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

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

CLOSED SESSION

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

1. TRLIA vs. Danna Investment Co. YCSCCVE 08-000024
2. TRLIA vs. Heir Family YCSCCVE 08-0000242
3. TRLIA vs. Thomas A. Rice, et al. YCSCCVE 07-0000633

PUBLIC COMMUNICATIONS: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today’s agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes. Prior to this time, speakers are requested to fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

ACTION ITEMS

A. Approve agreement with Psomas in the amount of $121,300 for surveying services and authorize the Chair to execute same.

B. Approve minutes of the special meeting of October 13, 2009.

BOARD AND STAFF MEMBERS’ REPORTS

A. Feather River Levee Improvement Ribbon Cutting Ceremony
B. Other reports

ADJOURN
October 20, 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 PSOMAS to Provide Surveying Services for Yuba South Training Levee and RD 784 Top of Levee Determination

**Recommended Action:**
Approve a contract with PSOMAS Engineering (Attachment 1) for surveying services and authorize the TRLIA Chair to sign and Executive Director to execute once General Counsel has reviewed and approved.

**Discussion:**
TRLIA is analyzing the hydraulics of the Upper Yuba River. A significant factor in this analysis is the elevation of an identified training levee along the south bank of the Yuba River from the Goldfields to just past Dantoni Road. Precise topographic information is required on this training levee in order to calculate the most accurate water surface elevations along the proposed Upper Yuba Levee Improvement Project. PSOMAS is being asked to perform a profile and cross section survey along the training levee.

TRLIA is also undertaking a FEMA certification effort for the recently repaired levees of Reclamation District (RD) 784. As part of this certification TRLIA will need to show adequate freeboard above the 100-year flood profile. This will require a final top of levee profile of all of the repaired levees. PSOMAS will perform top of levee surveys for all of the RD 784 levees that have been repaired. A new requirement of the Corps of Engineers is that field surveys used for FEMA certification purposes shall be in the NAVD 88 vertical datum. All other TRLIA design and construction has been in NGVD 29 vertical datum. PSOMAS as part of this effort will also calculate conversion factors from NAVD 88 to NGVD 29 at appropriate locations in the RD 784 area.

PSOMAS has extensive experience in surveying in northern California and has performed similar levee surveys for SAFCA in the Natomas Basin.

**Fiscal Impact:**
This contract is for $121,300 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:
PSOMAS Professional Services Contract and Exhibit A
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 PSOMAS ("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 20, 2009

Termination Date: December 31, 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. Brian Bullock, Vice-President, 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

Page 2 of 3.
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

Chairman

ATTEST:  
DONNA STOTTLEMEYER, SECRETARY

APPROVED AS TO FORM:  
SCOTT L. SHAPIRO

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 Exhibit A

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 $121,300; 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. Payments shall be made within 30 days after receipt of invoice. In no event shall total compensation paid to CONTRACTOR under this Provision B.1 exceed $121,300 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, ten (10) days if such cancellation is due to non-payment of premium. 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
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 canceled by
either party, except after thirty (30) days prior written notice, ten
(10) days if cancellation is due to non-payment of premium, by
U.S. mail, to the THREE RIVERS LEVEE IMPROVEMENT
AUTHORITY. Psomas will give notification in the event of
suspension or voided policy.

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 Two Hundred Fifty Thousand Five Hundred Dollars ($250,000). 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 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 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. 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

Attachment C – Page 7 of 12.
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. 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.

Attachment C – Page 8 of 12.
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 County 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":

   PSOMAS
   Brian Bullock, Vice-President
   1075 Creekside Ridge Drive, #200
   Roseville, CA 95678
Three Rivers Levee Improvement Authority (TRLIA) is analyzing the hydraulics of the Upper Yuba River. A significant factor in this analysis is the elevation of an identified training levee along the south bank of the Yuba River from the Goldfields to just past Dantoni Road. Precise topographic information is required on this training levee.

**TASK 1:** Perform a profile survey on top of the training levee in the reach indicated on the attached Figure 1. In addition to this profile provide cross sections at approximately every 500 feet along the alignment of the training levee. If possible, cross sections will extend from 50 feet on waterside toe to 50 feet past the landside toe. Where distinct levee geometry is not evident, the cross section will extend 100 feet on each side of the profile centerline. This profile and cross sections will be accomplished as soon as possible.

All field surveys in this scope of work shall be in NAVD 88 vertical datum. All other TRLIA design and construction has been in NGVD 29 vertical datum. A conversion factor will be determined between these two datums utilizing precision GPS static surveys for the training levee.

**Deliverables:**
1. Two digital files of cross-section data in ASCII format (Point No., Northing, Easting, Elevation, Description). One file will contain the data in NGVD 29 datum and the other file will contain the data in NAVD 88 datum.
2. Short explanation of the conversion factor determined for the training levee and how it should be applied.

**Fee and Schedule for Task 1:**
Psomas’ fee for this portion of the work is time and materials not to exceed $35,800. Weather permitting; we will submit the deliverables for Task 1 within 3-4 weeks from receipt of written notice to proceed at the completion and a signed contract from TRLIA.

**TASK 2:** The consultant shall determine a conversion factor(s) from NAVD 88 to NGVD 29 as appropriate for the area of the project. Psomas will recover existing NAVD 88 published bench marks and perform precision level circuits utilizing Leica digital precision levels and techniques to 1) establish NGVD 29 and NAVD 88 values on selected project near the levees to be profiled. The project area will range from the south bank of the Yuba River at the Goldfields to the Bear Setback levee in southwestern Yuba County.
TRLIA is also undertaking a certification effort for the recently repaired levees of Reclamation District (RD) 784. As part of this certification TRLIA will need to show adequate freeboard above the 100-year flood profile. This will require a final top of levee profile of all of the repaired levees. Psomas will measure the top of levee at the approximate centerline and top hinge points at approximately 100-foot intervals (not on project stationing) and will measure significant grade breaks between the 100-foot intervals. The top of levee surveys will include the following:

- Yuba South Levee from Simpson Lane to its connection with the Feather East Levee
- Feather East Levee from its connection to the Yuba South Levee to its connection to the Bear North Levee
- Bear North Levee from its connection to the Feather East Levee to its connection with the WPIC West Levee
- WPIC West Levee from its connection to the Bear North Levee to its connection with the Olivehurst Detention Basin (ODB) Ring Levee
- WPIC West Levee from ODB Ring Levee to its termination at the railroad embankment
- ODB Ring Levee from its connection with the WPIC West Levee to its connection with Highway 70 Embankment
- Highway 70 South Embankment from ODB Ring Levee to 2,500 feet north.
- Determine inverts of drain pipe through Highway 70 Embankment at Milepost 6.62. Determine inverts at west end of pipe, at median drain structure and at east end of pipe.

This top of levee survey should be done after all construction is complete on the Feather East Levee which should be completed by November 15, 2009. Top of levee elevations will be based on data obtained using the precision digital levels.

**Deliverables:**

1. Two digital files of top of levee data in ASCII format (Point No., Northing, Easting, Elevation, Description). One file will contain the data in NGVD 29 datum and the other file will contain the data in NAVD 88 datum.
2. Survey Report of the processes followed and the results to document how Psomas established the datum conversion factor(s) between NAVD 88 and NGVD 29.
3. Field notes and ASCI data of the culvert inverts requested.

**Fee and Schedule for Task 2:**

Psomas’ fee for this portion of the work is time and materials not to exceed $85,500. Weather permitting; we will submit the deliverables for Task 2 within 8 weeks from receipt of written notice to proceed at the completion of construction for this portion of the work. This schedule is based on being allowed to perform the portion of the levels Psomas can do prior to the completion of construction.

This proposal is based on the following assumptions:
1. That Psomas will receive survey project control data from MHM in a timely manner, to incorporate their bench marks into our field surveys.

2. That we will have unobstructed access to the levees to be surveyed. If the levees have locked gates, we assume we will be provided with a set of keys to the gates for each survey crew. We have not included rights of entry activities in our proposal.

3. Our scope of services does not include detailed topographic surveys and mapping, only cross-sectional data and the specific inverts stated in the scope above.

4. GPS data will be processed in NAD 83 horizontal datum, CCS, Zone 2 (1991.35 epoch date) or the same horizontal datum as the project control established by MHM.

5. Any services not specifically included in the above scope shall be understood as being excluded from Psomas' scope of services.
October 20, 2009

TO: Three Rivers Levee Improvement Board
FROM: Kim Floyd
SUBJECT: Feather River Levee Ribbon Cutting Ceremony Update

Memo:

The official ribbon cutting ceremony for the Feather River Levee Improvements is scheduled for 10:30 a.m., Monday, October 26 at the Feather River Setback Levee near Star Bend. Official invitations were sent in late September to more than 400 people who have participated or expressed interest in the project at the local, state, and federal levels. We have also posted the information on our Web site and in a newsletter sent to 30,000 households and properties in Yuba County. The community’s attendance is encouraged and welcomed.

Official letters were also sent to Governor Arnold Schwarzenegger, DWR Director Lester Snow, and Natural Resources Secretary Chrisman to invite their participation. The event has been placed on their respective schedules, but we have not yet confirmed their participation. In addition, we are awaiting word from Congressman Herger’s office about his availability.

Confirmed speakers/participants include: Lindhurst High School ROTC (presentation of colors); Paul Brunner, TRLIA Executive Director; Supervisor Mary Jane Griego, Chair (Master of Ceremonies); Supervisor John Nicoletti; Rick Brown, RD784 Board President; State Assembly Member Dan Logue; and, LTC Adam Kiger, US Army Corps of Engineers.

Following comments from the aforementioned participants, the official shovel bearers who helped break ground on the project (May 2008) will be invited to lead dignitaries in the ceremonial completion of the levee. The official ribbon cutting will take place immediately thereafter.

All attendees will be invited to a post-event reception at the Plumas Lake Country Club, an activity sponsored by the following project consultants: GEI, EPS, Downey Brand, HandenCo, MBK, BRI, and Kim Floyd Communications. There, the County has plans to unveil a special presentation to commemorate the project milestone.

Local businesses, to include Pelton’s and Logan Entertainment, have been tapped to provide event rentals and mics/sound, respectively.
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

OCTOBER 13, 2009 – SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 3:19 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Griego, and John Nicoletti. Directors Jerry Crippen and Don L. Graham were absent. Also present were Program Manager Ric Reinhardt, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chair Griego presided.

CLOSED SESSION

The Board retired into closed session at 3:21 p.m. to discuss the following:

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 08-000024
3. TRLIA vs. Naumes, Inc. YCSCCVED 08-0000361
4. TRLIA vs. Thomas A. Rice, et al. YCSCCVED 07-0000633

The Board returned from closed session at 3:40 p.m. with all Board and staff members present as indicated above.

Counsel Scott Shapiro advised the Board discussed four cases and updated counsel's authority to settle on one of the cases.

ACTION ITEMS

1. River Partners/Amendment No. 3/$8,200: Following a brief recap from Environmental Manager Anja Raudabough, upon motion of Director Nicoletti, seconded by Director Brown, and carried with Directors Crippen and Graham being absent, the Board approved Amendment No. 3 to the agreement with River Partners in the amount of $8,200 for elderberry relocation and authorized the Chair to execute same.

APPROVE AMNDMNT.
2. Levee Design Standards: Counsel Scott Shapiro and Program Manager Ric Reinhardt recapped the proposed resolution regarding design standards and responded to Board inquiries.

The following individual spoke:

- Mr. Tom Eres, Hofman Ranch

Following Board discussion, upon motion of Director Nicoletti, seconded by Director Brown, and carried with Directors Crippen and Graham being absent, the Board adopted Resolution No. 2009-13, which is entitled: "A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY IN REGARD TO LEVEE DESIGN STANDARDS."

3. MHM Inc./Agreement/$141,100: Design Manager Larry Dacus recapped the tasks to be performed regarding various projects and responded to Board inquiries.

Upon motion of Director Nicoletti, seconded by Director Brown, and carried with Directors Crippen and Graham being absent, the Board approved an agreement with MHM, Inc. in the amount of $141,100 for engineering and surveying services and authorized the Chair to execute same.

4. Kleinfelder Inc. Agreement/$302,000: Design Manager Larry Dacus recapped the tasks to be performed regarding various projects and responded to Board inquiries.

Counsel Scott Shapiro recapped modifications to the contract regarding standard of performance and indemnity and responded to inquiries.

Upon motion of Director Nicoletti, seconded by Director Brown, and carried with Directors Crippen and Graham being absent, the Board authorized Counsel to resolve outstanding modifications regarding indemnity; approved an agreement with Kleinfelder Inc. in the amount of $302,000 for geotechnical exploration services; and authorized the Chair to execute same upon review and approval of Counsel.

E. Minutes: Upon motion of Director Nicoletti, seconded by Director Brown, and carried with Directors Crippen and Graham being absent, the Board approved the minutes of the meetings of September 15 and 29, 2009, as written.

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:
Construction Manager Doug Handen:
  • Implications of rain storm on construction schedule

Director Griego:
  • Tour of project and Teichert performance

**ADJOURNMENT**

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 4:22 p.m.

______________________________
Chair

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

______________________________
Approved: ____________________