the TRLIA Phase 4, Feather River Right of for the Proposed Setback Levee and authorize Executive Director to execute and sign once General Counsel has approved. The proposed amendment increases the price ceiling for basic services by $825,000.00 from $2,950,771.00 to $3,775,771.00 and extends the existing contract to June 30, 2010.

Discussion
Much of the initial negotiations with property owners are complete for the new setback levee. However, there are a numerous right of way issues that need to be finalized prior to TRLIA acquiring all of the property for the setback project that are described in these scope areas to be increased.

1. Right of Way Program Management
2. Real Property Acquisition Services during Construction

In addition, TRLIA has new real estate Prop 1E land management responsibilities, extensive new Prop 1E State coordination requirements and also additional Yuba River levee property acquisition from Simpson Lane to just west of the Goldfields area.

1. DWR Coordination
2. Property Management prior to transfer to DWR
3. Yuba River - Levee work west of Gold Fields ROW Support

Fiscal Impact
This proposed expense is in the current TRLIA cash flow. Ninety-eight percent of the amendment is within the TRLIA/DWR Prop 1E funding agreement. The small part that is not is the work being performed for the Yuba River levee. The contract amendment would increase the existing contract by $825,000 for services on a time-and-expenses basis, to a maximum amount not exceeding $3,775,771 without prior authorization by TRLIA and extend the contract to June 30, 2010. The BRI contract amendment is a time and materials contract that can be terminated without penalty. DWR will be reimbursing TRLIA for their share of the consultant costs.
SEVENTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
BENDER ROSENTHAL, INC.

THIS SEVENTH AMENDATORY AGREEMENT is made and entered into this day of August 2008, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA"), a Joint Powers Authority, TRLIA and BENDER ROSENTHAL, INC. ("CONSULTANT")

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into an agreement to provide basic services dated March 1, 2005, ("AGREEMENT");

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement to provide basic services dated March 1, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the second Amendatory Agreement to provide basic services dated May 16, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the third Amendatory Agreement to provide basic services dated September 26, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the fourth Amendatory Agreement to provide basic services dated January 16, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the fifth Amendatory Agreement to provide basic services dated February 6, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the sixth Amendatory Agreement to provide basic services dated March 27, 2007.

WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties.

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement;

NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in Exhibit A attached to this seventh AMENDMENT.

2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by $825,000.00 from: $2,950,771.00 to $3,775,771.00.

3. Article 2 of the AGREEMENT shall be revised to extend the "TERM" of the agreement to June 30, 2010.
All other terms and conditions contained in the Agreement shall remain in full force and effect.

This Amended agreement is hereby executed on this ______ day of ________________ 2008.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY CONSULTANT

BY: 
Paul G. Brunner, Executive Director

BY: 
BENDER ROENTHAL, INC.

APPROVED AS TO FORM,

SCOTT SHAPIRO
TRLIA General Counsel
PROJECT UNDERSTANDING

The Three Rivers Levee Improvement Authority is responsible for improving the levees along the Feather River, Bear River and Western Pacific Irrigation Canal (WPIC). The levee improvements are being completed in four phases. Construction of phases one through three is already complete. Phase 4 construction is broken into three segments:

- Segment 1 – Feather River Levee Mile 13.3 to 17.1
- Segment 2 – New Setback Levee
- Segment 3 – Feather River Levee Mile 23.6 to 26.7

Bender Rosenthal is already under contract to appraise and acquire all the Right of Way within Phase 4. This proposal supplements the Right of Way activities for phase 4. The scope includes:

1. Right of Way Program Management
2. DWR Coordination
3. Acquisition Services during Construction
4. Property Management
5. Yuba River – Gold Fields ROW Support

SCOPE

Outlined below are a series of items required to complete the Right of Way phase of the entire TRLIA project.

Task 1  Right of Way Program Management

The project has significantly increased in complexity due to the number of agencies involved each having their own reporting requirements and oversight responsibilities. Additional update, coordination, and PDT meetings as well as briefings for the TRLIA staff are required. Scope includes

- TRLIA team meetings
- TRLIA board meetings
- Special meetings with property owners at TRLIA or other agency request.
- Meetings for additional coordination with involved agencies such as DWR, Corps of Engineers, and others.
- Eminent Domain meetings with TRLIA and legal staff to review status of parcels recommended for or in the process of condemnation due to increased number of pending cases.
- Project Status Updates
Task 2  
**DWR Coordination**

In order to secure Prop.1E reimbursement for portions of the project compliance with DWR administrative requirements and regulations is mandated in addition to DWR oversight. Items include:

- Jointly develop and update with DWR a Quarterly Work Plan.
- Meeting with DWR Real Estate staff to coordinate appraisal, acquisition, and condemnation activities and resolve problems.
- DWR review and approval of 30 appraisals.
- DWR review and approval of 30 acquisition packages.
- DWR review and approval of funding required by RONs, OP deposits, stipulations, and judgments for 22 parcels.
- Prepare up to 40 final accounting acquisition packages for DWR reimbursement Phase 4 segments 2 and 3. These include:
  - Plat and Legal
  - Appraisal
  - Acquisition Documents
  - Relocation Housing Valuation
  - Resolution of Necessity Documentation
  - Memorandum of Settlement
  - Reimbursement Dollar Summary
- Prepare up to 30 final accounting right of entry packages for crediting.
  - Property Profile
  - Signed Right of Entry Document
  - Copy of Check to property owner
  - Memorandum of Settlement
  - Reimbursement Dollar Summary
- Transfer final title from TRLIA to DWR for 50+ parcels from phases 2, 3 and 4
  - Revised legal descriptions showing setback area, and flood control structures.
  - Create easement language for long term operation and maintenance of setback area and new levee.

Task 3  
**Acquisition Services through Construction**

This task includes continuing to work with property owners through the life of the construction project. Issues include:

1. Crop Damage Analysis
2. Irrigation relocation
3. Power relocation
4. Temporary housing for property owners abutting project
5. Relocation of tenants in setback area
6. Attendance at construction meetings
7. Field staking of levee footprint.

Task 4  Property Management
The new setback levee acquired roughly 1300 to 1500 acres of prime agricultural land. A number of existing land owners have agreed to lease back their properties. In addition, there will be a number of acres that may be leased through a formal bidding process.

BRI will assign a staff member to act as the Property Manager of all agricultural lease management activities as detailed below:
- Draft up to 10 agricultural leases. Due to differing crops, farming methods, water sources, etc., each lease will be different.
- Secure qualified agricultural contractors to undertake the farming operations in accordance with the lease terms.
- Weekly inspection of each leased property to insure adequate performance of BRI agricultural contractors in property maintenance and crop production.
- Respond to inquiries about the properties from the public, agricultural and other agencies.
- Establish liaison with the County Sheriff, Fire, and Agricultural Departments for any required assistance in protection of these County properties.
- Collect rent based on lease requirements.

Task 5 - Yuba River – Gold Fields ROW Support

The TRLIA Board recently approved HDR Engineering to complete an analysis and design improvements along the Yuba River from Simpson Lane to the Gold Field. There are roughly 200+ parcels abutting the levee within this reach. BRI is assuming that some form of right of way (temporary or permanent) will be required from up to 5 parcels. These should be minor acquisition, with no relocations. BRI will provide boundary surveys, plats and legals, appraisals, title reports, and negotiation services.

Deliverables:
- Boundary Surveys
- 5 Title reports
- 5 Plats and Legals
- 5 Appraisals
- 5 Acquisitions

BUDGET & SCHEDULE

BRI proposed budget amendment is $825,000. The task breakout is as follows:
<table>
<thead>
<tr>
<th>Task</th>
<th>Budget</th>
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<tr>
<td>Task 1 - ROW Program Management</td>
<td>$175,770</td>
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<tr>
<td>Task 2 - DWR Coordination</td>
<td>$227,850</td>
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<td>Task 3 - Acquisition thru Construction</td>
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<td>Task 5 - Gold Fields ROW Support</td>
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<tr>
<td>Total</td>
<td>$825,000</td>
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</tbody>
</table>

The schedule for these tasks extend to June 30, 2010. A detailed breakout of costs per month is available.
TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul Brunner, Executive Director  
Bob Morrison, TRLIA ROW Manager  
SUBJECT: CONSIDER ADOPTING AN AMENDED RESOLUTION OF NECESSITY FOR ACQUISITION OF ADDITIONAL PROPERTY AFFECTING ASSESSOR’S PARCEL NO. 020-360-0002 ALONG THE FEATHER RIVER FOR THE PHASE 4 LEVEE REPAIR PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached Amended Resolution of Necessity for the acquisition of additional property being a portion of Assessor’s Parcel Number 020-360-002 owned by Jourbee and True Y. Khang for the Three Rivers Phase 4 Levee Repair Project (the "Project").

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) adopted Resolution No. 2007-21 which authorized the acquisition of the fee title of approximately 0.67 acres and a temporary construction easement ("Subject Property") on Assessor’s Parcel No. 020-360-002. TRLIA then filed an action in eminent domain to acquire the Subject Property from owners Jourbee and True Y. Khang. After initiating the litigation, TRLIA determined that an additional fee acquisition of 1.029 acres was needed in order to construction additional levee repair work and the temporary construction easement was no longer needed ("Revised Subject Property"). The amended resolution being considered would authorize the acquisition of the Revised Subject Property as described.

DISCUSSION:

Undertaking the proposed construction work along the Feather and Yuba River bank levee will necessitate the acquisition of 1.699 acres in fee title and delete the previous temporary construction easement affecting Assessor’s Parcel No. 020-360-002 owned by Jourbee and True Y. Khang.

FISCAL IMPACT

The appraised value for this parcel is within the TRLIA Board approved (Feb. 6, 2007) land acquisition plan for Feather River Segment 2. The funding to acquire the Revised Subject Property is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund.
WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase IV Levee Repair Project (the "Project") affecting a portion of Assessor's Parcel No. 020-360-002, in the County of Yuba, California (the "Property"); and

WHEREAS, TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5, Code of Civil Procedure section 1250.140, and Water Code section 50930; and

WHEREAS, on April 17, 2007, TRLIA adopted Resolution No. 2007-21 which authorized the acquisition of the fee title of approximately 0.67 acres and a temporary construction easement ("Subject Property") from the Property; and

WHEREAS, on April 30, 2007, TRLIA filed a complaint in eminent domain to acquire the Subject Property; and

WHEREAS, after initiating the litigation TRLIA determined that an additional fee acquisition of 1.029 acres of the Property was needed in order to construct additional levee repair work and the temporary construction easement was no longer needed ("Revised Subject Property"); and

WHEREAS, TRLIA has advised the owners of the Property of the need for the additional levee repair work, presented an offer for the Revised Subject Property, and offered said owners an opportunity for a hearing before the TRLIA Board on August 19, 2008; and

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

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

SECTION 1. The Revised Subject Property to be acquired is for the repair, construction, installation and maintenance of the Project.

SECTION 2. The general location and extent of the Revised Subject Property to be acquired is as set forth in the legal description attached hereto as Exhibit A and accompanying map attached hereto as Exhibit B, and incorporated herein by reference.
SECTION 3. The Board of Directors declares that it has found and determined as follows:

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

b. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Revised Subject Property described in Exhibits A and B is necessary for the proposed Project.

d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

e. The use of the property for its stated public use scheduled to begin within two years of its acquisition.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 19th day of August, 2008 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

__________________________
CHAIRPERSON

ATTEST:

__________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By: ____________________________

8-12-2008
NOTICE OF INTENT TO ADOPT AN AMENDED RESOLUTION OF NECESSITY

TO JOURBEE KHANG AND TRUE Y. KHANG, owners of certain real property located in the County of Yuba, California, identified as a portion of Assessor Parcel No. 020-360-002 in the County of Yuba:

Pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, State of California,

NOTICE IS HEREBY GIVEN that on August 19, 2008 at the hour of 2:00 p.m. in the chambers of the Yuba County Board of Supervisors, 915 Eighth Street, Marysville, California, the Board of Directors of the Three Rivers Levee Improvement Authority ("TRLIA") will consider the acquisition by TRLIA of a portion of the real property identified as Assessor's Parcel Number 020-360-002, Yuba County, California (the "Property"), for repairing, constructing, installing and maintaining the Three Rivers Levee Improvement Project (the "Project"). The portions of property proposed to be acquired are as follows: fee title as set forth in the legal description attached hereto as Exhibit A and are as shown on Exhibit B (all exhibits incorporated herein by reference).

THE BOARD OF DIRECTORS OF TRLIA will consider a resolution which will establish that:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned and will be located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) The Property is necessary for the proposed Project; and

(d) The offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

(e) The use of the property for its stated public use is scheduled to begin within two years of its acquisition.

You have a right to be heard on the matters set forth in (a), (b), (c), and (d) above. Failure to appear and be heard on the date set forth above will result in a waiver of said right.

If you have any questions about this matter, you may contact Paul Brunner, Executive Director at (530) 749-5679.

DATED: August 13, 2008

McDONOUGH HOLLAND & ALLEN PC

By: Marnie A. Prock
Paralegal
Exhibit 'A'

APN 020-360-002
LEGAL DESCRIPTION
FEE TITLE ACQUISITION

All that Real property situated in the County of Yuba, State of California, being a portion of real property conveyed by deed to Jourbee Khang and True Y. Khang, hereinafter referred to as "Khang" property, recorded in Document No. 2004R-005237 in the Official Records of said County, lying within a portion of Lot 10, Block 36, as shown upon that certain map entitled "Farm Land Colony No. 1", filed in the Office of the Recorder in said County and State in Book 1 of maps at Page 23, situated in the Southeast Quarter of Section 36, Township 15 North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Southwest Corner of said "Khang" property; thence along the Westerly line of said "Khang" property, the following courses, North 00°57'46" East 267.87 feet; thence North 07°16'14" West 128.75 feet; thence North 01°29'01" West 128.75 feet; thence North 08°14'46" West 284.23 feet to the Northwest corner of said "Khang" property; thence along the Northerly line of said "Khang" property North 89°07'00" East 40.33 feet to a point which is 40.00 feet Easterly of when measured at right angles to the Westerly line of said "Khang" property; thence 40.00 feet Easterly of and parallel with said Westerly, South 08°14'46" East 133.37 feet; thence South 82°38'18" East, 79.35 feet; thence South 07°02'27" East, 289.03 feet; thence South 02°14'46" West, 316.40 feet to point on the South line of said "Khang" property; thence along said South line, North 89°12'44" West, 107.43 feet to the Point of Beginning, containing an area of 1.699 acres, more or less.

See Exhibit B attached hereto and made a part of this description.

End of Description

The Basis of Bearings for this description is the California Coordinate System Zone 2.

This description has been prepared by me or under my direct supervision.

[Signature]

Kevin A. Heaney, P.L.S. 5914

Dated: 05-19-08
Exhibit 'B'

State of California

PHASE 4 FEATHER RIVER LEVEE
REPAIR PROJECT
RECLAMATION DISTRICT 784

OWNER: KHANG

ACQUISITION AREAS:

FEE TITLE ACQUISITION 1.599 ACRES

DRAWN BY: KAH

SCALE: 1" = 200'

Three Rivers Levee Improvement Authority

CTA Engineering - Surveying

COUNTY OF YUBA

CALIFORNIA

DATE: 05/15/2008

JOS NO 06-006-002

APN: 020-360-002

DATE: 05-19-08

APN: 020-360-002 KHANG FEE 5/19/2008 7:22:11 AM k Kimsey
CASE TITLE:  


COURT/CASE NO: Yuba County Superior Court Case No.YCSCCVED 070000313

PROOF OF SERVICE

I am a resident or employed in the county where the mailing occurred. I am over the age of eighteen and not a party to this action. My business address is 555 Capitol Mall, 9th Floor, Sacramento, CA. The envelope or package was placed in the mail at Sacramento, California.

On the below date, I served the within:

NOTICE OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY'S INTENT TO ADOPT AN AMENDED RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY BY EMINENT DOMAIN TO JOURBEE KHANG AND TRUE Y. KHANG

By United States mail (certified, return receipt requested). I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses below and

[ ] by personally delivering a true copy thereof, in accordance with Code of Civil Procedure § 1011, to the person(s) and at the address(es) set forth below.

Mark A. Wasser  
LAW OFFICES OF MARK A. WASSER
400 Capitol Mall, Suite 2640
Sacramento, CA 95814

Phone: 916.444.6400  
Fax: 916.444.6405  
E-mail: mwasser@markwasser.com

Attorneys for Defendants  
Jourbee Khang and True Y. Khang

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on August 13, 2008.

Bryan Jammer

Mark A. Wasser  
LAW OFFICES OF MARK A. WASSER
400 Capitol Mall, Suite 2640
Sacramento, CA 95814

Phone: 916.444.6400  
Fax: 916.444.6405  
E-mail: mwasser@markwasser.com

Attorneys for Defendants  
Jourbee Khang and True Y. Khang

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on August 13, 2008.

Bryan Jammer