CALL TO ORDER: Welcome to the Three Rivers Levee Improvement Authority (TRLIA) meeting. As a courtesy to others, please turn off cell phones, pagers, or other electronic devices which might disrupt the meeting. Thank you.

ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti

CLOSED SESSION


B. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Danna Investment Co. YCSCCVED 08-0000240

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. Prior to this time, speakers are requested to fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

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 Final Budget Hearings and regular meeting of August 4, 2009.

B. Receive correspondence from Mooretown Rancheria regarding Native American remains and Executive Director response.

C. Approve extension to employment agreement among TRLIA, County of Yuba, and Paul G. Brunner and authorize Chair to execute same.

ACTION ITEMS

A. Adopt resolution of relocation assistance rules and regulations for TRLIA projects.

B. Approve agreement with MWH Americas, Inc. in the amount of $60,498 for professional services related to groundwater impact analysis and authorize Executive Director to execute upon review and approval of Counsel.

BOARD AND STAFF MEMBERS’ REPORTS

ADJOURN

The complete agenda, including backup material, is available at the Yuba County Government Center, 915 8th Street, Suite 109, the County Library at 303 Second Street, Marysville, and www.trlia.org. 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 3:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chair Griego presided.

**FINAL BUDGET FISCAL YEAR 2009/2010**

Executive Director Paul Brunner recapped project accomplishments and goals for the upcoming fiscal year, provided a recap of estimated revenues and expenditures, and responded to Board inquiries.

Mr. Don Rae, suggested inclusion of actual total expenditures and revenues for the prior fiscal year with the proposed budget.

Upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously approved, the Board adopted the Budget in the total amount of $84,746,040 for Fiscal Year 2009-2010.

**ADJOURNMENT**

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 3:22 p.m.

__________________________
Chair

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

__________________________
Approved:
h) TRLIA vs. Anthony J. Luis, Zelma B. Luis, et al./Yuba County Superior Court Case No. 09-0000637

i) TRLIA vs. Ajit S. Bains, Maria D. Bains, et al./Yuba County Superior Court Case No. 09-0000629

j) TRLIA vs. Ajit S. Bains, Maria D. Bains, et al./Yuba County Superior Court Case No. 09-0000624

k) TRLIA vs. Anthony J. Luis, Zelma B. Luis, et al./Yuba County Superior Court Case No. 09-0000625

l) TRLIA vs. COF Quail Hollow Land 35F, LLC, COF Quail Hollow Land, 148T LLC, et al./Yuba County Superior Court Case No. 09-0000628

m) TRLIA vs. COF Quail Hollow Land 35F, LLC, COF Quail Hollow Land 148T, LLC, et al./Yuba County Superior Court Case No. 09-0000626

n) TRLIA vs. Richard G. Wilbur, et al./Yuba County Superior Court Case No. 09-0000639

o) TRLIA vs. Danna Investment Company, et al./Yuba County Superior Court, Case No. YCSCCVED 08-0000240

2. Personnel pursuant to Government Code §54957 – Executive Director Evaluation

Directors Nicoletti and Graham briefly left closed session at 4:04 p.m.

The Board returned from closed session at 4:43 p.m. with all Board and staff members present as indicated above.

Chair Griego advised Counsel was directed to prepare an amendment to the contract with the Executive Director for Board approval and further stated the evaluation of the Director was completed. There were no further announcements.

PUBLIC COMMUNICATIONS

No one came forward.
CONSENT AGENDA

Upon motion of Director Crippen, seconded by Director Nicoletti, and unanimously carried, the Board took the following actions:

1. **Minutes**: Approved the minutes of the special meeting of July 14, 2009 as written.

2. **Yuba County Auditor-Controller Agreement**: Approved an agreement with Yuba County Auditor-Controller for the collection of the direct special assessments and authorized the Chair to execute same.

ACTION ITEMS

1. **Reclamation District 784**: Upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously carried, the Board approved a Memorandum of Agreement with Reclamation District 784 for operation and maintenance of levee improvements and authorized the Chair to execute upon review and approval of Counsel.

2. **Teichert Construction/Addendum No. 4/$13,961,375**: Executive Director Paul Brunner recapped the proposed work regarding the levee degrade of the Feather River Project and responded to Board inquiries. Construction Manager Doug Handen responded to specific Board inquiries. Upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously carried, the Board delegated to the Executive Director the authority to award Contract Addendum No. 4 in whole, or in part or parts, in a total amount not to exceed $13,961,375, and to take necessary actions to implement the contract and issue notice or notices to proceed as needed.

3. **Nordic Industries/Addendum No. 1/$443,995**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Nicoletti, seconded by Director Graham, and unanimously carried, the Board approved Addendum No. 1 to the agreement with Nordic Industries in the amount of $443,995 for the Yuba River Site 2 erosion repairs; authorized the Chair to execute same upon review and approval of Counsel; and directed the Executive Director to take the necessary actions to implement the contract.
4. **Upper Yuba Levee Improvement Project**: Upon motion of Director Nicoletti, seconded by Director Graham, and unanimously carried, the Board authorized the issuance of bids for the Upper Yuba Levee Improvement Project and authorized the Executive Director to execute the bidding process with a tentative bid opening date of September 10, 2009.

5. **River Partners/Ampendment No. 2/$160,000**: Executive Director Paul Brunner recapped the necessity to relocate elderberry bushes and responded to Board inquiries.

Upon motion of Director Nicoletti, seconded by Director Crippen, and carried with Director Graham opposing, the Board approved Amendment No. 2 to the agreement with River Partners in the amount of $160,000 for relocation of elderberry bushes; authorized the Chair to execute same; and directed the Executive Director to take the necessary actions to implement the contract.

Director Graham left the meeting at 5:21 p.m.

**BOARD AND STAFF MEMBERS’ REPORTS**

Reports were received on the following:

Assistant Counsel Andrea Clark: Participant on Lower Sacramento Regional Workgroup to assist in developing Central Valley Flood Plan

Executive Director Paul Brunner:
- Benefit Assessment District boundary change
- Central Valley Flood Protection Board meeting regarding approval of levee degrade permit and letter to Corps of Engineers to start environmental document for EIP funds

Director Griego: Participant on 2009 Symposium regarding flood control

**ADJOURNMENT**

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 5:33 p.m.

_____________________________  
Chair
August 7, 2009

Three Rivers Levee Improvement Authority
1114 Yuba Street
Marysville, CA 95901

Re: Native American Human Remains in Yuba County

Dear Sir or Madam:

I was shocked and alarmed to discover in the Appeal Democrat newspaper that the Three Rivers Levee Improvement Authority had dug up Native American human remains and artifacts and declared that the remains were those of a deceased Native American from Butte County.

We are concerned that the process your agency employed of making that determination did not include independent consultation with tribes who have ancestral lands in Yuba County like the Rose family of the Strawberry Valley Tribe or the United Auburn Indian Community, who have historical ties to the area.

Instead only one tribe was informed and consulted, a tribe from Butte County. There are four federally recognized tribes in Butte County, why did your agency chose to notify that tribe and none of the others?

We have to question the credentials of your expert who determined that the human remains found during your earth moving activities are those of an Indian with established anthropological, historical, and ancestral homelands in Butte County without talking to 3/4th of the tribes in Butte County.

The Enterprise Rancheria is a federally recognized Indian tribe with lands held in trust in Butte County California. You notified them and shared the location of the site with them.

Did the experts approach Mechoopda, Berry Creek, and Mooretown who also have lands in federal trust in Butte County to determine to which of the Butte County tribes the remains should rightfully be entrusted? What criteria established that the remains you found were not from Berry Creek or Mechoopda?

"Concow - Maidu"
We know we were not contacted or consulted. The Colusa tribal lands are an equal distance from Yuba County as the Enterprise tribal lands. Was Colusa contacted? How did you rule out Colusa tribal affiliation?

What expert or team of experts determined that the process you used to mitigate your actions complied with the law? How was it determined to hide this discovery from all tribes in the area except one?

With so many unanswered questions we cannot determine if you have complied with all State and Federal laws regarding the protection of Indian sacred sites, graves, and artifacts. We insist that you inform our Tribe as well as other local tribes how you came to this decision.

Our Tribal Council has discussed this matter and we are distressed that this gravesite was desecrated by your activities and that this discovery was hidden from the Indian community for seven months. Our tribe has worked diligently to make sure that our family sacred sites around are protected. Have you found any other human remains since then? Where are the remains that you unearthed?

It is our understanding that the tribe who you did share this information with is not in a position to offer an independent appraisal of the human remains and artifacts because they are in the process of applying for land outside their historic aboriginal area.

Indeed members of your Board of Directors are representatives of Yuba County who have in place an agreement that would reap millions of dollars for the County of Yuba if the Enterprise tribe can move themselves from where they currently have land to Yuba County where they are trying to get a casino.

It calls into question the entire process if you did indeed rely upon “experts” from the Enterprise Rancheria in your efforts to comply with laws that require the consultation of Indian tribes in regards to disturbed sacred sites.

Enterprise has a clear conflict of interest, and it is appalling that one tribe would use the remains and artifacts of a member of another tribe to advance their political agenda. We hope that this is not what has occurred, but no one knows what happened because of how your agency has excluded local tribes from the process.
We would like representatives from the Three Rivers Levee Improvement Agency to make themselves available to the members of our Tribal Council and representatives of other tribes to explain what happened and how it was handled.

Sincerely,

[Signature]

Gary W. Archuleta
Tribal Chairman
Mooretown Rancheria

cc: California Native American Heritage Commission
    Yuba County Board of Supervisors
    BIA Central California Agency Office
    BIA Pacific Regional Office
    Colusa Indian Community Tribal Council
    United Auburn Indian Community Tribal Council
    Berry Creek Rancheria Tribal Council
    Mechoopda Indian Tribal Council
    Strawberry Valley Tribal Family Members
August 13, 2009

Mr. Gary Archuleta
Tribal Chairman
Mooretown Rancheria
#1 Alverda Drive
Oroville, CA 95966

Dear Mr. Archuleta:

The Three Rivers Levee Improvement Authority (TRLIA) has received your letter dated August 7, 2009, regarding Native American human remains in Yuba County. In your letter you state that TRLIA made a determination regarding the Most Likely Descendant (MLD) for human remains found during TRLIA activities. This assertion is incorrect as TRLIA has not made this determination.

Attached to this letter is a letter from California's Native American Heritage Commission (NAHC), the state agency responsible for making determinations regarding the persons most likely descended from Native American remains. In the letter the NAHC appoints Enterprise Rancheria the MLD with respect to remains located in October 2008. TRLIA is confident that this document will address your concerns with respect to which entity is responsible for the appointment of Enterprise Rancheria as the MLD for this project. Accordingly, we recommend you contact the NAHC if you have any further questions about that determination. TRLIA would welcome a dialogue about these issues with Mooretown Rancheria and regrets that Mooretown has made accusations without first communicating with TRLIA to gather the relevant facts.

Contrary to your assertions that TRLIA has hidden information and excluded local tribes throughout this process, TRLIA has carefully and thoughtfully followed state and federal law with respect to Native American remains on its project sites. TRLIA has consulted with and followed requirements imposed by state and federal agencies throughout its Feather River Levee Repair Project, including the U.S. Army Corps of Engineers (under Section 106 of the National Historic Preservation Act), the Native American Heritage Commission, and the California Historic Preservation Officer. TRLIA has also used its twice-monthly publicized and public meetings as a venue to share these issues with the public, often reporting during staff reports on the latest status in regard to the discovered human remains and the appropriate handling of the situation. Finally, TRLIA has reported on this issue in both written and oral reports to the Central Valley Flood Protection Board every month this year. It is simply not a true statement that TRLIA has in any way attempted to hide information about the remains from the public or any Native American tribe.

TRLIA staff would welcome an opportunity to meet with you to provide more information and correct any misunderstandings about the history of the Feather River project as well as the
consultations, monitoring, reporting, and mitigation that TRLIA has undertaken with respect to Native American remains. Please let us know if you would like to schedule such a meeting.

Thank you,

Paul G. Brunner, P.E.
Executive Director

Attachments:
NAHC letters dated November 26, 2008

cc:
Central Valley Flood Protection Board
Dan Bell/United Stated Army Corps of Engineers
California Native American Heritage Commission
Yuba County Board of Supervisors
Yuba County Counsel
Yuba County Water Agency
BIA Central California Agency Office
BIA Pacific Regional Office
Colusa Indian Community Tribal Council
United Auburn Indian Community Tribal Council
Berry Creek Rancheria Tribal Council
Mechoopda Indian Tribal Council
Strawberry Valley Tribal Family Members
November 26, 2008

The Honorable Glenda Nelson, Chairwoman
Enterprise Rancheria, Estom Yumeka Tribe
Attention: Ren Reynolds
1940 Feather River Boulevard, Suite B
Oroville, CA 95965-4643

Sent by FAX to (530) 532-1768
No. of Pages: 1

RE: Appointment as Most Likely Descendant (MLD) for Three Rivers Levee Improvement Project

Dear Chairwoman Nelson:

It is the policy of the Native American Heritage Commission (NAHC), once an appointment as Most Likely Descendant (MLD) is made on a project to continue that appointment until the project is completed even if the project continues for several years.

The Native American Heritage Commission, hereby, appoints the Enterprise Rancheria as Most Likely Descendant (MLD) for the Three Rivers Levee Improvement Project pursuant to Public Resources Code §5097.98. If you have any questions about this, please do not hesitate to contact me.

We thank you for assuming this important task.

Sincerely,

Dave Singleton
Program Analyst

Cc: Larry Myers
Executive Secretary
November 26, 2008

The Honorable Glenda Nelson, Chairwoman
Enterprise Rancheria, Estom Yumeka Tribe
Attention: Ren Reynolds
1940 Feather River Boulevard, Suite B
Oroville, CA 95965-4643

Sent by FAX to (530) 532-1768
No. of Pages: 1

RE: Native American Human Remains Discovered October 17, 2008 by EDAW Archaeologist Richard Deis (916) 414-5878 at Three Rivers Levee Improvement Project Site. The remains were determined at Native American origin by Deputy Yuba County Sheriff-Coroner Cpl Mealnie Oakes (530-749-7777) and reported to the Native American Heritage Commission in Compliance with Health & Safety Code §7050.5; Assignment of Most Likely Descendant (MLD)

Dear Chairwoman Nelson:

November 26, 2008, at 0916 hours, the Commission received a call from Deputy Melanie Oakes, Yuba County Sheriff-Coroner’s Office regarding a discovery of fragments of bone and other skeletal parts and cranium pieces determined to be Native American (Case #08-76063). The discovery was made, October 17, 2008, at the Three Rivers Levee Improvement project site six mile south of Marysville; the remains were found by Archaeologist Richard Deis within the ‘foot-print’ of the proposed construction project. The Cranium parts are in the custody of the Yuba County “Coroner and the bone fragments and skeletal parts are in the custody of the archaeologist. The U.S. Army Corps of Engineers in the lead federal agency for the project. There were also ‘associated grave goods’ discovered at the site in the form of shell beads. The Native American Monitor at the site was Rachel Lowe of Enterprise Rancheria. Contact Richard Deis for further details, and contact Deputy Oakes in order to take custody of the remains in their possession. The discovery is near a similar discovery of October 2006.

The Native American Heritage Commission, hereby, appoints the Enterprise Rancheria as Most Likely Descendant (MLD) in this case pursuant to Public Resources Code §5097.98. If you have any questions about this, please do not hesitate to contact me.

Please provide the NAHC a report from you or your staff concerning the final disposition and reburial of the remains. We thank you for assuming this important task.

Sincerely,

Dave Singleton
Program Analyst
Cc: Larry Myers
    Executive Secretary
August 18, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Scott Shapiro, General Counsel

SUBJECT: Executive Director Contract Extension

Recommendation: Extend the existing Employment Agreement for Paul Brunner until December 31, 2011 to ensure leadership continuity until the now expected end of the Three Rivers Levee Improvement Program and authorize the TRLIA Chairman to sign.

Background: On May 16th, 2006, Three Rivers, the County of Yuba, and Paul Brunner entered into an Employment Agreement whereby Paul Brunner was retained as Executive Director of the Authority. On January 8, 2008 the TRLIA Board extended the contract to December 31, 2009. The December 2009 date had been set because it was the projected timeframe when the flood protection improvements proposed by the Authority would be completed. The Employment Agreement explicitly provides in Section 4 that the term of the Employment Agreement may be extended.

Discussion: Due to increased levee improvements needs for the Yuba River levee between Simpson Lane and the Goldfields the new projected completion date for all levee work to be completed is late 2010 – potentially extending into 2011. Once the Yuba River levee work is completed the whole levee system can then be certified in 2011. By June 2011 the State EIP project agreements (Feather and Yuba Rivers) are anticipated to be closed out, and all Feather River eminent domain land acquisitions are scheduled to be completed. Mr. Brunner has been intimately involved in all TRLIA actions and has provided the leadership to overcome many critical issues to keep the levee improvement program moving forward as quickly as possible. Extending the Employment Agreement until June 2011 would ensure continuity of leadership for the Authority.

The County is a party to the existing Employment Agreement. I have informed Robert Bendorf that the Authority will consider this extension. Mr. Bendorf will place this item on the County Board of Supervisors agenda to approve the contract amendment once the TRLIA Board has approved.

Financial Impact: The extension would obligate the Authority to an additional 24 months of salary and benefits for its Executive Director.
EXTENSION TO EMPLOYMENT AGREEMENT AMONG THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, THE COUNTY OF YUBA, AND PAUL G. BRUNNER

This Extension to Employment Agreement Among The Three Rivers Levee Improvement Authority, the County Of Yuba, and Paul G. Brunner ("Extension") is entered into on the ____ day of August, 2009, between the Three Rivers Levee Improvement Authority ("Authority"), the County of Yuba ("County"), and Paul G. Brunner ("Employee")

RECITALS

WHEREAS, on May 16th, 2006 the Authority, the Employee, and the County of Yuba entered into an Employment Agreement whereby Employee was retained as Executive Director of the Authority; and

WHEREAS, the term of that Employment Agreement is to expire on December 31, 2009 because of uncertainty that existed at the time when the Employment Agreement was executed as to funding sources for the Authority and when the flood protection improvements proposed by the Authority would be completed; and

WHEREAS, the Employment Agreement explicitly provides in Section 4 that the term of the Employment Agreement may be extended; and

WHEREAS, the Authority, the County, and the Employee desire to extend the employment relationship by an additional two years from the expiration of the term of the Employment Agreement (i.e., until December, 31, 2011), without any other changes to the Employment Agreement.

AGREEMENT

1. Incorporation of Recitals.

The foregoing recitals and the introductory paragraph are hereby incorporated into the Agreement.

2. Extension of Term.

The first sentence of Section 4 of the Employment Agreement shall be amended to delete the date of "December 31, 2009" and to replace that date with "December 31, 2011."

3. Remainder of Employment Agreement.

No further changes shall be made to the Employment Agreement as a result of this Extension.
IN WITNESS WHEREOF, Authority, County, and Employee have caused this Extension to be signed and executed on the dates of their respective signatures.

Date: __________________________  AUTHORITY

By: ____________________________
   ____________________________, Chair

Date: __________________________  COUNTY

By: ____________________________
   ____________________________, Chair

Date: __________________________  EMPLOYEE

By: ____________________________

APPROVED AS TO FORM:
COUNTY COUNSEL

__________________________

APPROVED AS TO FORM:
ANDREA P. CLARK
GENERAL COUNSEL, TRLIA

Andrea P. Clark
Recommendation:
Adopt the attached resolution “ADOPTION OF RELOCATION ASSISTANCE RULES AND REGULATIONS FOR TRLIA PROJECTS”.

Background:
In April 2008, TRLIA entered into the Proposition 1E Agreement with the Department of Water Resources. As part of the agreement, DWR established a number of requirements for right of way expenditure reimbursement. Unfortunately, the agreement did not outline DWR’s reimbursement expectations for residential and business relocation expenses.

Over the last year, TRLIA staff has been working with DWR Real Estate to establish a framework for relocation reimbursement. One of the key outcomes is a requirement that all residential and business relocations comply with both the State and Federal Uniform Acts, which they have. A second key outcome is a requirement that TRLIA adopt a resolution stating that all relocations will follow all the appropriate State and Federal laws.

Discussion:
In February 2007, the TRLIA board passed a resolution delegating certain right of way authorities to the TRLIA Executive Director. Among other delegations, the TRLIA board delegated to the TRLIA Executive Director the ability:

- To establish the just compensation for the real property to be acquired by TRLIA and the amount required for the relocation of displaced persons, and approve the appropriation of funds
- To approve written offers of just compensation to acquire real property based on approved appraised values as required by Government Code 7267.2

The purpose of the attached resolution is to expand upon resolution 07-01 and elaborate TRLIA’s intention to follow all the various State and Federal laws and codes used for all TRLIA relocation efforts.

Fiscal Impact:
If approved, TRLIA will be in a position to receive roughly $700,000 in relocation reimbursement from the State.
RESOLUTION NO. 2009 -____
Adopted by Three Rivers Levee Improvement Agency (TRLIA)

ADOPTION OF RELOCATION ASSISTANCE RULES AND REGULATIONS FOR
TRLIA PROJECTS

WHEREAS, the TRLIA is authorized to finance, construct, and maintain levee improvements surrounding the South Yuba county Area and to establish and undertake projects that are necessary and proper to fulfilling that goal and objective; and

WHEREAS, in connection with the plan, design and performance of projects, TRLIA is authorized to acquire real property and to provide for the relocation of displaced person in connection therewith; and

WHEREAS, the TRLIA Board previously adopted Resolution 07-01 titled “A RESOLUTION DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO CARRY OUT CERTAIN ADMINISTRATIVE FUNCTIONS WITH RESPECT TO THE ACQUISITION OF REAL PROPERTY AND THE RELOCATION OF DISPLACED PERSONS IN CONNECTION WITH LEVEE IMPROVEMENT PROJECTS”; and

WHEREAS, TRLIA would like to amend Resolution 07-01 to reflect the fact that TRLIA is following the appropriate State and Federal laws and guidelines for relocation assistance; and

WHEREAS, the provisions of the California Relocation Assistance Act., Government Code sections 7260 et seq., as amended, require public entities to provide relocation assistance benefits to displaced persons in accordance with the terms and limitations specified therein; and

WHEREAS, pursuant to Government Code section 7267.8, subdivision (a), all public entities are required to adopt rules and regulations in accordance with guidelines adopted by the Department of Housing and Community Development to implement payments and to administer relocation assistance under the Relocation Assistance Act; and

WHEREAS, pursuant to authority contained in Health and Safety Code section 50460, the California Department of Housing and Community Development has promulgated Title 25, Division 1, Chapter 6 of the California Code of Regulations, commencing at section 6000, titled "Relocation Assistance and Real Property Acquisition Guidelines" ("State Guidelines") in order to implement and interpret the provisions of the Relocation Assistance Act; and

WHEREAS, pursuant to Government Code section 7267.8, subdivision (b), with respect to federally funded projects, a public entity shall make relocation assistance payments and provide relocation advisory assistance as required by federal law; and
WHEREAS, the Office of the Secretary, Department of Transportation of the Federal Highway Administration, has promulgated Part 24 of Chapter 49 of the Code of Federal Regulations, titled "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs" ("Federal DOT Guidelines") as its rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections 4601 et seq., as amended).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY:

With respect to non-federally funded projects, the State Guidelines, as the same may be amended and revised from time to time, are hereby adopted as the guidelines, rules and regulations for providing relocation assistance by TRLIA to the extent they are not inconsistent with the provisions of applicable statutes.

IT IS FURTHER RESOLVED that, with respect to federally funded projects, the Federal DOT Guidelines, as the same may be amended and revised from time to time, as implemented by the California Department of Transportation, shall be the guidelines, rules and regulations for providing relocation assistance by TRLIA, to the extent they are not inconsistent with the provisions of applicable statutes.

PASSED AND ADOPTED by the Board of Directors of Three Rivers Levee Improvement Authority, this _____ day of______________, 2009, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

__________________________
Chair of the Board of Directors of
Three Rivers Levee Improvement Authority

__________________________
Secretary

__________________________
APPROVED AS TO FORM:
ANDREA P. CLARK
GENERAL COUNSEL

__________________________
Andrea P. Clark
August 18, 2009

TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul Brunner, Executive Director (4-8-13-09)  
Larry Dacus, Design Manager  
SUBJECT: Consider Approval of Contract with MWH to conduct Groundwater Impact Analysis of Potential TRLIA Project along the Upper Yuba South Levee

Recommended Action

Approve a contract (Attachment 1) with MWH for engineering services and authorize the TRLIA Executive Director to sign and execute contract once General Counsel has reviewed and approved. The contract is for $60,498 (with options) for services on a time-and-expenses basis, to a maximum amount not to exceed $60,498 without prior approval of TRLIA.

Background

TRLIA is proposing to repair the Upper Yuba South Levee from Simpson Lane to the Goldfields. One of the alternatives under consideration is construction of a low permeability slurry wall through the crown of the levee and extending into the foundation of the levee to mitigate underseepage problems. This slurry wall alternative could stretch from Simpson Lane to the Goldfields, see Figure 1 (Attachment 3). Seepage berms are also being considered. The final project will most likely be a combination of slurry wall and seepage berms.

There is a concern that an extensive slurry wall project in this location could cause impacts to the South Yuba Subbasin Groundwater Basin (SYSGB). A Scope of Work (SOW) was prepared for evaluating any potential groundwater impact from the maximum slurry wall project (Attachment 2).

Discussion

MWH was selected to perform this evaluation. MWH has been doing groundwater studies of the SYSGB for many years for the Yuba County Water Agency. The most recent study, Hydrogeologic Understanding of the Yuba Basin, Yuba County Water Agency, Funded by California Water Bond 2000, was completed in September 2008. MWH has an in-depth understanding of this groundwater basin as well as the expertise to evaluate impacts to the groundwater basin from the construction of a slurry wall project in the area. This evaluation will provide expert opinion on any potential impacts from construction of a slurry wall on groundwater in the area and is a resource topic that needs to be addressed in
the environmental document. The results from this work will also be incorporated in the levee improvements design.

**Fiscal Impact**

This contract would be for services on a time-and-expenses basis, to a maximum amount not to exceed $60,498 without prior approval. There are local funds within the TRLIA program to cover this expense. Once the Upper Yuba EIP agreement is executed with the State, TRLIA will be reimbursed 70% of the project cost.

Attachments:
1. MWH Initial Contract
2. Scope of Work with Fee and Draft Work Schedules
3. Figure 1
AGREEMENT FOR
PROFESSIONAL SERVICES

THIS AGREEMENT for professional services ("Agreement") is made as of the Agreement Date set forth below by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of Yuba County, a political subdivision of the State of California ("the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY"), and MWH Americas, Inc. ("the 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 specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date: ________________________

Termination Date: ________________________

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.

Paul G. 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. ________________, 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 - General Provisions

Page 2 of 3.
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 __________________________, 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

__________________________
Executive Director

MWH AMERICAS, INC.

__________________________
By:

ATTEST:
DONNA STOTTLEMEYER, SECRETARY

APPROVED AS TO FORM:
ANDREA P. CLARK

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY GENERAL 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 Appendix

A.2. TIME SERVICES RENDERED.

See Appendix

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.
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 ___________; 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 _______________ without an amendment to this Agreement approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Board of Directors.

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.
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 made against THREE RIVERS LEVEE IMPROVEMENT AUTHORITY by a 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, its officials and employees, 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. 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 CG 0001 or equivalent ISO form.

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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 0187 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.

(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, and employees 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, and employees under this Agreement. Any insurance or self-insurance maintained by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, its officials, employees and volunteers.
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, and employees 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 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 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 prior written notice by certified mail, return receipt requested, has been given to the 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.

(d) Professional Errors and Omissions Liability (if required): Policy limits of not less than One Million Dollars ($1,000,000) per claim and One Million Dollars ($1,000,000) annual aggregate 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 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. In the event of an action or claim against the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, or related agency's officials, employees or volunteers, for which the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY wishes to submit a claim as an additional insured under CONTRACTOR's insurance coverage, CONTRACTOR agrees to pay any deductible or self-insured retention for which the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY would otherwise be responsible.

C.4.7 VERIFICATION OF COVERAGE.

(a) CONTRACTOR shall furnish THREE RIVERS LEVEE IMPROVEMENT AUTHORITY with Certificates of Insurance and 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

Attachment C – Page 5 of 12.
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 upon reasonable notice.

(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 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) 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 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.

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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 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,
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 ten (10) 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

Attachment C – Page 8 of 12.
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 supersede 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 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 State of California.

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
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 G. Brunner, Executive Director
915 8th Street, Suite 115
Marysville, CA 95901
If to "CONTRACTOR":

Chris Petersen  
MWH, Principal Hydrogeologist  
3321 Power Inn Road, Suite 300  
Sacramento, CA 95826
EXHIBIT 1

SCOPE OF SERVICES
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Scope of Work:

Professional Services for the Evaluation of Impacts to Yuba County Groundwater

July 28, 2009

INTRODUCTION

Three Rivers Levee Improvement Authority (TRLIA) has been conducting levee repairs for the Reclamation District (RD) 784 levees since 2004. These repairs are designed and constructed to provide a minimum level of protection of 200-years to the RD 784 area. Design of repairs to the Upper Yuba River South Levee from Simpson Lane to the Goldfields is underway. One of the alternatives under consideration is construction of a low permeability slurry wall through the crown of the levee and extending into the foundation of the levee to mitigate underseepage concerns. These slurry walls are proposed to be constructed along the Yuba Patrol Road Levee from the community of Linda and extending northeast to the Yuba Gold Fields (Proposed Project). Another alternative being considered is seepage berms, especially in the vicinity of the Yuba Goldfields given the presence of very coarse textured material at depth. The final project may be a combination of slurry wall and seepage berms. There is a concern that an extensive slurry wall in this location could cause impacts to the South Yuba Subbasin Groundwater Basin (SYSGB).

SCOPE OF SERVICES

MWH has developed a detailed technical understanding of the groundwater conditions of the North and South Yuba Subbasins by completing recent work for Yuba County Water Agency including assessing the groundwater impacts for the Lower Yuba River Accord and in completing the DWR Proposition 13 Conjunctive Use Feasibility Study. This Scope of Work (SOW) is for evaluation of any potential impacts to the SYSGB due to construction of the Proposed Project as described above.

MWH proposes the following tasks for the completion of the groundwater evaluation:

TASK 1: Data Compilation and Review
TASK 2: Groundwater Evaluation
TASK 3: Project Meetings
TASK 4: Report
DETAILED PROPOSED SCOPE OF WORK

TASK 1: DATA COMPILATION AND REVIEW

Objective: To obtain and review local lithologic, groundwater level and groundwater quality information within a two mile buffer of the Yuba Patrol Road Levee. This includes obtaining current groundwater data from the City's of Maryville and Linda.

Discussion: MWH will build on the dataset we developed from previous and ongoing work with YCWA by obtaining local groundwater data within a 2 mile buffer of the proposed project levee. We expect to obtain current well log, water level and water quality information from the following sources:

- Three Rivers Levee Improvement Authority
- California Department of Water Resources
- Yuba County Water Agency
- City of Marysville
- City of Linda

MWH will enter this information into SHEDTOOL (database with customized data presentation features) for use in the evaluation. SHEDTOOL enables rapid assessment and evaluation through a seamless linkage with GIS, allows the user to quickly create visual plots of water level and water quality data, and includes a cross-section development tool for evaluation of subsurface lithology.

Deliverables: Electronic and hard copies of all groundwater data obtained for this task.

Budget: $9,224

Schedule: Completed within 14 calendar days after Notice to Proceed (NTP)

TASK 2: GROUNDWATER EVALUATION

Objective: To evaluate potential impacts to groundwater flow and quality resulting from the proposed project.

Discussion: MWH proposes to assess potential impacts to groundwater flow and quality by using information from previous studies along with data compiled in Task 1 to perform the following activities:

- Create up to six (6) Lithologic cross-sections along and perpendicular to the Yuba Patrol Road Levee. Once constructed, MWH will evaluate and correlate the distribution and composition of aquifer and aquitard material underlying the local area. MWH will illustrate the depth of the slurry wall relative to pumping wells in the vicinity. MWH will look for evidence of either physical separation or connectivity between shallow groundwater and deep groundwater in the underlying aquifers.
- Prepare a potentiometric surface map showing primary groundwater flow direction, recharge and discharge areas of the South Yuba Subbasin in relation to the proposed slurry wall.
- Prepare time series plots showing changes in groundwater elevation over time from wells screened in multiple depth intervals. Evaluate vertical groundwater flow by examining
groundwater level data from selected wells in the vicinity of the proposed slurry walls and obtaining historic groundwater elevation data collected by DWR from dedicated multi-level piezometers in the South Yuba Subbasins (YR-1A-D, FR-1A-D, Plumas USD-1A-C, and PMW-07A-C). Water level data from various depth intervals will be compared for evidence of physical separation or connectedness between the shallow and deeper groundwater aquifer both in the vicinity of the proposed slurry wall and throughout the SYSGB.

- Compare water quality of shallow and deep wells in the project area and describe potential changes resulting from the project. Maps will be prepared showing the distribution of total dissolved solids and chloride.

**Optional Task**
Quantification of Drawdown Impacts – If MWH discovers evidence for shallow pumping (i.e. well screen intervals above the base of the proposed slurry wall) in close proximity to the proposed project, it is recommended that analytical methods be employed to estimate drawdown at these wells with and without the proposed project.

**Deliverables:**
1. Six (6) Lithologic cross-sections
2. One (1) Potentiometric Surface Map
3. Six (6) Well Hydrographs
4. Two (2) Water Quality Maps
5. Optional – Drawdown maps showing project and no project conditions

**Budget:** $20,517  
**Option:** $9,676

**Schedule:** To be completed within 28 Calendar Days from NTP

**TASK 3: Project Meetings**

**Objective:** To meet with TRLIA twice during the evaluation. The objective of the initial meeting is to agree on study objectives and approach and receive project information. The objective of the second meeting is to present the findings of the evaluation and discuss potential mitigation of significant impacts, if warranted based on the findings.

**Discussion:** MWH proposes two project meetings with TRLIA as stated above. These meetings will occur at TRLIA’s office in Yuba City. Topics to be discussed in Meeting No. 1 include:
- Overview of Groundwater Conditions in SYSGB
- Potential Impacts to be evaluated by MWH
- Significance Criteria
- Approach for Conducting Evaluation
- Schedule for Completion
- Review of Data Request

Following completion of the evaluation and before submitting the Draft Report, MWH proposes to meet with TRLIA a second time. Topics to be discussed in Meeting No.2 include:
- Review of Evaluation Methods
- Results of Evaluation
• Potential mitigation - if significant impacts are anticipated based on the evaluation results
• Draft Report

**Deliverables:** Meeting agendas and minutes

**Budget:** $2,960

**Schedule:**
- Meeting No. 1 within 7 calendar days after NTP
- Meeting No. 2 within 28 calendar days after NTP

**TASK 4: Report**

**Objective:** To document the methodology and results of the evaluation of potential groundwater impacts resulting from the levee improvements.

**Discussion:** MWH proposes to prepare an investigation report documenting the results of the groundwater evaluation. The report will be organized as follows:

- **Section 1 - Introduction** – This section will describe the proposed TRLIA project and the potential impacts to be evaluated.
- **Section 2 - Hydrologic Setting** – This section will describe the groundwater conditions in the SYSGB and will include summaries of the geologic setting, aquifer characteristics, water use in the vicinity of the proposed project, groundwater flow, and groundwater quality.
- **Section 3 - Evaluation Methods** – This section will describe the methods employed to evaluate potential impacts on groundwater flow and levels, groundwater recharge, and groundwater quality.
- **Section 4 - Evaluation Results** - This section will present the results of groundwater evaluation and Task 2 deliverables will be included as supporting figures and tables.
- **Section 5 - Summary of Potential Impacts** – This section will summarize the potential project impacts to the groundwater system and also present recommended mitigation measures if significant impacts are anticipated based on the evaluation results.

**Deliverables:** Draft and Final Reports

**Budget:** $18,121

**Schedule:**
- Submit Draft Report - 35 Calendar Days after NTP
- TRLIA Completes Review of Draft Report – 40 Calendar Days after NTP
- Submit Final Report - 50 Calendar Days after NTP
MWH Groundwater Study Proposal

FEES

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<td>Task 3</td>
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**Subtotal** $50,822

**Task 2 Option:**

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**Grand Total with Option** $60,498
Draft Schedule for the Evaluation of Impacts to Yuba County Groundwater

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