I 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.

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

III CLOSED SESSION

Pending litigation pursuant to Government Code §54956.9(a) regarding the following:

1. TRLIA vs. Danna Investment Co. YCSCCVED 08-000024
2. TRLIA vs. Heir Family YCSCCVED 08-0000242
3. TRLIA vs. Naumes, Inc. YCSCCVED 08-0000361
4. TRLIA vs. Thomas A. Rice, et al. YCSCCVED 07-0000633

IV ACTION ITEMS

A Approve amendment No. 3 to the agreement with River Partners in the amount of $8,200 for elderberry relocation and authorize the Chair to execute same.

B Adopt resolution in regard to levee design standards codifying 100-year and 200-year standards to be followed.

C Approve agreement with MHM, Inc. in the amount of $141,100 for engineering and surveying services and authorize the Chair to execute same.

D Approve agreement with Kleinfelder Inc. in the amount of $302,000 for geotechnical exploration services and authorize the Chair to execute same.

E Approve minutes of the meetings September 15 and 29, 2009.

V BOARD AND STAFF MEMBERS' REPORTS

VI ADJOURN
October 13, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Anja Raudabaugh, Environmental Manager
SUBJECT: Amendment No. 3 to the Agreement between River Partners and TRLIA for Feather River Setback Elderberry Relocations, Floodplain Drainage Swale

**Recommended Action:** Approve the amendment to the contract with River Partners for Feather River, Floodplain Drainage Swale elderberry relocations, in the amount of $8,200 and authorize the TRLIA Chair to sign and Executive Director to execute.

**Background:** In August 2008 the TRLIA Board approved a contract with River Partners for the Feather River Setback project elderberry relocations. This contract included the relocation, monitoring and compliance with U.S. Fish and Wildlife Service (Service) protocols contained in the Biological Opinion (BO) for the Feather River Setback USACE 404 permit. In addition, the original contract included the planting of all estimated elderberry transplant associates in the Feather River Elderberry Transplant (FRET) site that were required in the BO. It was estimated that there were approximately 50 shrubs or shrub locations to be transplanted in the southern drainage swale area. At the conclusion of the swale clearing, 201 shrubs had been identified and transplanted to the FRET. The associate planting will occur later at the FRET site.

**Discussion:** This contract amendment includes costs associated only with the additional acreage River Partners needed to increase its area of maintenance for previously transplanted elderberries, monitor, create annual reports and extend irrigation to include an additional 5 basins to the north of the project area located at the end of Murphy road. This additional maintenance will end in conjunction with the original agreement. The elderberry associate plantings, which TRLIA is required to do as a result of conditions contained in the BO, are already accounted for in the original River Partners contract. The original contract also provided for the Board to amend it based on the need to relocate additional shrubs. The first amendment to the contract added work and costs related to the transplanting by River Partners of unanticipated elderberry shrubs. To date that work has added $57,000 to the total contract amount, and this amount will not increase any further. The parties understand that there will be no additional transporting of shrubs without a separate amendment to the original contract.

**Fiscal Impact:** The total cost of this amendment is estimated to be $8 200.00 – bringing the total contract amount for these actions to $612,700 over four years. The original expense was accounted for in funds contained within the Prop 1E account. The additional funding will be drawn from Feather River EIP agreement contingency funds.
THIRD AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND RIVER PARTNERS

THIS THIRD AMENDATORY AGREEMENT is made and entered into this ___ day of
_____2009, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a
Joint Powers Authority, ("TRLIA") and River Partners ("CONTRACTOR").

RECITALS:

WHEREAS, TRLIA and CONTRACTOR entered into an agreement to provide Professional
Services dated August 25, 2008 ("AGREEMENT");

WHEREAS, effective March 10, 2009, the parties entered into Amendment No. 1 to the
Agreement for Professional Services;

WHEREAS, effective August 4, 2009, the parties entered into Amendment No. 2 to the
Agreement for Professional Services;

WHEREAS, Article C.24 of the AGREEMENT, states that modifications or amendments to the
terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, TRLIA and CONTRACTOR desire to amend the AGREEMENT.

NOW, THEREFORE, TRLIA and CONTRACTOR agree as follows:

1. Third Amendment to Agreement. The Professional Services Agreement is hereby
amended as follows:

The scope of services (Attachment A to the Agreement for Professional Services between
TRLIA and River Partners, dated August 25, 2008) is amended to expand the scope of work as
described in a new scope of work dated September 4, 2009, to address site preparation and
additional elderberry transplant area of the floodplain drainage swale. The parties agree that
there will be no additional transplanting of elderberry shrubs without authorization by TRLIA and a
related amendment to the original Agreement.

The payment, budget, and not-to-exceed amounts (Professional Services Agreement
Attachment B) are amended by the attached Exhibit A to include the additional amount of
$8,200.00 for a total contract amount of $612,700.00.

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 _____ 2009.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

BY: ______________________
    CHAIR

CONTRACTOR

BY: ______________________
    John Carlon, President, River Partners

APPROVED AS TO FORM:
ANDREA P. CLARK
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
GENERAL COUNSEL

[Signature]

10310611
October 13, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Ric Reinhardt, Program Manager
SUBJECT: TRLIA 200-year Levee Design Standards

Recommendation: Approve proposed TRLIA resolution (Attachment 1) to codify the criteria that have been adopted by TRLIA in approving project elements with respect to the design of levee repairs to provide a 200-year level of protection, and authorize the Chair to sign.

Discussion: Since the formation of TRLIA a key goal of the levee improvement program has been to achieve 200-year flood protection for South Yuba County. With this goal in mind, TRLIA staff has been designing all of the levee repairs done in RD 784 to provide a minimum 200-year level of protection. In levee design, protection is provided by ensuring the levee is high enough to contain the design event (e.g., 200-year flood event), ensuring the levee is geotechnically stable at the design event, and ensuring the levee is safe from erosion. Geotechnical stability is assured by evaluating seepage, slope stability, and settlement. Continued protection also requires that operation and maintenance plans are established for long term levee reliability.

The criteria the TRLIA designers have been using and continue to use for levee repair design were developed from design manuals and standards of practice from the US Army Corps of Engineers, FEMA, and standards specified by the Central Valley Flood Protection Board that are contained in Title 23 of the California Code of Regulations. All TRLIA levee repair designs are reviewed and approved by independent reviewers including the Corps of Engineers, the Central Valley Flood Protection Board, and the Department of Water Resources prior to being implemented. These same criteria are being used by other public agencies as they implement levee repairs in their areas of responsibility.

Some members of the public have asked what standards guide TRLIA's levee repair program.
- For FEMA Levee Accreditation, TRLIA uses the above criterion with the design flow being a 100-year flood event. Using FEMA requirements either a Professional Engineer or the Corps of Engineers certifies the levee for FEMA 100-year Accreditation.
- For 200-year flood protection, TRLIA used the above criteria with the design flow being a 200-year flood event. Currently, there is not an official FEMA, Corps, or State 200 year design standard. Also, there is no certification. DWR is in the process of developing a 200-year design standard in response to Senate Bill 5. So far, the drafts of DWR's 200-year flood design standard are very similar to the criterion used by TRLIA staff.

Attached is a list of the levee design standards used in providing both the 100-year (FEMA) and 200-year level of protection (Attachment 2). The TRLIA Board has already adopted these...
standards by approving each element of its levee improvement projects. The purpose of this resolution is to codify in one document each of the standards previously used.

**Fiscal Impact:** None. This has been and continues to be a TRLIA design requirement.
RESOLUTION NO. 2009-__

A RESOLUTION BY THE BOARD OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
IN REGARD TO LEVEE DESIGN STANDARDS

WHEREAS, Three Rivers Levee Improvement Authority ("Three Rivers") was created in April 2004 to implement levee repairs for Yuba County; and

WHEREAS, the goal of the levee repairs is to provide reliable protection for the 200-year flood event to the protected areas; and

WHEREAS, public safety is paramount in designing and implementing these levee repairs; and

WHEREAS, the Corps of Engineers, FEMA, the Central Valley Flood Protection Board, and the Department of Water Resources have published standards and criteria that if followed will ensure the reliability of levees designed and constructed to these standards; and

WHEREAS, The Board of Three Rivers has adopted a set of criteria over time in approving project elements, and wishes to codify these criteria in one document to ensure that its staff and consultants utilize the most appropriate levee design standards in preparing designs for both 100-year and 200-year flood protection levee improvements and repairs.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The levee design standards attached to this resolution are hereby codified as the 100-year and 200-year standards to be followed by TRLIA’s staff and consultants in designing all levee improvements and repairs that will be implemented by TRLIA.

2. The executive director is delegated the authority to update these standards as needed should any of the regulatory agencies modify their levee design requirements.

PASSED AND ADOPTED this day of 2009, by the Three Rivers Levee Improvement Authority, by the following vote:
AYES:

NOES:

ABSENT:

ABSTAIN:

Chairman

ATTEST:
DONNA STOTTLMEYER
SECRETARY

APPROVED AS TO FORM:
GENERAL COUNSEL
ANDREA P. CLARK

[Signature]

[Signature]
# FEMA Levee Accreditation (100 year) criteria and TRLIA’s 200 year flood protection design criteria

<table>
<thead>
<tr>
<th>Criteria</th>
<th>100 year (FEMA)</th>
<th>200 year (TRLIA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Flow</td>
<td>Based on modeling of 100 year storm intensity</td>
<td>Based on modeling of 200 year storm intensity</td>
</tr>
<tr>
<td>Levee Height</td>
<td>3 feet freeboard above 100 year flow design water surface level (also called the base flood elevation)</td>
<td>3 feet freeboard above 200 year flow design water surface level</td>
</tr>
<tr>
<td>Closure facilities</td>
<td>All openings must have closure devices</td>
<td>All openings must have closure devices</td>
</tr>
<tr>
<td>Embankment Protection</td>
<td>Levee designed such that no appreciable erosion from currents or waves during the 100 year design flow</td>
<td>Levee designed such that no appreciable erosion from currents or waves during the 100 year design flow. In addition, erosion from the 200-year flood event should not result in failure of the levee or foundation.</td>
</tr>
<tr>
<td>Water seepage (thru and under seepage) based on design water surface levee</td>
<td>Engineering analyses be performed to demonstrate that seepage will not jeopardize the embankment or foundation stability under base flood loading condition</td>
<td>Engineering analyses be performed to demonstrate that seepage will not jeopardize the embankment or foundation stability assuming steady-state conditions have developed for the peak stage of the 200-year flood event. Calculated uplift and exit gradients shall not exceed 0.5 per Corps criteria.</td>
</tr>
<tr>
<td>Slope Stability</td>
<td>Engineering analyses be performed to demonstrate that under several conditions the levee slope exhibits an adequate factor of safety for stability.</td>
<td>Engineering analyses be performed to demonstrate that under several conditions the levee slope exhibits an adequate factor of safety (FS) for stability. End of Construction FS &gt; 1.3 Sudden Drawdown FS &gt; 1.0 Steady State Flood FS &gt; 1.4 per Corps criteria</td>
</tr>
<tr>
<td>Settlement</td>
<td>Analysis conducted to demonstrate design freeboard will be maintained.</td>
<td>Analysis conducted to demonstrate design freeboard will be maintained after calculated settlement has occurred.</td>
</tr>
</tbody>
</table>

Attachment 2
<table>
<thead>
<tr>
<th>Plan Type</th>
<th>Description</th>
<th>Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior Drainage Plan</td>
<td>Analysis showing sources and level of interior drainage waters and plan of operation</td>
<td></td>
</tr>
<tr>
<td>Operation Plan</td>
<td>Plan that outlines flood hazard warning system and operation plan for pump stations, closure facilities and other key facilities</td>
<td></td>
</tr>
<tr>
<td>Levee Maintenance Plan</td>
<td>Plan that outlines levee maintenance activities</td>
<td></td>
</tr>
<tr>
<td>Certification</td>
<td>Professional Engineer or Corps of Engineers</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>
October 13, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Ric Reinhardt, Program Manager
       Larry Dacus, Design Manager
SUBJECT: Consider Approval of Contract with MHM to Provide Engineering and Surveying Services for TRLIA Levee Improvement Program

**Recommended Action:**
Approve a contract with MHM Engineering (Attachment I) for engineering and surveying services and authorize the TRLIA Chair to sign and the Executive Director to execute once General Counsel has reviewed and approved.

**Discussion:**
TRLIA has utilized MHM for surveying and engineering throughout the levee improvement program. The last contract with MHM lapsed without an immediate renewal. TRLIA now has need for MHM’s assistance in transferring land to DWR, in developing the final levee certification report to FEMA, and in other general engineering tasks.

Specifically, TRLIA has need for MHM assistance in the following tasks:

**TASK 1** – Provide Land Surveying Services for the Bear Setback Area. TRLIA must prepare the proper documentation to transfer the Bear Setback lands to the State. MHM will prepare legal descriptions and exhibits for this transfer. Estimated cost - $25,000.

**TASK 2** – Provide services in developing information on interior drainage of the area protected by the RD 784 levees to be included in a system wide levee certification package to be submitted to FEMA. MHM will identify all interior drainage studies performed to date and provide an Engineer’s Opinion as to the adequacy of the hydrologic and hydraulic analysis performed for the interior drainage studies. Estimated cost - $83,100.

**TASK 3** – Provide engineering services in identifying borrow areas for the Upper Yuba Levee Improvement Project. TRLIA will require borrow for repairs of the Upper Yuba South Levee. MHM’s unique knowledge of this area can provide TRLIA assistance in identifying the most efficient borrow areas to be used for this project. Estimated Cost - $5,000.

**TASK 4** – Assist Downey Brand LLP in preparing for the NAUMES eminent domain case. Efforts will consist of organizing and providing all information that MHM developed on the landside drainage ditch of the Feather Setback Levee. Estimated Cost - $3,000.
TASK 5 – Provide general surveying services for TRLIA. From time to time TRLIA has need for minor surveying services. This can include property surveys and surveys and reading of various monitoring monuments and instruments that TRLIA has installed in the levees that have been repaired. Individual requests for these services will be made by TRLIA to MHM. This task is to cover small, unanticipated surveying needs that develop from time to time. This task may not be used fully. Estimated Cost - $25,000

As a local surveying and engineering firm, MHM has unique knowledge of landowners and is experienced with the TRLIA program. This contract with MHM provides TRLIA with resources to perform unanticipated surveying tasks with a quick turn around.

**Fiscal Impact:**
This contract is for $141,100 for services on a time-and-expenses basis, to a maximum amount not to a total contract amount. The funding for these tasks will come from the Feather River and Upper Yuba River EIP agreements (local and State share).

Attachment 1:
MHM Professional Services Contract and Exhibit 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 MHM, Inc. ("CONTRACTOR").

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

OPERATIVE PROVISIONS

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date: October 13, 2009
Termination Date: June 30, 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.

Page 1 of 3.
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 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. Sean Minard, Project Manager, 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ________________, 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MHM, INC.

__________________________  ____________________________

Mary Jane Griego
Chair, Three Rivers Levee Improvement Authority Board

John Michael Smith
Principal

ATTEST:
DONNA STOTLLEMEYER,
SECRETARY

APPROVED AS TO FORM:
SCOTT L. SHAPIRO

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY GENERAL COUNSEL

Andrea P. Chack

Scott Shapiro
ATTACHMENT A

A.1 SCOPE OF SERVICES AND DUTIES.

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

See Exhibit 1

A.2. TIME SERVICES RENDERED.

See Operative provision No. 2

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 $141,100; 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 $141,100 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 6) and then THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay THREE RIVERS LEVEE IMPROVEMENT AUTHORITY per diem rates in effect on the date of invoice upon presentation of invoices.

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

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. 8.

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. 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. A
non-ISO form must be reviewed and approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Risk Manager prior to acceptance of the Agreement.

(b) Insurance Services Office Business Auto Coverage form number CA 0001 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 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.
AUTHORITY, its officials, employees and
volunteers or other insureds shall be excess of the
CONTRACTOR’S insurance and shall not
contribute with it.

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

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

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

(c) All 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 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 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.

Attachment C – Page 8 of 12.
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 THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of Yuba, 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 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 G. Brunner, Executive Director
   1114 Yuba Street, Suite 218
   Marysville, CA 95901

If to "CONTRACTOR":

   MHM INC.
   Sean Minard, Project Manager
   P.O. Box B
   Marysville, CA 95901-0053
October 13, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Ric Reinhardt, Program Manager
       Larry Dacus, Design Manager
SUBJECT: Consider Approval of Contract with Kleinfelder West Inc. to Provide Geotechnical Exploration Services for TRLIA Upper Yuba Levee Improvement Project

Recommended Action:
Approve a contract with Kleinfelder West Inc. (Attachment 1) for geotechnical exploration services and authorize TRLIA Chair to sign and TRLIA Executive Director to execute once General Counsel has reviewed and approved.

Discussion:
TRLIA is developing designs for the Upper Yuba Levee Improvement Project (UYLIP). Preliminary alternatives indicate that the project will consist of slurry walls and seepage berms. Early geotechnical explorations have identified complex foundation conditions along the levee reach that requires additional geotechnical borings to complete these designs. These additional borings need to be at greater depths than originally taken because of the presence and extent of gravels being found in the foundation. In addition, the use of seepage berms in the project requires that additional shallow borings be taken in the footprint of the berms to better define the characteristics of berm material and whether other filter material will be required in the berm. Also needed are evaluation of soils in potential borrow areas to identify potential borrow sources for repair of this reach of levee.

TRLIA has need for Kleinfelder to perform the following tasks:

TASK 1 – Sonic Borings along Levee Crest: Data gaps have been identified in past explorations. Further characterization of subsurface materials at deeper depths is needed to complete the design. Sonic borings are the best method to drill to the depths required and through the material expected in the foundation. Estimated cost - $100,900.

TASK 2 – Shallow Landside Borings for Seepage Berm Evaluation: A seepage berm has been identified by the Levee Team as the preferred mitigation design between approximate Stations 212+00 and 304+00. Where the seepage berm is proposed the filter compatibility between the new berm and the underlying foundation material is critical to the berm functioning successfully. To evaluate this condition the foundation material beneath the proposed seepage berm needs to be evaluated. Estimated cost - $135,200.

TASK 3 – Evaluate Borrow Site: Borrow material will be required to reconstruct levees and construct berms. This task is for evaluation of two parcels for a total of 76 acres site.
Evaluation includes excavating test pits, logging pits, testing samples, and providing recommendations on the adequacy of the potential borrow area. Estimated Cost - $38,400.

**OPTIONAL TASK** – If the initial borrow areas evaluated do not yield adequate or sufficient material for borrow needs, additional evaluations will be required. This option will only be exercised if additional borrow investigations are needed. This will cover additional test pits and laboratory tests to evaluate new potential areas for borrow. In these investigations TRLIA is attempting to evaluate only those areas for potential borrow with willing sellers. Estimated Cost - $27,500.

**Fiscal Impact:**
This contract is for $302,000 for services on a time-and-expenses basis, to a maximum amount not to a total contract amount. This work is covered in the pending UYLIP EIP funding agreement. There are local funds within the TRLIA program to cover this expense initially. Once the Upper Yuba EIP agreement is executed with the State, TRLIA will be reimbursed 70% of the project cost.

Attachment 1:
Kleinfelder West, Inc. Professional Services Contract and Exhibit 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 Kleinfelder, Inc. ("CONTRACTOR").

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

OPERATIVE PROVISIONS

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date: October 1, 2009

Termination Date: June 30, 2010

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 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. Tim Williams 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.

    IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ______________________, 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

KLEINFELDER, INC.

__________________________  ____________________________
Mary Jane Griego  Tony Martin
Chair, Three Rivers Levee Improvement Authority  Regional Manager

ATTEST:  APPROVED AS TO FORM:
DONNA STOTTERMeyer,  SCOTT L. SHAPIRO
SECRETARY

__________________________  ____________________________
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY GENERAL COUNSEL

Page 3 of 3.
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 CONTRACTOR'S proposal dated October 8, 2009 (Exhibit 1)

A.2. TIME SERVICES RENDERED.

See CONTRACTOR'S proposal dated October 8, 2009 (Exhibit 1)

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 $302,000; 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 $302,000 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 6) and then THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall pay THREE RIVERS LEVEE IMPROVEMENT AUTHORITY per diem rates in effect on the date of invoice upon presentation of invoices.

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

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 of time that 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, 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, 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. 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. A non-ISO form must be reviewed and approved by the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Risk Manager prior to acceptance of the Agreement.

(b) Insurance Services Office Business Auto Coverage form number CA 0001 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 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 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 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 claim and One Million Dollars ($1,000,000) annual aggregate, with deductible or self-insured portion not to exceed One Hundred Thousand Dollars ($100,000). 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

Attachment C – Page 5 of 13.
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.

(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 willful misconduct 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.

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 and currently practicing in the same locality (the California Central Valley) under similar conditions at the time the work was performed. 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 and currently practicing in the same locality (the California Central Valley) under similar conditions at the time the work was performed.

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 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 THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of Yuba, 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 covenant and term a condition herein. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY understands however, that the CONTRACTOR’s performance must be governed by sound professional practices and therefore timelines shall be an obligation secondary to the duty to provide Services in accordance with the Standard of Care.

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
1114 Yuba Street, Suite 218
Marysville, CA 95901

If to "CONTRACTOR":

Kleinfelder, Inc.
Tim Williams
3077 Fite Circle
Sacramento, CA 95827

C.34 SITE ACCESS. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY shall provide unimpeded and timely access to the jobsite as may be required of CONTRACTOR for the successful and timely performance of the Services. Failure to do so shall excuse timely performance by CONTRACTOR.

C.35 WAIVER OF CONSEQUENTIAL DAMAGES. Except as provided in Section C.5, neither party shall be responsible to the other for any special, incidental, indirect, exemplary, punitive, penal, or consequential damages (including lost profits) incurred by the other party or for which either party may be liable to any third party.

C.36 THIRD PARTY BENEFICIARY. Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party, against either CONTRACTOR or THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

C.37 WARRANTY OF TITLE, WASTE OWNERSHIP. CONTRACTOR will not take title to, will not accept risk with respect to, and will not be responsible for the removal and disposal of any hazardous materials found at the jobsite.
A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Assistant Counsel Scott McElehern, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeier. Chair Griego presided.

CLOSED SESSION

The Board retired into closed session at 2:01 p.m. to discuss the following:

A. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Thomas A. Rice, et al., Yuba County Superior Court, Case No. YCSCCVED 07-0000633

B. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Baldev S. Heir, et al., Yuba County Superior Court, Case No. YCSCCVED 08-0000242

C. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Pritam Kaur Heir, trustee, et al., Yuba County Superior Court, Case No. YCSCCVED 08-0000244

D. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Danna Investment Company, et al., Yuba County Superior Court, Case No. YCSCCVED 08-0000240

E. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Jourbee Khang, et al., Yuba County Superior Court, Case No. YCSCCVED 07-000313

F. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Davit, et al., Yuba County Superior Court Case No. YCSCCVED 07-000437, Court of Appeal Case No. C060898, APN No. 013-010-014
The Board recessed from closed session at 2:44 p.m. with all Board and staff members present as indicated above.

SPECIAL PRESENTATION

Yuba Sutter Transit: Chair Griego presented a plaque to Dawna Dutra, Gayle Williams and Dave Phillips of Yuba Sutter Transit in appreciation of their community involvement and support and assistance during levee tours.

CLOSED SESSION CONTINUED

The Board returned to closed session at 2:46 to continue discussion on the previous listed above items under closed session.

The Board returned from closed session at 3:23 p.m. with all Board and staff members present as indicated above.

There was no action to report.

PUBLIC COMMUNICATIONS

No one came forward.

CONSENT AGENDA

Minutes: Upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously carried, the Board approved the minutes of the meeting of August 18, 2009 as written.

ACTION ITEMS

First Amendment to Notice of Special Tax Lien/Community Facilities District 2004-1 (South County Area): Consultant Seth Wurzel recapped the purpose of the amendment and responded to Board inquiries.

Upon motion of Director Nicoletti, seconded by Director Brown, and unanimously carried, the Board authorized and directed the Secretary of the Authority to execute the First Amendment to Notice of Special Tax Lien for TRLIA Community Facilities District 2004-1 (South County Area) and take necessary actions to record same.
Lorang Brothers/$312,159/Upper Yuba Levee Slope Flattening Project: Executive Director Paul Brunner and Construction Manager Doug Handen provided a recap on the project, permits, and construction schedule and responded to Board inquiries.

Upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously carried, the Board awarded a contract to Lorang Brothers, the lowest qualified bidder, in the amount of $312,159, for the Upper Yuba Levee Slope Flattening Project and authorized the Executive Director to execute same upon review and approval of Counsel and issue notice to proceed.

Amendment No. 8/HDR Engineering, Inc./$155,846: Executive Director Paul Brunner recapped the services provided and responded to Board inquiries.

Director Crippen left and the meeting momentarily at 3:40 p.m. and returned.

Upon motion of Director Nicoletti, seconded by Director Brown, and unanimously carried, the Board approved Amendment No. 8 to the agreement with HDR Engineering, Inc. in the amount of $155,846 for construction management services and authorized the Executive Director to execute same upon review and approval of Counsel.

Senior Consultant Services/$196,000/Upper Yuba South Levee Project: Executive Director Paul Brunner recapped the services provided of three consultants for a board of review on the Upper Yuba South Levee Project and certification packages and responded to Board inquiries.

Upon motion of Director Nicoletti, seconded by Director Brown, and unanimously carried, the Board approved agreements with David T. Williams and Associates Engineers, LLC; Donald H. Babbitt; and AMEC Geomatrix Inc. in a total amount of $196,000 for senior consultant services for the Upper Yuba South Levee Project and authorized the Executive Director to execute same upon review and approval of Counsel.

BOARD AND STAFF MEMBERS’ REPORTS

Reports were received on the following:

Director Nicoletti: Board of Supervisor approval of Executive Director amendment

Executive Director Paul Brunner:
- 200 year flood event/protection
- Senate Bill 5 regarding 200 flood event standard
- Construction Status
crack repair project began  
erosion work to start

- October 26, 2009 Ribbon Cutting for Feather River Setback Levee
- Flood Plain Management Conference September 8 – 11 in San Jose

Supervisor Griego left the meeting at 4:03 p.m. and did not return

**ADJOURNMENT**

There being no further business to come before the Three Rivers Levee Improvement Authority Vice Chair Brown adjourned the meeting at 4:07 p.m.

_________________________  Chair

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

_________________________  Approved: ____________________
A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 3:30 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 John Nicoletti was absent. Also present was Executive Director Paul Brunner, Assistant Counsel Scott McElehern, and Secretary/Clerk of the Board of Supervisors Donna Stottlemeyer. Chair Griego presided.

CLOSED SESSION

The Board retired into closed session at 3:31 p.m. to discuss the following:

A. Pending litigation pursuant to Government Code 54956.9(a) – TRLIA vs. Khang YCSCCVED 07-0000313

B. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Tom and Jeannette Rice YCSCCVED 07-0000633

C. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Danna Investment Co. YCSCCVED 08-000024

D. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Heir Family YCSCCVED 08-0000242

E. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Heir Trust YCSCCVED 08-0000244

F. Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Davit YCSCCVED 07-000437, Court of Appeal Case No. C060898

The Board returned from closed session at 4:49 p.m. with all Board and staff members present as indicated above except for Director Crippen.

There was no announcement.
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 4:49 p.m.

______________________________
Chair

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

______________________________  Approved: ____________________