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 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.

IV SPECIAL PRESENTATION

A. Receive presentation of evaluation of groundwater impact from the Upper Yuba River South Levee Repair activities.

B. Receive presentation on Department of Water Resources Draft State Plan on Flood Control

V ACTION ITEMS

A. Approve minutes of the meeting of February 2, 2010.

B. Award lease to Forrest Miller for a four year term for agricultural use and delegate authority to Executive Director to conclude lease negotiations and execute lease upon review and approval of Counsel.

C. Approve selecting River Partners as the qualified contractor to perform restoration, irrigation planting, and monitoring of habitat mitigation and restoration projects required for Feather River Setback Levee project; authorize Executive Director to negotiate contract amount and execute upon review and approval of Counsel.

D. Approve Amendment No. 1 to agreement with MWH in the amount of $39,500 for engineering services and authorize Executive Director to execute upon review and approval of Counsel.

VI BOARD AND STAFF MEMBERS’ REPORTS

VII ADJOURN

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

In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board’s office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.
Christian Petersen P.G., C.H.G.

Levee Repair Activities from the Upper Yuba River South

Evaluation of Groundwater Impacts
Project Overview

Levee Location

- Designed for 200 year protection
- 16,700 ft Levee Length
- 15,000 ft Slurry Wall – 47 to 80 ft Deep
- 1,500 ft Seepage Berm – NE End
Project Overview

Study Objectives
• Characterize local groundwater conditions
• Develop an inventory of existing wells in the project area
• Assess groundwater impacts resulting from levee repairs

Questions Addressed
1. Will slurry wall reduce groundwater recharge?
2. Will slurry wall cut off flow to my well?
3. Will slurry wall cause groundwater to rise into root zones?
Physical Setting

- Conceptual understanding of aquifer
- Groundwater surface and flow
- Groundwater basin boundaries
Basin Boundaries

- Groundwater Basin
- Groundwater Surface
- Groundwater Flow Direction
- Basin Recharge and Discharge
Conceptual Understanding of Aquifer System

It is Important to Accurately Characterize the Local Groundwater Conditions to Assess Impacts

Scenario #1

Scenario #2
Evaluation Methods

• Compile and review well logs and soil borings in project area
• Assess the thickness and lateral continuity of confining units
• Theis equation to estimate well effects near slurry wall
• Hydrus 2D Model used to assess impacts to shallow root zone
Identified Wells in the Area

- In analyses
- Best logs used
- Screen to 227
- Kleinfielder
- DWR and
- 695 logs from
- From levee
- 2-mile buffer
- Well Inventory
Geologic profiles show discontinuous shallow confining layers
Relative Permeability Along Levee Alignment

Geologic profiles show discontinuous shallow confining layers

Cross Section TRL/A L-L'

Maximum Wall Depth

Southwest

Northeast

Prepared by ___________ Date ___________ Reviewed By ___________ Date ___________
Relative Permeability at Cross Sections E-E’ and D-D’

Geologic profiles show discontinuous shallow confining layers.
Profile View

Plan View

Shallow Well Pumping

Wall Interference with

Illustration of Potential Slurry

Evaluation Results
Evaluation Results

Approximately 13 Wells in the yellow area (1 to 3 ft of drawdown) – Being Verified

Approximately 8 Wells in the orange area (up to 5 feet of drawdown) – Being Verified
Conclusions

1) Based on GW flow pattern, discontinuous confining layers (Scenario #2), and evidence from historic groundwater levels, the proposed slurry wall will not reduce groundwater recharge.

2) The slurry wall will not cut off flow to a well, but if a shallow (<100 ft) well is very close to the levee, it may experience up to 5 feet of additional drawdown. Deeper agriculture wells will not be impacted.

3) Based on results of Hydrus modeling, the slurry wall will not cause groundwater to rise into root zones, however shallow groundwater has historically impacted orchards adjacent to the Goldfields. The levee repair project will neither improve or significantly compound this existing natural condition.
Central Valley Flood Management Planning Program

FloodSAFE VISION

A sustainable integrated flood management and emergency response system throughout California that improves public safety, protects and enhances environmental and cultural resources, and supports economic growth by reducing the probability of destructive floods, promoting beneficial floodplain processes, and lowering the damages caused by flooding.

The purpose of the Central Valley Flood Management Planning (CVFMP) Program is to improve integrated flood management in the Sacramento and San Joaquin Valleys. Legislation passed in 2007 directs the California Department of Water Resources (DWR) to develop three important documents that will guide improvement of integrated flood management:

- **State Plan of Flood Control (SPFC) Descriptive Document** to inventory and describe the flood management facilities, land, programs, conditions, and mode of operations and maintenance for the State-federal flood protection system in the Central Valley.

- **Flood Control System Status Report** to assess the status of the facilities included in the SPFC Descriptive Document, identify deficiencies, and make recommendations.

- **Central Valley Flood Protection Plan (CVFPP)** to describe a sustainable, integrated flood management plan that reflects a system-wide approach for protecting areas of the Central Valley currently receiving protection from flooding by existing facilities of the SPFC. DWR is required to prepare the CVFPP by January 1, 2012, for adoption by the Central Valley Flood Protection Board by July 1, 2012, and to update the plan every five years (years ending in 2 and 7).

Completion of the SPFC Descriptive Document and the Flood Control System Status Report will contribute to development of the CVFPP along with existing information and new data developed by other FloodSAFE programs and projects, including the Central Valley Floodplain Evaluation and Delineation Program, Delta Risk Management Strategy, Central Valley Flood Planning Hydrology Update, California Levee Database, and Levee Evaluation Program.

The CVFPP Vision

The CVFPP will be a sustainable, integrated flood management plan describing the existing flood risk in the Central Valley and recommending actions to reduce the probability and consequences of flooding. Produced in partnership with federal, tribal, local, and regional partners and other interested parties, the CVFPP will also identify the mutual goals, objectives, and constraints important in the planning process; distinguish plan elements that address mutual flood risks; and, finally, recommend improvements to the State-federal flood protection system.
As the initial installment of this long-term planning document, the 2012 CVFPP will:

- Document and promote understanding of integrated flood management factors including existing conditions and likely future challenges, problems, and opportunities, goals and objectives, and potential solutions for improving integrated flood management in the Sacramento-San Joaquin Valley. These factors will be described from multiple perspectives including state, federal, tribal, regional, local, and other interest-based groups.

- Develop a broadly supported vision for how to improve integrated flood management in the Sacramento-San Joaquin Valley.

The CVFPP will support and guide many implementation activities by state, federal, and local agencies for subsequent feasibility studies, environmental compliance, design, and construction. Development of the CVFPP will be coordinately closely with the U.S. Army Corps of Engineers' Central Valley Integrated Flood Management Study.

**CVFPP Development Strategy**

The core planning activity of the CVFMP is development of the Central Valley Flood Protection Plan. With the intent to develop an integrated flood management plan that is sustainable in social, economic, and environmental aspects, DWR has developed a systematic planning approach and a robust process for engaging the public, interested parties, and knowledgeable experts. The engagement process features a variety of opportunities for people to become involved in the planning process, including attendance at informational forums and participation in work groups, where content and strategy recommendations will be developed. *(Please see our "How to Get Involved" fact sheet for more detailed information.)*

For more information on the Central Valley Flood Management Planning Program, please visit [www.water.ca.gov/cvfmp](http://www.water.ca.gov/cvfmp) or email us at cvfmp@water.ca.gov.
CENTRAL VALLEY FLOOD MANAGEMENT PLANNING PROGRAM

DRAFT
State Plan of Flood Control Descriptive Document

January 2010
Guide to Report

This report provides an inventory and description of the existing flood control works (facilities), lands, programs, plans, conditions, and mode of operations and maintenance (O&M) for the State-federal flood protection system in the Central Valley of California. This flood protection system is composed of federally authorized project levees and related facilities for which the State has provided assurances\(^1\) of cooperation to the federal government. These State-provided assurances are an important distinction for what constitutes the State-federal flood protection system since other flood protection facilities in the Central Valley are not covered by State assurances and are not part of the State-federal system.

Collectively, the facilities, lands, programs, conditions, and mode of O&M for the State-federal flood protection system in the Central Valley are referred to as the State Plan of Flood Control (SPFC). This SPFC Descriptive Document is the first time that an inventory of the SPFC has been compiled or referenced in a single document. Until now, much of the information on the SPFC has been individually maintained for each of the many flood protection projects that constitute State-federal flood protection along the Sacramento and San Joaquin rivers and tributaries. For example, much of the information contained in sections of this report originates in 118 individual project (unit-specific) O&M manuals. The O&M manuals provide key information about each project and how it should be operated and maintained (see reference digital versatile disc (DVD) at the back of this report). In addition, since the individual projects for the system were implemented over almost a century, some information may have been lost or never obtained. In those cases, gaps exist in the information presented in this report and further research is required.

\(^1\) The assurances include that the State provide without cost to the United States, all lands, easements, and rights-of-way necessary for the completion of the project; bear the expense of necessary highway, railroad, and bridge alterations; hold and save the United States free from claims for damages resulting from construction of the works; and maintain and operate all works after they are completed.
It is important to note that the SPFC is only a portion of the larger system that provides flood protection for the Central Valley. The SPFC relies on many other features that do not meet the definition of the SPFC. For example, non-SPFC reservoirs provide substantial regulation of flows to levels that SPFC facilities can mostly handle. Private levees, locally operated drainage systems, and other facilities work in conjunction with SPFC facilities. Management practices such as emergency response, floodplain management, and other practices are part of the overall flood protection system. All parts of the system, including the SPFC, depend on other parts of the system to operate as a unit.

This report is structured as a reference document for the SPFC. It includes narrative descriptions, tables, and figures, especially maps, to help the reader find information for this complex flood management system. Some sections include summary sections for readers who only need an overview of the subject. Figure G-1 shows a geographic overview of the SPFC facilities. The document is organized in the following sections:

1. **Introduction.** Provides overview information about why this reference document has been prepared.

2. **Existing Projects.** Presents the federal authorization for each of the projects that together constitute the SPFC.

3. **SPFC Facilities.** Describes SPFC project works, or facilities, located along the various reaches of the Sacramento and San Joaquin rivers and tributaries. This description of the functional layout of the system follows the flow path of floodwaters. It is intended to complement the information contained in the many unit-specific O&M manuals.

4. **SPFC Lands.** Describes property rights held for the SPFC.
Figure G-1. Geographic Overview of the State Plan of Flood Control
January 2010

Guide to Report
5. **SPFC Operations and Maintenance.** Describes the O&M responsibilities and activities that the State and local maintaining agencies have and implement.

6. **SPFC Conditions.** Describes conditions (terms) under which the State has agreed to abide by for long-term O&M of the SPFC facilities.

7. **Programs and Plans Related to the SPFC.** Describes existing programs and plans that support the SPFC and ongoing evaluations and processes that will affect the SPFC in the future.

8. **SPFC Updates.** Describes how this document will be updated. While much of the information contained in the report is not expected to change, report updates or supplements will be necessary to keep the description of the SPFC current as new projects are implemented, as changes in O&M are made, or as other changes occur.

9. **Observations.** Contains observations about the material encountered during work on this document. While material pertaining to the SPFC was being compiled, the California Department of Water Resources drafting team made several observations that may warrant additional work or research to fill data gaps, may require that information be managed differently than under current conditions, or may provide the basis for future SPFC updates.

10. **Acronyms and Abbreviations.** Provides list of acronyms and abbreviations used in this SPFC Descriptive Document.

11. **References.** Contains a list of references used in this SPFC Descriptive Document.

Because of the voluminous material available to describe the SPFC, a DVD located in the pocket at the back of the report includes important base information and reference material. The DVD includes O&M manuals, O&M Map Book, data tables, design water surface profiles, and other supporting documents.
A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 3:31 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chair Griego presided.

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

II PUBLIC COMMUNICATIONS: No one came forward.

III ACTION ITEMS

A. Approve out of state travel for Chair Griego to attend Cap to Cap in April 2010.

MOTION: Move to approve  MOVED: Rick Brown  SECOND: Jerry Crippen
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None  ABSTAIN: None

B. Approve agreement in the amount of $63,177 with Hanover Inc. to provide environmental assessments for the Upper Yuba Levee Improvement Project and authorize the Executive Director to execute same. Executive Director Paul Brunner recapped the need for site assessments to check real estate records and contamination and responded to Board inquiries.

MOTION: Move to approve  MOVED: Jerry Crippen  SECOND: Don Graham
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None  ABSTAIN: None

C. Approve minutes of the meeting of January 19, 2010.

MOTION: Move to approve  MOVED: John Nicoletti  SECOND: Jerry Crippen
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None  ABSTAIN: None

IV BOARD AND STAFF MEMBERS’ REPORTS: Reports were received on the following:

Director Brown: Reclamation District 784 maintenance costs and checks and balances regarding project funds

Director Nicoletti: Yuba County legal opinion stating it would be improper for County to request audit of TRLIA
March 2, 2010

TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul Brunner, Executive Director  
SUBJECT: Agricultural Lease- Award of four-year lease to Forrest Miller of 66 acres (H&H and Johl Properties)

**Recommendation:**
Staff recommends the award of a lease to Forrest Miller for a four-year term for agricultural use and recommends that the Board delegate authority to the Executive Director of the Board to conclude lease negotiations and to execute the lease on the Board’s behalf subject to the approval of the Board’s General Counsel.

**Background:**
As part of the Feather River Setback Levee project and on behalf of the State Department of Water Resources, TRLIA acquired approximately 15.18 acres from H&H Trenching Company (H&H) and 50.85 acres from Sarbjit S. Johl et al. (Johl) along Feather River Boulevard in fee ownership in the fall of 2008. (See Attachment A-Request for Agricultural Lease Proposals for map). Neither H&H or Johl expressed an interest to continue to farm these properties after TRLIA’s acquisition. A portion of the Johl property was used as a borrow site for construction of the setback levee which resulted in a number of trees being removed.

Staff received two responses to a Request for Proposal (RFP) for the lease of 66 acres (H&H and Johl properties). The RFP was advertised in the Appeal Democrat on January 29, 2010 and information packets were mailed to farmers within the setback area and other interested parties in the local area. Mr. Miller’s proposal was selected on the basis of his higher offer of rent.

**Discussion:**
The purpose of this lease is to provide interim management of this property until such time as it can be transferred to DWR. There are several limitations in leasing this particular property. First, the property is located within the floodway which presents additional challenges to farming due to frequent flooding, once every three years with major flood events every ten years. Second, only 25 acres of walnut orchard remain viable on the 66-acre property and the lease requires that the entire property be maintained. Third, the orchards are in poor condition and have not been maintained for several years and the irrigation system needs repair.

Staff is conducting lease negotiations with the prospective tenant and a copy of the draft lease (Attachment B) is for your reference. It is expected that the final language of the lease will not substantially differ from the copy attached. The prospective lessee has inspected the orchard property and is aware of the poor condition of the trees and the irrigation system.
The Premises are located within the overflow area of the Feather River and are subject to seasonal flooding. The lessee must assume all risk that the Premises may flood during the lease term. The Premises have been enrolled with the Butte-Yuba-Sutter Water Quality Coalition. The lessee shall use Best Management Practices consistent with farming within a floodway to control agricultural runoff and to prevent waste associated with agricultural operations from entering surface waters of the State of California.

TRLIA does not warranty the availability of water, condition of the pump, condition of the irrigation system and electrical panel. Any necessary repairs of damage to the pump or irrigation system are the responsibility of the Lessee at Lessee's sole cost.

Access to the Premises is via access ramps across the setback levee and bridges which cross the drainage canal. The size of the ramps and bridges may limit the access of large farm vehicles.

The duration of the lease is four (4) years and is subject to a 60-day termination clause. The property will be transferred to the State of California and there is no guarantee that the State will continue the agricultural use of the property.

Construction activity within the Setback Levee area is expected to be completed in 2010 and may affect farming operations. TRLIA will not be responsible for any inconvenience or damages that may result as a result of the Project's construction related impacts.

It is strongly recommended that applicant investigate the condition of the existing orchard and irrigation systems prior to submitting proposals, as TRLIA will not provide any warranty as to the condition of the trees or the sufficiency of existing irrigation systems. Please contact Jeff Fong by email at j.fong@benderrosenthal.com or by telephone at 916-978-4400 for information regarding pre-submittal on-site meeting.

PROPOSAL OBJECTIVES

TRLIA's primary objective is to execute an agricultural lease with an individual or entity that is interested in farming the Premises for up to 4 years.

- Applicants must submit a complete application form (Attachment 2).
In describing the proposed agricultural operation, include the proposed rent structure and timing of payments (e.g. fixed dollar amount per acre per annum in arrears, crop share basis, percentage of gross receipts, etc.).

Standard TRLIA lease will be used with only minor changes considered and should be reviewed carefully before submitting a proposal. Notwithstanding the previous sentence, TRLIA reserves the right to make changes to the lease as necessary in light of the applications received. In particular, the successful applicant will be responsible for paying utility charges, maintenance and upkeep of existing wells and pumps and any irrigation systems and will also be responsible for all costs and permits required to install and maintain any required well or irrigation systems. A sample lease is enclosed (Attachment 3). The terms of the lease are subject to review and approval by the State of California, Department of Water Resources.

Farming practices shall include appropriate measures to prevent soil erosion, air quality impacts, and water quality impacts.

A summary of the applicant's insurance coverage must be provided with the Proposal. Minimum insurance requirements are specified in the enclosed sample lease.

Applicants must also disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist relative to the services to be provided under the agricultural lease to be awarded pursuant to this RFP. If a firm has no conflicts of interest, a statement to that effect shall be included in the Proposal.

PROPOSAL

Proposal packages must be in BRI's office located at 4400 Auburn Boulevard, Suite 102, Sacramento, CA 95841 (Attn: Bob Morrison, R/W Manager) no later than 4:00 p.m. on February 12, 2010. Postmarks will not be accepted. Proposals received after the final filing date and time will be rejected.

TERMS AND CONDITIONS

TRLIA will not pay any costs incurred in the preparation of proposal packages in response to this RFP. TRLIA further reserves the right to accept or reject any or all proposals or waive any irregularity in any proposal. Any exceptions to the proposal requirements should be fully
explained. In determining and evaluating the most acceptable lease proposal, the rental rate will not necessarily be the deciding factor. All information will be considered in the evaluations.

This RFP does not constitute any form of offer to contract.

SELECTION SCHEDULE

The following selection schedule is anticipated. TRLIA will attempt to notify all recipients of the RFP if a change in this schedule becomes necessary.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Approved for Release</td>
<td>January 27, 2010</td>
</tr>
<tr>
<td>Pre-Proposal Conference and Site Visit</td>
<td>(call BRI for time and location)</td>
</tr>
<tr>
<td>Proposal Due</td>
<td>February 12, 2010 (by 4:00 p.m.)</td>
</tr>
<tr>
<td>Screening and Ranking</td>
<td>February 15, 2010</td>
</tr>
<tr>
<td>Proposal Selection</td>
<td>February 16, 2010</td>
</tr>
<tr>
<td>Finalize Lease</td>
<td>March 2, 2010</td>
</tr>
<tr>
<td>DWR Review and Approval</td>
<td>March 30, 2010</td>
</tr>
<tr>
<td>TRLIA Board Approval</td>
<td>April 2010</td>
</tr>
</tbody>
</table>

QUESTIONS REGARDING THIS RFP

Questions regarding this RFP must be submitted in writing on or before February 5, 2010. This is to allow sufficient time to distribute questions and answers to all prospective applicants. Questions may be submitted by letter, fax, or e-mail to:

Jeff Fong
Bender Rosenthal, Inc.
4400 Auburn Blvd., Suite 102
Sacramento, CA. 95041
FAX: 916 978-4904 E-mail: j.fong@benderrosenthal.com

No questions will be answered by telephone.
SUBMITTAL DEADLINE: February 12, 2010 at 4:00 p.m.

BENDER ROSENTHAL, INC.
COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

Request for Agricultural Lease Proposals

SELECTION CRITERIA

The proposals will be screened by a selection committee and rated on:

- Experience and qualifications of the applicant, key personnel, and sub-consultants on similar projects
- Demonstrated ability to complete the work effort outlined in the farming proposal
- Proposed rent structure and rental amount
- Project understanding, identification of key issues and innovative approaches
- Responsiveness to the RFP

TRLIA shall be the sole judge in the determination of these matters. TRLIA will rank the applicants and a selection will be made according to the timeline set forth above. TRLIA and its consultants will then begin negotiations with the highest rated applicant to finalize the scope of work and lease agreement. Following successful negotiations, a recommendation will be made to the TRLIA Board of Directors to approve a lease agreement. As noted previously, however, any or all proposals may be rejected at the discretion of TRLIA.
AGRICULTURAL LEASE

TRLIA Parcel Numbers 105 & 111

1. Parties. This Lease (hereinafter, "Lease"), dated for reference purposes only _______ , 2010 is made by and between Three Rivers Levee Improvement Authority, a joint powers agency of the State of California ("Landlord") and Forrest Miller ("Tenant").

2. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord for the term, and upon all of the conditions set forth herein, that certain real property located in the County of Yuba (the "County"), State of California (the "State"), consisting of 66 acres, more or less, of Assessor's Parcel Number 014-370-033, 014-370-003, and 014-370-037 and more particularly described on Exhibit A (the "Premises"). The Premises includes any and all improvements thereon, including orchard trees, wells, pumps, and irrigation systems as described on Exhibit B.

3. Term. The term of this Lease shall be four years, commencing upon the execution of this Lease and terminating at the end of the 2013 crop year, which shall be deemed to be December 31, 2013. The term shall be extended each January 1, unless prior to the end of any one-year term, 30 days' written notice is given by either party to terminate this Lease. Notwithstanding the foregoing, Landlord may terminate this Lease at any time on 60 days notice if Landlord finds it necessary to do so in meeting Landlord's needs, including any federal or state requirements. If, prior to the time for harvesting, Landlord should terminate this Lease, Landlord agrees to reimburse Tenant for all reasonable and/or actual costs extended by Tenant pursuant to this Lease in the production of that portion of the crop affected by any such termination. If termination is made due to default, Landlord shall not be liable for any reimbursements to Tenant. Landlord shall not be liable for loss of anticipated profits. Tenant agrees to maintain an accurate record of all expenditures for labor and materials made in connection with this cultivation of, or capital improvements to, the Premises in order that Landlord may verify the amount of reimbursement to be made to Tenant. Tenant shall support all such expenditures with appropriate, receipted, written vouchers.

4. Rent.

4.1. Rent. Tenant shall pay to Landlord, in addition to providing a valuable service of maintenance and upkeep of the Property and its orchard trees, wells, pumps, and irrigation systems, an annual rent for the Premises in the amount of thirty percent (30%) of the Gross Income from the Property over the course of the applicable prior twelve-month period. Rent shall be paid in arrears in two payments. The first payment is for eighty per cent (80%) of the annual rent due on December 31st and the remaining twenty per cent (20%) of the annual rent is due on the following April 15th. Rent shall be payable at the Landlord's address stated below or to such other persons or at such other places as Landlord may designate in writing.

42. Additional Rent. In addition to the rent reserved by Paragraph 4.1, Tenant shall pay to the parties respectively entitled to such amounts, the annual cost of irrigation water, utilities, insurance premiums, operating charges, and any other charges, costs and expenses which arise or may be contemplated under any provisions of this Lease during the term. All of
such charges, costs and expenses shall constitute additional rent, and upon the failure of Tenant
to pay any of such costs, charges or expenses, Landlord shall have the same rights and remedies
as otherwise provided in the Lease for the failure of Tenant to pay rent.

43. No Abatement of Rent. It is the intention of the parties that this Lease
shall not be terminable for any reason by Tenant, except as provided in Paragraph 3, and 14,
and that Tenant shall in no event be entitled to any abatement of or reduction in rent payable
under this Lease, except as expressly provided in this Lease. Any present or future law to the
contrary shall not alter this agreement of the parties.

4.4 Gross Income. “Gross income” or “gross receipts”, as used in this lease,
shall include all income resulting from occupancy of the leased premises from whatever source
derived whether received or to become due. Provided, however, gross income shall not include
federal, state, or municipal taxes collected from the consumer (regardless of whether the amount
thereof is stated to the consumer as a separate charge) and paid over periodically by Tenant to a
governmental agency accompanied by a tax return or statement as required by law. Possessory
interest taxes or other property taxes shall not be deducted by Tenant in computing gross
income. Gross income shall not include refunds for goods returned for resale on the premises or
refunds of deposits. The amount of such taxes and refunds shall be clearly shown on the books
and records of Tenant. The percentage rent shall be calculated and paid by Tenant on the basis
of said gross income whether the income is received by Tenant or by any sublessee, permittee or
licensee, or their agents, and all gross income received by any sublessee, permittee, licensee, or
other party as a result of occupancy of said premises or the operation thereof shall be regarded as
gross income of Tenant for the purpose of calculating the percentage rent hereunder required to
be paid by Tenant to Landlord, except as may be otherwise specified by or pursuant to this lease.

5. Use.

5.1. Use. The Premises shall be used and occupied for agricultural and related
purposes only. Any other use of the Premises is prohibited. All crops must be harvested by the
end of the Lease term. Tenant waives the provisions of Section 1932 and 1933 (4) of the Civil
Code of California. Multiple year crops which produce beyond the term of this Lease, are
planted at the sole risk and responsibility of Tenant and such planting does not convey any right
of Tenant or responsibility of Landlord to extension of this Lease beyond the Lease expiration
or termination date or any right of compensation for any multiple year crops which produce
beyond the term of the Lease or after Lease termination. Landlord shall not be held accountable
to Tenant for any crops harvested by Landlord or third parties beyond the term of this Lease or
the termination of the Lease.

5.2. Compliance with Law. Tenant shall, at Tenant's expense, comply
promptly with all applicable statutes, ordinances, rules, regulations, orders, covenants and
restrictions of record, and requirements in effect during the term or any part of the term hereof,
regulating the use by Tenant of the Premises. Tenant shall not use nor permit the use of the
Premises in any manner that will tend to create waste or a nuisance.

5.3. Flood Plain. Tenant acknowledges that the Premises is in a flood plain
and subject to flooding. Tenant assumes all risk that the Premises may flood during the term of
this Lease.
5.4. **No Warranty of Suitability of the Soil.** Landlord does not warrant suitability of the soil for growing authorized crops, nor the absence of deleterious organisms or chemicals in the soil.

55. **Water Availability.** It is understood and agreed by the parties that Landlord does not guarantee the availability, quality or quantity of water on the Premises.

6. **Lease Subject to Existing Rights of Others.** This Lease is subject to all existing and future easements, servitudes, licenses and rights-of-way for canals, ditches, levees, roads, highways and telegraph, telephone and electric power lines, railroads, pipelines and other purposes, whether recorded or not. Landlord makes no warranty of title to the Premises.

7. **Maintenance, Repairs and Alterations.**

7.1. **Tenant's Obligations.** Tenant, at Tenant's sole cost, shall keep the Premises in good order and condition during the term of this Lease. All operations incident to this use of the Premises shall be carried on according to the best course of agricultural practices in the vicinity. On default of Tenant to use the Premises as required by this Lease, Landlord reserves the right, after having given 10 days' notice, to take reasonably necessary remedial measures at the expense of Tenant, for which Tenant shall reimburse Landlord on demand. Tenant will make reasonably diligent efforts to prevent the spread of all noxious weeds on the Premises and will take commercially reasonable measures in accordance with customary good farming practices to protect the Premises from infestations of pests. Tenant will make reasonably diligent efforts to prevent infestations of organisms that may produce disease in crops grown on the Premises during and after the term of this Lease.

72. **Surrender.** On the last day of the term of this Lease, or on any sooner termination, Tenant shall surrender the Premises to Landlord in reasonably the same condition as when received. Tenant shall remove any equipment on the Premises but not any wells or pumps.

73. **Landlord's Obligations.** Landlord shall have no obligation, in any manner whatsoever, to repair and maintain the Premises. Tenant expressly waives the benefit of any statute now or hereinafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.

74. **Alterations and Additions.**

(a) Tenant shall not, without Landlord's prior written consent, which consent shall not be unreasonably withheld, make any alterations, improvements or additions on or about the Premises, except for that which is required for the agricultural use of the Premises. Should Tenant make any alterations, improvements or additions Landlord may condition its approval on Tenant agreeing to remove any or all of such improvements at the end of the term of this Lease.

(b) Tenant agrees that in no event shall Landlord be required to perform any maintenance on or make improvements, repairs or alterations to the Premises of any nature whatsoever, or to pay or reimburse Tenant for any part of the cost thereof.
(c) Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises which claims are or may be, secured by any mechanics' or materialmen's lien against the Premises or any interest in the Premises.

(d) Unless Landlord requires their removal, as set forth in Paragraph 7.4(a), all alterations, improvements or additions, which may be made on the Premises, shall become the property of Landlord and remain upon and be surrendered with the Premises at the expiration of the term. Notwithstanding the provisions of this paragraph, Tenant's machinery and equipment, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises, shall remain the property of Tenant and may be removed by Tenant subject to the provisions of Paragraph 7.2.


8.1. Compliance with Environmental Requirements. Tenant expressly agrees, at all times and in all respects, to comply with all federal, state and local laws, regulations, ordinances, other requirements, permits and orders issued in relation thereto, which are designed to protect public health and safety, worker health and safety, or the environment, including, but not limited to, management of hazardous materials and/or hazardous waste (collectively referred to hereinafter as "Environmental Requirements"). For this purpose, "management" includes, but is not limited to, use, storage, handling and transportation. Tenant expressly agrees not to store hazardous waste on the Premises, treat hazardous waste on the Premises or dispose of, or bury any waste, including hazardous waste, on the Premises.

8.2. Handling of Pesticides and Fertilizer. Tenant expressly agrees to use and handle pesticides and fertilizers in compliance with all Environmental Requirements which are designed to regulate pesticides and fertilizers, including, but not limited to, requirements pertaining to re-entry or pre-harvest intervals. No poison, herbicide, or pesticide other than those approved by the United States Department of Agriculture and by the California Department of Agriculture shall be applied to the Premises or crops growing thereon. The use of the pesticide aldicarb (also known as Temik) is prohibited. Landlord reserves the right to prohibit the application of a listed pesticide, fertilizer, or soil amendment, but not without recommending an effective and suitable replacement. No soil sterilant or semi-sterilant, experimental poisons, herbicides, pesticides, fertilizers, or other foreign chemical or substance shall be applied to the Premises, or the crops growing thereon, without the prior written consent of Landlord. No pesticide or agricultural chemical shall be used by Tenant if it results in a plant-back restriction or other provision which would place any limitation on the use of the Premises which extend beyond the term of the Lease without the prior written consent of Landlord. The use of pesticides should be minimized. Tenant shall provide Landlord a copy of Tenant's County Pesticide Permit prior to planting each crop year. Tenant agrees to keep true and correct records of the time, place, and all other information and data pertaining to the quantity, kind, use, and method of application of any poison, herbicide, pesticide, fertilizer, or other foreign chemical or substance and to furnish Landlord true and correct copies thereof upon demand.

8.3. Contamination. Tenant expressly agrees, at all times and in all respects, to comply with all federal, state and local laws, regulations, ordinances, other requirements, and
permits and orders issued in relation thereto which concern any contamination, release, pollution, nuisance or waste, whether toxic or nontoxic chemical or biological, which may result from Tenant's operation on, and use of, the Premises during the term of this Lease, whether created or maintained by Tenant, its agents, servants or employees, or whether Tenant assists in the creation or maintenance thereof.

9. **Insurance.**

9.1. **Liability Insurance.** Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of Combined Single Limit, Bodily Injury and Property Damage insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant to the Premises. Such insurance shall be a combined single limit policy in an amount not less than $1 Million per occurrence. The policy shall insure performance by Tenant of the indemnity provisions of this Paragraph 9. The limits of such insurance shall not, however, limit the liability of Tenant under this Lease. Landlord shall be an additional named insured on the policy of insurance.

9.2. **Insurance Policies.** Insurance required hereunder shall be in companies holding a "General Policyholders Rating" of at least "A-VIP" in the most current issue of "Best's Insurance Guide". At Landlord's request, Tenant shall deliver to the Landlord copies of policies of such insurance or certificates evidencing the existence and amount of such insurance with loss payable clauses as required by this Paragraph 9 concurrently with the execution and delivery of this Lease. No such policy shall be subject to cancellation or reduction of coverage or other modification except after 30 days' prior written notice to Landlord. Tenant shall not do or permit to be done anything which shall invalidate the insurance policy referred to in this Paragraph 9. Should Tenant fail to maintain the insurance coverage required by this Lease, Landlord shall make demand upon Tenant to cure such default and if it is not cured within 15 days of notice thereof, then Landlord may purchase such coverage and charge Tenant for the costs incurred by Landlord and Tenant shall reimburse Landlord for such costs within 30 days.

9.3. **Indemnity.** Tenant shall defend, indemnify and hold harmless Landlord from and against any and all claims arising from Tenant's use of the Premises, or from the conduct of Tenant's business or from any activity, work or things done, permitted or suffered by Tenant in or about the Premises or elsewhere and shall further defend, indemnify and hold harmless Landlord from and against any and all claims arising from the failure of Tenant to perform any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any negligence of the Tenant, or any of Tenant's agents, contractors, or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord.

10. **Real Property Taxes.**

10.1. **Payment of Taxes.** Tenant shall pay the real property tax applicable to the Premises, assessments or charges that may be levied upon the interests in this Lease. Tenant understands that this Lease may create a possessory interest subject to property taxation and
Tenant may be subject to the payment of property taxes levied on such interest assessed against the Premises during the term of this Lease.

102. Personal Property Taxes.

(a) Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Premises or elsewhere. When possible, Tenant shall cause such trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord.

(b) If any of Tenant’s personal property shall be assessed with Landlord’s real property, Tenant shall pay Landlord the taxes attributable to Tenant within 30 days after receipt of a written statement setting forth the taxes applicable to Tenant’s property.

11. Utilities. Tenant shall pay for power, telephone or other utilities provided to the Premises at Tenant’s request or for Tenant’s use.

12. Subletting and Assignment.

12.1. Sublease. Tenant may not sublease the Premises, without Landlord’s consent, which Landlord may withhold in Landlord’s sole discretion.

12.2. Assignment. Tenant may not assign this Lease, in whole or in part, without Landlord’s consent, which Landlord may withhold in Landlord’s sole discretion.

13. Defaults; Remedies.

13.1. Defaults. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Tenant:

(a) The vacating or abandonment of the Premises by Tenant. Notwithstanding the foregoing, Tenant’s failure to farm the Premises or allow some or all field to lie fallow to comply with governmental programs, due to uneconomic conditions for growing crops or good agricultural practices shall not be deemed vacating or abandoning the Premises, provided that Tenant maintains such fallow ground in accordance with the provisions of Paragraph 7.1 with respect to weeds.

(b) The failure by Tenant to make any payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of five days after written notice thereof from Landlord to Tenant.

(c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than described in paragraph (b) above, where such failure shall continue for a period of 30 days after written notice of the default from Landlord to Tenant; provided, however, that if the nature of Tenant’s default is such that more than 30 days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within the 30-day period and thereafter diligently prosecutes such cure to completion.
(d) (i) The making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) Tenant becomes a "debtor" as defined in 11 U.S.C. Section 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the petition is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within 30 days. Provided, however, if any provision of this Paragraph 13.1(d) is contrary to any applicable law, such provision shall be of no force or effect.

132. Remedies. In the event of any such default by Tenant, in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. If Landlord shall elect to terminate this Lease, then Landlord may recover from Tenant any amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligation under this Lease or which in the ordinary course of things would be likely to result from such failure.

133. Re-entry. In the event of any such default by Tenant, Landlord shall also have the right, with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. No re-entry or taking possession of the Premises by Landlord pursuant to this Paragraph 13.3 shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination of this Lease be decreed by a court of competent jurisdiction.

134. Cumulative Rights. All rights, options and remedies of Landlord contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver of any default of Tenant hereunder shall be implied from any acceptance by Landlord of any rent or other payments due hereunder or any omission by Landlord to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect defaults other than as specified in the waiver. The consent or approval of Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar acts by Tenant.

135. Default by Landlord. Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than 30 days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have been furnished to Tenant in writing, specifying in what respect Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than 30 days are required for performance then Landlord shall not be in default if Landlord commences performance within such 30-day period and thereafter diligently prosecutes the same to completion.
14. **Condemnation.** If the whole or any part of the Premises shall be condemned or taken by any public authority under the power of eminent domain, then the terms of this Lease shall cease as to the parts taken, from the day that possession of such portion shall vest in the condemnor. If in excess of 50% of the Premises shall be so taken, Tenant may, at its option, upon 10 days written notice, declare this Lease terminated.

15. **Estoppel Certificate.** Tenant shall at any time upon not less than 10 days' prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing (a) that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed; and (c) such other information as may be reasonably requested regarding this Lease. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.

16. **Severability.** The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision of this Lease.

17. **Interest on Past-due Obligations.** Except as expressly provided in this Lease, any amount due to Landlord not paid when due shall bear interest at the maximum rate than allowable by law from the date on which Landlord delivers notice to Tenant of late payment. Payment of such interest shall not excuse or cure any default by Tenant under this Lease, provided, however, that interest shall not be payable on late charges incurred by Tenant.

18. **Time of Essence.** Time is of the essence.

19. **Additional Rent.** Any monetary obligations of Tenant to Landlord under the terms of this Lease shall be deemed to be additional rent.

20. **Incorporation of Prior Agreements; Amendments.** This Lease contains all agreements of the parties with respect to any matter mentioned in this Lease. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Tenant hereby acknowledges that Landlord and any employees and or agents of any of such persons have not made any oral or written warranties or representations to Tenant relative to the condition or use by Tenant of the Premises and Tenant acknowledges that Tenant shall materially comply with all applicable laws and shall be responsible for the legal use and adaptability of the Premises and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease except as otherwise specifically stated in this Lease.

21. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by certified mail or overnight delivery by a nationally recognized, reputable delivery service (e.g., Federal Express, UPS, etc.), and if given personally or by mail, shall be deemed sufficiently given if addressed to Tenant or to Landlord at the address noted below the signature of the respective parties, as the case may be. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices
required or permitted to be given to Landlord shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time designate by notice to Tenant.

22. **Waivers.** No waiver by Landlord of any provision of this Lease shall be deemed a waiver of any other provision of this Lease or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to, or approval of, any act shall not be deemed to render necessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

23. **Holding Over.** If Tenant, with Landlord's consent, remains in possession of the Premises or any part thereof after the expiration of the term hereof, such occupancy shall be a tenancy from month to month upon all the provisions of this Lease pertaining to the obligations of Tenant, but all options and rights of first refusal, if any, granted under the terms of this Lease shall be deemed terminated and be of no further effect during said month to month tenancy.

24. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

25. **Covenants and Conditions.** Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

26. **Succession and Choice of Law.** Subject to any provisions of this Lease restricting assignment or subletting by Tenant and subject to the provisions of Paragraph 12, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California.

27. **Subordination.**

27.1. If Landlord encumbers the Premises, this Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation or security now or hereafter placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms.

27.2. Tenant agrees to execute any documents required to effectuate an attornment, non-disturbance and subordination to the lien of any mortgage, deed of trust or ground lease, as the case may be. Tenant's failure to execute such documents within 10 days after written demand shall constitute a material default by Tenant hereunder, or, at Landlord's option, Landlord shall execute such documents on behalf of Tenant as Tenant's attorney-in-fact. Tenant does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to execute such documents in accordance with this Paragraph.
28. **Attorney's Fees.** If either party herein brings an action to enforce the terms of this Lease or declare rights under this Lease, the prevailing party in any action, on trial or appeal, shall be entitled to such party's reasonable attorney's fees to be paid by the losing party as fixed by the court.

29. **Landlord's Access.** Landlord and Landlord's agents shall have the right to enter on the Premises at reasonable times for any reasonable purpose. Landlord shall indemnify and hold Tenant harmless from all liability relating to such entry, except for liability which results from Tenant's negligence or willful acts.

30. **Signs.** Except for signs which relate to agriculture products actually used by Tenant on the Premises, Tenant shall not place any sign upon the Premises without Landlord's prior written consent which consent shall not be unreasonably withheld. Landlord shall be allowed to place such signs upon the Premises as Landlord may from time to time desire.

31. **Merger.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, or a termination by Landlord, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all of such subtenancies.

32. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions of this Lease, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of said party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of such party to pay such sum or any part thereof, such party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

33. **Waiver of California Code Sections.** Tenant waives the provisions of Civil Code Sections 1932(2) and 1933(4) with respect to the destruction of the Premises, Civil Code Sections 1932(1), 1941 and 1942 with respect to Landlord's repair duties and Tenant's right of repair, and Code of Civil Procedure Section 1265.130, allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises for public or quasi-public use by statute, by right of eminent domain, or by purchase in lieu of eminent domain, and any right of redemption or reinstatement of Tenant under any present or future case law or statutory provision (including Code of Civil Procedure Sections 473, 1174(c) and 1179 and Civil Code Section 3275) if Tenant is dispossessed from the Premises for any reason. This waiver applies to future statutes enacted in addition or in substitution to the statutes specified herein, and this waiver shall apply even though Tenant may be the subject of a voluntary or involuntary petition in bankruptcy.

34. **Successors to Lease.** It is understood that title to the Property will be eventually transferred to the Sacramento and San Joaquin Drainage District (the "Board"), acting by and through the Central Valley Flood Protection Board and, along with title, all rights and obligations under this Lease will transfer to the Board. The terms and obligations contained in this Lease shall bind and inure to the benefit of the representatives, assigns and successors in interest of the parties hereto, subject to the provisions of Paragraph 12 with respect to subletting and assignment. In the event of any transfer of Landlord's title or interest to the Premises, Landlord
herein named (and in case of any subsequent transfers, then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed, provided that any funds in the hands of Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee.

35. Waste. Tenant shall not commit, or permit others to commit, on the Premises waste, or nuisance, or any other act that could disturb the quiet enjoyment of Landlord on adjacent property.

36. No Relocation Benefits. Tenant acknowledges the following: Tenant commenced occupancy of the Premises after Landlord acquired possession to it, Landlord acquired the Premises for a public project (the Feather River Levee Improvement Project), Tenant may be required to vacate the Premises to allow construction of the public project, and Tenant is not entitled to receive any payments under either the State or the Federal Uniform Relocation Assistance Act. (Cal. Gov't Code §§ 7260, et seq.; 42 U.S.C. §§ 4601, et seq.)


37.1 The exclusive right to conduct seismic and other geophysical surveys and otherwise to prospect for, drill for, produce, mine, extract and remove oil and gas upon and from the Premises, the exclusive right to drill upon, to drill through and otherwise to use the Premises to produce, mine, extract, and remove water from adjacent or neighboring lands, and the exclusive right to inject in, store under, and thereafter withdraw from the Premises oil and gas, whether produced from the Premises or elsewhere, together with the right to drill and operate whatever wells, construct, install, operate, maintain and remove whatever other facilities and do whatever else may be reasonably necessary on and in the Premises for the full enjoyment and exercise of the above rights, and the unrestricted right of ingress and egress on the Premises for all such purposes, may be reserved or owned by other parties or may be transferred by Landlord to other parties.

37.2 Tenant agrees not to interfere, in any way, with the interests of any person or persons that may presently or in the future hold oil, gas, or other mineral interests upon or under the Premises; nor shall Tenant, in any way, interfere with the rights of ingress and egress of said interest holders.

38. Cropping Programs and Agreements. Tenant shall not, without prior written consent of Landlord, enter into any soil conservation, Federal farm program or cropping agreement affecting the Premises, irrespective of whether such agreement shall be proposed or submitted under or in compliance with any Federal, state, county, or municipal law, or by private arrangement. Tenant shall, upon written request of Landlord, enter into and execute any and all such soil conservation, Federal farm program or cropping agreements affecting the Premises. If any Federal or state programs regulating crop acreage or crop production are imposed during the term of this Lease, the acreage or production rights resulting from said program, as applied to the Premises, shall remain with and inure to the benefit of the Landlord.

39. Ownership of Facilities. Upon expiration of this Lease, or sooner termination, any and all irrigation facilities upon the Premises, including but not limited to any wells, pumps, electric motors, pipelines, valves, and water gates, but excepting portable sprinkler irrigation facilities and tail water pumps provided by Tenant, shall become the property of the Landlord.
free of cost to Landlord. Ownership and removal of facilities or improvements placed on Premises with prior written approval of Landlords shall be as stated in the written approval. All other facilities or improvements placed on the Premises by Tenant which are required to comply with generally recommended farming practices shall become the property of Tenant so long as this Lease is in effect and shall be removed by Tenant upon termination of this Lease.

LANDLORD:

Three Rivers Levee Improvement authority, a joint powers agency of the State of California

Dated: ________________, 2010
By: ________________________________
Name: ______________________________
Title: _______________________________

Dated: ________________, 2010
By: ________________________________
Name: ______________________________
Title: _______________________________

Three Rivers Levee Improvement Authority
1114 Yuba St., Suite 218
Marysville, CA 95901
Tel: (530)749-7841
Fax: (530)749-6990

TENANT:

Dated: ________________, 2010
Forrest Miller
Post Office Box 132
Olivehurst, CA 95961
(530) 751-6442
EXHIBIT A

Description

*Insert Description and Exhibit Map of Leased Area*
EXHIBIT B

Inventory

Detailed listing of all inventory

Mr. Miller, please provide a description of the well pump and motor that is located on the property:

*Brand name, model number, serial number, capacity, horsepower*

Thanks,

Jeff

(916) 716-6833
EXHIBIT A

MAP OF LEASE PREMISES
(H&H AND JOHL)
March 2, 2010

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Doug Handen, Construction Manager
SUBJECT: Request for Qualifications for Riparian Restoration Planting, Feather River Setback Mitigation and Design Features

Recommended Action:
Select River Partners as the most qualified contractor to perform the restoration, irrigation planting, and monitoring of the Habitat Mitigation and Restoration projects as required for the Feather River Setback Levee project and authorize Executive Director to negotiate contract amount, sign, and then execute a contract for the planting and re-vegetating of the floodplain drainage swale and Messick Lake 404 Mitigation Areas, California Yuba 5 (CA-Yub-5) Archeological site, Riparian wind-wave buffer for the Feather River setback area, and Long term monitoring and maintenance of these sites once General Counsel has reviewed and approved.

Background:
TRLIA was required by the USACE 404 permit for the Feather River Levee Repair Project to design and construct 26.4 acres of waters of the U.S., and 1.5 acres of archaeological protection for CA-Yub-5. The mitigation plan for the 404 mitigation areas was prepared by TRLIA in 2008 and was approved by the Corps of Engineers with the issuance of the 404 permit in December 2008. Excavation and grading for these sites was significantly accomplished by TRLIA’s setback levee contractor during summer/fall 2009, including excavation of the floodplain drainage swale (with the exception of a road crossing required to complete setback levee degradation), grading of the Messick Lake mitigation area, and placement of 2 feet of fill over the CA-Yub-5 site. Each of these areas is required to undergo long term monitoring and maintenance, including reporting requirements, much of which TRLIA has already bonded for.

Additionally, as part of design requirements for the Feather setback project, a riparian wind-wave vegetative buffer has been proposed along the entire length of the water side of the new levee to provide a wind-wave dampening action that was assumed in the design of the setback levee. A minimum width of 100 feet (at least four rows of trees) has been qualitatively estimated as being needed. Existing trees, such as those in the Foster walnut orchards, can be used for this requirement in lieu of planting new trees. The need for buffering floodplain vegetation is most critical along the southernmost one-third of the levee, which is exposed to a larger fetch (distance waves can travel without obstruction), has less freeboard, and is aligned at a more unfavorable angle with respect to the fetch than the northern two-thirds of the levee. Once planted and established, the wind-wave buffer will require some continual maintenance to patrol the area, remove any trash, and to ensure the continued existence of the vegetation buffer. This may require some limited replanting to replace trees and shrubs lost to fire, pest attacks, or natural morbidity, and replacing orchards with riparian plantings if the orchards are abandoned. It is anticipated that RD 784 will be responsible for the maintenance of the wind-wave buffer after...
the establishment period. RD 784 has asked TRLIA to consider planting the wind-wave buffer area in walnuts that would be maintained by RD784. TRLIA is working with the State and RD784 to determine if this option is viable and will adjust the work under this proposed contract to reflect the outcome of the State, TRLIA, and RD784 discussions.

Remaining work required to establish the four restoration and mitigation areas includes preparation of restoration plan, plant propagation, installation of plants (including grading and irrigation), and maintenance, monitoring, and reporting for the three year establishment period. On 12/15/09 The TRLIA Board authorized the release for advertisement a “Request for Qualifications” (RFQ) for the performance of implementation of the above referenced work. The RFQ was utilized in lieu of a “Request for Proposal” (RFP) process due to a lack of detailed drawings and specifications that would be required to obtain “hard bid” pricing for this work. TRLIA staff believes that the production of the necessary construction “bid documents” would have required significant time and money that could be better utilized through the RFQ and subsequent pricing negotiation with the selected, most qualified candidate.

In addition to release to known candidates, the request for RFQ was published on the TRLIA website as well as in the Mountain Democrat. The RFQ was released on 1/07/10 and proposals were due on February 11, 2010.

Discussion:
TRLIA received four responses to the RFQ. Proposals were submitted by California Reforestation, SMP Services, River Partners, and Restoration Resources.

Criteria (attached) used to make a selection included; the contractor’s experience on large scale mitigation and restoration projects, the contractor’s familiarity with implementing the permit requirements of the project, qualifications of key personnel, proposed management structure/project organization, project understanding/budget and schedule/performance ability.

After review of the proposals submitted, it was determined that three of the teams would be invited to oral interviews to further discuss the project. These teams included SMP Services, River Partners, and Restoration Resources. Oral interviews were conducted on February 19, 2010. The interview panel included; Dan Wanket, GEI Consultants, Doug Handen, The Handen Company, Inc., Anja Raudabaugh, PBS&J, and Larry Dacus, MBK Engineers. The interview panel included observers Steve Fordice, RD-784 and Chares Rabamad, State of California DWR.

Each interviewed team was asked ten questions related to various aspects of the project elements. Each interview panelist independently provided a numerical score for each team for each of the criteria referenced above. The results of the scoring were compared between panelists only after the conclusion of all three interview sessions. The scoring comparison was accompanied by discussion related to the relative strengths and weaknesses of each candidate. The scoring of the panel is attached. The interview team recommends the selection of River Partners as the most qualified candidate for the implementation of the project pending a successful negotiation of the final contract.

The panel determined that River Partners stood out in the following areas:

- Inclusion of local subcontractors for grading, irrigation and maintenance.

- Inclusion of warranty for the reestablishment and replacement of the irrigation and plantings, if required, due to flooding during the monitoring period for up to a 10-year event, at no additional cost to TRLIA.
• Experience with self propagation of required plant material.

• Budget considerations

Fiscal Impact:
Based on budgetary costs estimates prepared for the four planting areas, implementation, monitoring and reporting for this project is expected to cost in the range of $1.0 – $1.5M. The Feather River EIP Agreement budget is consistent with this preliminary budget, and Feather River EIP state Prop 1E and associated local share funds are available to accomplish this work.

Attachment:
1. Criteria and Scoring Evaluation Form
<table>
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<th>Item</th>
<th>Total Points Available</th>
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<td>Qualifications of key personnel</td>
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<td>organization</td>
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<td>Project understanding/budget</td>
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<td>Ability to meet project schedule</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
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Three Rivers Levee improvement Authority
Feather River setback Levee Restoration/Mitigation Planting RFQ
Scoring Summary by Reviewer

<table>
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<th>Firm</th>
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<td></td>
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<td>Total Scores</td>
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March 2, 2010

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Ric Reinhardt, Program Manager
       Larry Dacus, Design Manager
SUBJECT: Consider Approval of First Contract Amendment to MWH Americas, Inc.
         Professional Services Contract

Recommended Action:
Approve contract amendment #1 (Attached) to the basic MWH Americas, Inc. (MWH)
contract for engineering services and authorize the TRLIA Executive Director to sign and
execute the amended contract once General Counsel has reviewed and approved.

Discussion:
TRLIA entered into a professional services contract with MWH on August 18, 2009 to
perform an evaluation of potential groundwater impacts due to the construction of slurry
walls for the Upper Yuba Levee Improvement Project (UYLIP) from Simpson Lane to
the Goldfields. This evaluation was completed in December 2009 and a report
Evaluation of Groundwater Impacts from the Upper Yuba River South Levee Repair
Activities was prepared.

TRLIA needs a presentation prepared describing this evaluation and the report results and
presented at several public meetings. In addition, the Evaluation Report identified
potential impacts to approximately 21 wells near the proposed UYLIP slurry wall. These
impacts would occur to shallow wells within approximately 500 feet of the slurry wall.
There is a need to better locate these wells, obtain more specific information on their
depth and use, determine potential impacts, and provide a mitigation recommendation.
Mitigation will most likely be to deepen the existing well or provide a new relocated
deeper well. This mitigation needs to occur as the slurry wall is completed. MWH has
the background and experience to perform both of these tasks and TRLIA proposes to
amend their contract to accomplish this work.

Fiscal Impact:
This amendment would increase the contract by $39,590 for services on a time-and-
expenses basis, to a maximum amount not to exceed a total contract amount of $100,088.
The amount in the amendment is based on FY 08/09 billing rates. This cost is covered in
the amount submitted to DWR in the approved EIP Yuba River Levee project in which
DWR is anticipated to pay 70%. Local funds are available to pay the local share.

Attachments:
MWH Americas, Inc. Amendment 1
Exhibit 1 – Scope of Work dated February 22, 2010
AMENDMENT NO. 1

AGREEMENT FOR PROFESSIONAL SERVICES
FOR
ENGINEERING SERVICES
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND
MWH AMERICAS, INC.

THIS FIRST AMENDATORY AGREEMENT is made effective March _____, 2010, by and between Three Rivers Levee Improvement Authority ("TRLIA") and MWH Americas, Inc. ("the Consultant"), who agree as follows:

1. **Recitals.** This Amendment is made with reference to the following background recitals:

   1.1. Effective August 18, 2009, the parties entered into an Agreement for Professional Services relating to Engineering Services for TRLIA's Design Program.

   1.2. 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;

   1.3. TRLIA and the CONSULTANT desire to amend the AGREEMENT;

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

2. **First Amendment to Agreement.** The Professional Services Agreement is hereby amended as follows:

   2.1. The Termination Date in Clause 2 and A.2 is amendment to extend to December 31, 2010.

   2.2. The scope of services (Attachment A to the Agreement for Professional Services between TRLIA and MWH Americas, Inc.) is amended by the addition of tasks described in the scope of services attached to this amendment agreement, Exhibit 1.

   2.3. The payment, budget, and not-to-exceed amounts, Condition B.1 in Attachment B to the Agreement for Professional Services between TRLIA
and MWH Americas, Inc., are amended to include the additional amount of $39,590 for a total contract amount of $100,088.

3. **No Effect on Other Provisions.** Except for the amendments in Section 2, the remaining provisions of the Professional Services Agreement shall be unaffected and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _________________, 2010.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Paul G. Brunner
Executive Director

MWH AMERICAS, INC.

Janet Atkinson
Vice-President

ATTEST:
DONNA STOTTLMEYER
CLERK OF THE BOARD OF DIRECTORS

APPROVED AS TO FORM:
SCOTT L. SHAPIRO
GENERAL COUNSEL
EXHIBIT 1

AMENDMENT TO SCOPE OF SERVICES
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Scope of Work:

Professional Services for the Presentation of Groundwater Impacts and Detailed Determination of Impacts and Mitigation for a Select Number of Wells

February 22, 2010

BACKGROUND

Three Rivers Levee Improvement Authority (TRLIA) contracted with MWH to perform an evaluation of potential groundwater impacts due to the construction of slurry walls in the Upper Yuba River South Levee from Simpson Lane to the Goldfields. This evaluation was completed in December 2009 and a report Evaluation of Groundwater Impacts from the Upper Yuba River South Levee Repair Activities was prepared. TRLIA wishes to amend the contract with MWH for additional services as described below.

SCOPE OF SERVICES

TASK 1: Prepare presentation for the public, meet with TRLIA Executive Team to discuss presentation, and give presentation at four meetings

TASK 2: Detailed evaluation of water wells in the near vicinity of the TRLIA slurry wall project

DETAILED PROPOSED SCOPE OF WORK

TASK 1: PREPARE PRESENTATION FOR THE PUBLIC, MEET WITH TRLIA EXECUTIVE TEAM TO DISCUSS PRESENTATION, AND GIVE PRESENTATION AT FOUR MEETINGS

Objective: To develop a presentation that can be given at public meetings to describe the groundwater basin, explain how the groundwater evaluation was done, and present the results of the evaluation
Discussion: MWH will prepare a PowerPoint presentation describing the material presented in the Groundwater Impacts Evaluation Report. This presentation will describe the groundwater basin, flow in the basin, evaluation methods used, and the results of the evaluation. MWH will meet with the TRLIA Executive Team for a dry run on the presentation and revise the presentation based on comments TRLIA provides. MWH should plan to deliver the presentation at four additional meetings. One meeting will be held with the Central Valley Flood Protection Board (CVFPB) and three meetings held with the public in general at meeting places in Marysville, CA. MWH will also prepare five mounted posters for the public meetings.

Deliverables: Electronic copy of PowerPoint Presentation and five mounted posters.

Budget: $15,890

Schedule: Presentation completed within 14 calendar days after Notice to Proceed (NTP). Meeting dates are February 26 for the CVFPB Meeting and March 8 for Public Meeting. Remaining two meeting dates are to be determined.

TASK 2: DETAILED EVALUATION OF WATER WELLS IN THE NEAR VICINITY OF THE TRLIA SLURRY WALL PROJECT

Objective: To precisely determine the exact location of water wells in the near vicinity of the slurry wall, determine if water wells will be potentially impacted, assess the magnitude of impacts, and develop potential mitigation actions.

Discussion: In the Groundwater Impacts Evaluation Report, MWH identified approximately 21 water wells in the near vicinity of the slurry wall that might be impacted. See Table 6-1 and Figure 6-1 of the report. It is not clear if these well are located near enough to the wall to be impacted or even if these wells are still in use. MWH is to accomplish the following actions for this task:

- Field locate the 21 wells listed in Table 6-1 of the Groundwater Impacts Evaluation Report.
- During field location, meet with the owner and/or current resident user of each well to explain the reason for obtaining well information, describe the proposed TRLIA Upper Yuba Levee Improvement Project (UYLIP), and the plan for possible mitigation. TRLIA will assist with coordination of landowner/resident contacts and visits.
- Determine if these wells are active, their use and their depth. Photo document each well.
- Based on more detailed information developed above, determine if the well could be impacted by the slurry wall and assess the amount of impact.
- Develop a proposed mitigation plan for wells that are impacted.

Deliverables:
1. Expanded Table 6-1 of the Groundwater Impacts Evaluation Report with more detailed information on each well.
2. Describe mitigation proposals for each impacted well including a cost estimate for preferred mitigation action.

Budget: $23,700

Schedule: To be completed within 60 Calendar Days from NTP
### Exhibit "A"

**THREE RIVERS LEVEE IMPROVEMENT AUTHORITY**

**Upper Yuba Levee Improvement Project - Evaluation of Impacts to Yuba County Groundwater - Amendment 1**

**Proposed Consultant Fee Estimate**

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<th>Supervising Professional (John Goetz, Anna Fock)</th>
<th>Associate Professional (Craig Mare, Suzanne Mills)</th>
<th>Graphics (Jasmine Garber)</th>
<th>CAD/GIS (Steve Irving)</th>
<th>Admin/Secretary (Emily McCallister)</th>
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<th>Task Total Hours</th>
<th>Principal Professional (Chris Petersen)</th>
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<th>Associate Professional (Craig Mare, Suzanne Mills)</th>
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Notes: Task 1 assumes 4 meetings and 5 posters.
Task 2 assumes 4 days of field work for two people, field supplies, and 400 miles (4 trips of 100 miles each).