No other business shall be conducted at this meeting. The public shall have an opportunity to address the Authority only with respect to items set forth in this agenda. Each individual or group will be limited to no more than five minutes. Prior to this time, speakers must fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

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

II  **CLOSED SESSION**

A. Personnel pursuant to Government Code §54957(b) – Executive Director Evaluation

III  **ACTION ITEMS**

1. Approve minutes of the meeting of August 12, 2011.

2. Approve fence construction along Segment 3 property line of Feather River East Levee and solicit of public bids; approve CEQA Categorical Exemption and authorize Executive Director to execute Notice of Exemption and submission upon review and approval of Counsel.

3. Approve Change Order No. 2 for $46,208 to the agreement with River Partners for Feather River Mitigation Planting and authorize Executive Director to execute upon review and approval of Counsel.

4. Adopt resolution approving funding for small flood protection projects in the Yuba Goldfields, authorizing the filing of CEQA Notices of Exemption, and authorizing the Executive Director to execute contacts with Cal Sierra Inc. and Western Aggregates, LLC, upon review and approval of Counsel.

IV   **BOARD AND STAFF REPORTS**

V   **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 Americans 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.
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

AUGUST 12, 2011 SPECIAL MEETING

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 10:00 a.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, and Mary Jane Griego. Director John Nicoletti was absent. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Deputy Clerk of the Board of Supervisors Rachel Ferris. Chair Griego presided.

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

II  ACTION ITEMS

A. Approve minutes of the meetings of July 19, 2011. Approved as written

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

B. Adopt resolution approving Operation, Maintenance, Repair, Replace, and Rehabilitation Agreement with State of California for worked performed on the Feather River levee and to be performed on the Yuba River levee and authorizing the Executive Director to execute the agreement with Central Valley Flood Protection Board; and authorize the Executive Director to make minor conforming changes to same upon review and approval of Counsel. Executive Director Paul Brunner and Counsel Scott Shapiro provided a brief recap and responded to Board inquiries.

The following individual spoke: Ms. Frances Hofman, Hofman Ranch, expressed concern the state could force the county to rebuild the levee if it does not meet the 200 year level. Ms. Hofman also stated that the Western Pacific Interceptor Canal is a lateral and not an interceptor.

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

Adopted Resolution No. 2011-7 entitled: “RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY REGARDING THE OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION AGREEMENT.”

C. Adopt resolution delegating authority to Executive Director to grant or deny potential conflicts of interest request of Downey Brand LLP and report to Board when authority has been exercised. Executive Director Paul Brunner recapped request and responded to Board inquiries.
MOTION: Move to adopt        MOVED: Jerry Crippen    SECOND: Rick Brown
AYES: Jerry Crippen, Rick Brown, Don Graham, Mary Jane Griego
NOES: None                  ABSTAIN: None          ABSENT: John Nicoletti

Adopted Resolution No. 2011-8 entitled: “A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY DELEGATING AUTHORITY TO EXECUTIVE DIRECTOR.”

D. Approve Amendment No. 10 to agreement with HDR Inc. in the amount of $162,879 for engineering and construction management services and authorize Executive Director to execute same. Executive Director Paul Brunner recapped agreement and responded to Board inquiries.

Design Manager, Larry Dacus, provided a brief recap on the Western Pacific Interceptor Canal crack. Mr. Brunner additionally advised the Feather River crack is stable and monitored.

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

E. Authorize travel for Chair Griego to attend Floodplain Management Association 2011 Conference held September 7 – 8, 2011 in San Diego in an amount not to exceed $1,000.

Executive Director Paul Brunner advised the Feather River project had received the Flood Plan Project of the Year award from the Flood Plain Management Association.

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

III BOARD AND STAFF MEMBERS’ REPORTS

Executive Director Paul Brunner:
• Cultural Site deterrent plantings consisting of poison oak, wild roses, and blackberries
• Territorial Dispatch advised request for information to be written
• Upper Yuba Project utility relocation
• Levee toe access corridor public outreach Bar-B-Que August 22, 2011 at 6:00 p.m.

IV CLOSED SESSION: The Board retired into closed session at 10:42 a.m.

A. Real Property Negotiation pursuant to Government Code §54956.8 – Property: APN 020-410-001/
Jason G. Allen Negotiator: TRLIA/Max Steinheimer/Bob Morrison Terms of Payment

Director Griego left closed session at 10: 55 a.m. and did not return.

The Board returned from closed session at 11:20 a.m. with all members present as indicated above, with the exception of Director Griego, there was no reportable action.
V  ADJOURN: 11:21 p.m. by Director Graham.

_________________________  Chair

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

_________________________  Approved: _________________________

By Rachel Ferris, Deputy Clerk
September 27, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul G. Brunner, Executive Director
Larry Dacus, Design Manager
SUBJECT: Consider Approval of Fence Construction along Segment 3 of the Feather East Levee, Offering this Project for Public Bidding, and Adoption of a CEQA Categorical Exemption

Recommended Action
Approve construction of a fence along the true property line along Segment 3 of the Feather East Levee and offer this project for public bidding; adopt a CEQA Categorical Exemption for same; and authorize the TRLIA Executive Director to sign the exemption and submit to the State Office of Planning and Research once General Counsel has reviewed and approved.

Discussion
The TRLIA Staff is working to establish adequate landslide toe access corridors for the RD 784 levee system. During this process it was discovered that parcel owners along the east levee of the Feather River north of Island Avenue (Segment 3) have encroached onto lands owned by the Sacramento and San Joaquin Drainage District. TRLIA wishes to remove these encroachments and construct a new fence on the true property line to delineate the property line and manage access onto the levee. In order to construct this fence, TRLIA must apply for an encroachment permit. Part of the permit application process is clearance of the proposed action for CEQA purposes. TRLIA staff have reviewed the proposed action and determined that this action qualifies for a categorical exemption under CEQA. TRLIA staff intend to put this project out to bid in the near future.

The attached Notice of Exemption (NOE) and Attachment A to the NOE provide more detail as to why this action qualifies for a categorical exemption. The TRLIA Board is asked to adopt the attached Categorical Exemption and authorize the Executive Director to sign the NOE and submit to the appropriate State Agency.

Fiscal Impact:
This action leads to no fiscal impact at this time. Eventually a contract will have to be issued to accomplish this action and that contract will have to be funded by TRLIA. A separate action will be brought before the Board to approve the future contract.

2 Attachments:
1. Proposed Notice of Exemption
2. Attachment A to the Notice of Exemption
Notice of Exemption

To: Office of Planning and Research
    P.O. Box 3044, Room 212
    Sacramento, CA 95812-3044
    County Clerk
    County of Yuba
    915 8th Street, Suite 107
    Marysville, CA 95901

From: (Public Agency) Three Rivers Levee Improvement Authority
    1114 Yuba Stree, Suite 218
    Marysville, CA 95901
    (Address)

Project Title: Segment 3 Fence

Project Location - Specific:
    Feather River, Unit 2 Levee Mile 0.0 to 1.0 and Yuba River, Unit 1 Levee Mile 2.1 to 2.2. Also see Attachment A.

Project Location - City: SE of Marysville
Project Location - County: Yuba

Description of Nature, Purpose and Beneficiaries of Project:
See Attachment A for further detail. Adjacent parcel owners have encroached onto lands owned by the Sacramento San Joaquin Drainage District along the east levee of the Feather River, Unit 2 from Levee Mile (LM) 0.0 to 1.0 and the south levee of the Yuba River, Unit 1 from LM 2.1 to 2.2. Three rivers Levee Improvement Authority (TRLIA) will construct a 6-foot high fence along the true right of way.

Name of Public Agency Approving Project: Three Rivers Levee Improvement Authority

Name of Person or Agency Carrying Out Project: Three Rivers Levee Improvement Authority

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Existing Facilities, Section 15301(f)
☐ Statutory Exemptions. State code number:

Reasons why project is exempt:
See Attachment A for further information. CEQA Guidelines Section 15301(f) exempts the addition of safety or health protection devices in conjunction with existing structures, facilities, mechanical equipment, or topographical features. TRLIA proposes to construct a chain-link fence that would prohibit encroachments onto the existing levees. Illegal encroachments onto the levees could interfere with levee maintenance activities, jeopardize the efficacy of the levee, and pose safety hazards for adjacent residents. Because the fence is a safety device which would be added to an existing levee, installation of the fence is exempt from further CEQA review under State CEQA Guidelines Section 15301(f).

Lead Agency
Contact Person: Paul Brunner
Area Code/Telephone/Extension: 530-749-5679

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: ___________________________ Date: __________ Title: ________________
☐ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR: ____________________________
Revised 2005
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

ATTACHMENT A

NOTICE OF EXEMPTION
Segment 3 Fence

TO: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

FROM: Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

The project identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) (California Public Resources Code Section 21000 et seq.) as defined in the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq.).

Project Title: Segment 3 Fence

Project Location: The project site is southeast of Marysville, Yuba County, within the area identified as Segment 3 of the Feather River Levee Repair Project. Specifically, the proposed fence reach consists of Feather River, Unit 2 Levee Mile 0.0 to 1.0 and Yuba River, Unit 1 Levee Mile 2.1 to 2.2.

Project Description: Adjacent parcel owners have encroached onto lands owned by the Sacramento San Joaquin Drainage District (SSJDD) along the east levee of the Feather River, Unit 2 from Levee Mile (LM) 0.0 to 1.0 and the south levee of the Yuba River, Unit 1 from LM 2.1 to 2.2. Three Rivers Levee Improvement Authority (TRLIA) will construct a 6-foot high chain link fence along the true right of way to more clearly delineate the right of way boundary and minimize unauthorized encroachments.
Exempt Status: Categorically exempt under State CEQA Guidelines Section 15301(f) which exempts the "[a]ddition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices[.]"

Reasons why project is exempt: TRLIA proposes to erect a 6-foot high chain link fence approximately 1.1 miles in length in order to delineate the true right of way boundary along the landside toe of levees for the Feather and Yuba Rivers. The fence would run along or adjacent to the property line of residential parcels, many of which are currently encroaching on lands owned by the SSJDD. The new fence would discourge encroachments onto the existing levees and easements owned by SSJDD. Illegal encroachments into the right-of-way owned by SSJDD and onto the levee itself interfere with levee maintenance activities, can jeopardize the efficacy and structural integrity of the levee, and pose a safety risk to adjacent residents.

The planned fence would be constructed in order to prevent future encroachments on the existing levee right of way and structure. By preventing illegal encroachments, the fence would help ensure that levee maintenance activities can proceed as planned, that levee integrity is not jeopardized by illegal encroachments, and that safety risks related to the levee structure itself are minimized. Because the fence would be considered to be a safety device that would be used in conjunction with and existing structure (the levees), the proposed project qualifies for exemption under State CEQA Guidelines Section 15301(f).

The fence would be constructed along the edge of the existing levee landside maintenance easement. Past field surveys conducted for the Feather River Levee Repair Project and recent site surveys have determined that there are no sensitive environmental resources along the fence right-of-way (e.g., biological resources, cultural resources, scenic resources) other than several elderberry shrubs that could serve as habitat for the Valley elderberry longhorn beetle, a species listed as threatened by the U.S. Fish and Wildlife Service. However, the fence route has been adjusted to move around and avoid disturbance to these shrubs. Installation of the Segment 3 Fence will not result in any significant adverse
environmental effects and does not trigger any exceptions to categorical exemptions per CEQA Guidelines Section 15300.2.
THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY
1114 Yuba Street, Suite 218
Marysville, CA 95901
Office (530) 749-7841 Fax (530) 749-6990

September 27, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Doug Handen, Construction Manager

SUBJECT: Feather River Setback Area
         Change Order #2 to River Partners
         Feather River Mitigation and Planting Project

Recommended Action: Approve Change Order #2 (attached) for $46,208 to the River Partners
Feather River Mitigation Planting Contract and authorize the Executive Director to execute and
sign once General Counsel has reviewed.

Background: TRLIA entered into an agreement with River Partners on July 15, 2010 to
perform the Feather River Setback Mitigation and Planting Project. The amount of the original
agreement was $1,199,747. The agreement included the following planting and irrigation
components:

- Flood Plain Swale
- Messick Lake
- Cultural Site
- Wind-Wave Buffer

The planting of the Flood Plain Swale, Messick Lake, and the Cultural Site was performed in the
fall of 2010. The planting of the Wind-Wave Buffer was performed in 2011 following the
issuance of the encroachment permit from the Central Valley Flood Protection Board. On
6/7/2011 the TRLIA Board authorized the Executive Director to execute Change Order Number
1 in the amount of $35,560.80 that addressed phasing costs associated with the delay in planting
the Wind Wave Buffer.

The Messick Lake planting was completed in the fall of 2010. The Messick Lake plantings
include plant species that are accustomed to seasonal high water inundation. During the winter
and spring of 2011 the high water from the Feather River kept portions of the Feather River
Setback Area and all of the Messick Lake mitigation area under water for an extended period of
time. Historical records for the Feather River, included in the table below, indicate that the spring
2011 river levels represent the third greatest duration of high river levels for the past 15 years.
<table>
<thead>
<tr>
<th>Water Year (October 1st through September 30th)</th>
<th>Number of Days &gt; El 28 (as measured at Boyds Landing)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>209</td>
</tr>
<tr>
<td>1999</td>
<td>111</td>
</tr>
<tr>
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<td>2009</td>
<td>12</td>
</tr>
<tr>
<td>2010</td>
<td>1</td>
</tr>
<tr>
<td>2011</td>
<td>133</td>
</tr>
</tbody>
</table>

The Messick Lake plantings were submerged for approximately four months and over 60% of the plants did not survive. The plantings were largely comprised of cuttings which can’t tolerate periods of prolonged inundation until the root systems become established. Once established, the Messick Lake plantings will tolerate extended high water levels.

**Discussion:** In order to meet the success criteria of the Army Corps 404 Permit for the Feather River Setback, TRLIA is required to replant Messick Lake. Based on the historic trend shown in the table above, it is unlikely that an extended period of unusual high river levels will occur this coming winter/spring. River Partners change order proposal includes 3,513 plants. The replacement plants will be comprised of root stock and not cuttings to improve the chances of survivorship in the event of another extended high water period in the winter/spring of 2012. TRLIA is also considering a contingency plan to dewater Messick Lake via pumping should the Feather River levels be high for an extended period of time next year.

River Partners change order #2 does not include any costs for the re-establishment of the irrigation systems required due to the high water. River Partners original contract includes the costs for re-establishment of the irrigation for up to a 10-year flood event, but does not include a provision for the loss of plants due to extended high water.

River Partners has completed the planting of the Wind Wave Buffer. This Fall River Partners will be replacing plant material in the Flood Plain Swale at no additional cost to TRLIA. All planting, including the extra work proposed in change order #2 is anticipated to be completed this fall.

**Fiscal Impact:** The cost of this change order is covered by the Feather River EIP funding Agreement. There are local and state funds available to pay for this work.

Attachment:

River Partners Change Order Number 2
<table>
<thead>
<tr>
<th>Days</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ 1281.915</td>
<td>$0</td>
</tr>
<tr>
<td>1.281.915 -</td>
<td>$46,208.00</td>
</tr>
<tr>
<td>1.235.307.80</td>
<td>$35,950.80</td>
</tr>
<tr>
<td>1.199.747.00</td>
<td>$14,677.00</td>
</tr>
</tbody>
</table>

The contract sum was $46,208.00.

Change order number: 2
Project name: Feather River Sediment Utilization & Planning
Contractor: River Partners
Owner: Feather River Improvement Authority
Date: 8/30/2011

Change Order

Original contract date: 7/1/2010

330-894-5401
Chico, CA 95926
280 Vaillombras Ave.
River Partners
September 27, 2011

TO: Three Rivers Board of Directors
FROM: Paul G. Brunner
        Scott Shapiro, General Counsel
SUBJECT: APPROVAL OF RESOLUTION APPROVING FUNDING FOR SMALL FLOOD PROTECTION PROJECTS IN THE YUBA GOLDFIELDS, AND AUTHORIZING THE FILING OF CEQA NOTICES OF EXEMPTION

Recommendation: Consider adoption of a resolution (Attachment 1) to approve funding for small flood protection projects in the Yuba Goldfields and authorize the Executive Director to file the CEQA Notices of Exemption (Attachments 2 & 3).

Background: TRLIA has been working to bring the Reclamation District 784 basin to 200-year flood protection. Ongoing mining activities by private entities in the Yuba Goldfields has degraded certain cobble embankments in three places, and minor rehabilitation of those embankment sites through the backfilling of approximately 50,000 cubic yards of cobble into existing excavations will provide flood protection benefits to the Reclamation District 784 basin.

Discussion: This resolution will authorize funding for this rehabilitation work, to be undertaken by the private mining entities Western Aggregates, LLC and Cal Sierra Development, Inc. in conjunction with their mining operations in the Yuba Goldfields. Western Aggregates, LLC and Cal Sierra Development, Inc. have expressed willingness to undertake this rehabilitation work in conjunction with their mining operations. The proposed Resolution would authorize the Executive Director to enter into contracts with Western Aggregates, LLC and Cal Sierra Development, Inc. (Attachments 4 & 5).

The proposed Resolution would also authorize the Executive Director to file a CEQA Notice of Exemption for both projects with the County Clerk. TRLIA’s funding of the rehabilitation work is exempt from review under CEQA pursuant to the CEQA Guidelines, 14 Cal. Code Regs. §§ 15304 (Minor Alterations to Land), 15301 (Existing Facilities), and 15302 (Replacement or Reconstruction). In particular, the work is exempt pursuant to 14 Cal. Code Regs. § 15304 (Minor Alterations to Land) because it involves minor backfilling of earth into previously excavated land with material that is compatible with the natural features of the site. The projects will result in only minor changes to land and vegetation and will not require the removal of any mature trees. No fill will be imported to the site.

The projects are also exempt from CEQA review pursuant to 14 Cal. Code Regs § 15301 (Existing Facilities) because they involve minor alterations to existing topographical features with no expansion of existing use. Finally, the projects are exempt from CEQA review pursuant to 14 Cal. Code Regs § 15302 (Replacement or Reconstruction) because they involve the reconstruction of a deteriorated embankment to meet standards of flood protection.
Furthermore, none of the exceptions to CEQA exemption listed in 14 Cal. Code Regs. § 15300.2 apply. The projects are not located in a sensitive environment, will not have cumulatively significant impacts when combined with successive projects of the same type over time, will not affect any scenic highways, hazardous waste sites, or historical resources, and there are no unusual circumstances that warrant CEQA review.

**Fiscal Impact:** The cost of the contract work with the mining companies is not anticipated to exceed $200,000. The funding for this work will initially come from TRLIA’s prior year funds for Phase 4. TRLIA has asked DWR to cost share in this work as part of the UYLIP EIP project.

**Attachments:**
1. Resolution 2011-
2. CEQA Notice of Exemption for Cal-Sierra
3. CEQA Notice of Exemption for Western Aggregates
4. Draft Contract for Cal-Sierra
5. Draft Contract for Western Aggregates
RESOLUTION NO. 2011-__

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
APPROVING FUNDING FOR SMALL FLOOD PROTECTION PROJECTS
IN THE YUBA GOLDFIELDS, AND AUTHORIZING THE FILING OF
CEQA NOTICES OF EXEMPTION

WHEREAS, Three Rivers Levee Improvement Authority (TRLIA) has been
working to bring the Reclamation District 784 basin to 200-year flood protection; and

WHEREAS, ongoing mining activities by private entities in the Yuba Goldfields
has degraded certain cobble embankments in three places, and minor rehabilitation of
those embankment sites through the backfilling of approximately 50,000 cubic yards of
cobble into existing excavations will provide flood protection benefits to the Reclamation
District 784 basin; and

WHEREAS, TRLIA wishes to provide funding for this rehabilitation work, to be
undertaken by the private mining entities Western Aggregates, LLC and Cal Sierra
Development, Inc. in conjunction with their mining operations in the Yuba Goldfields; and

WHEREAS, Western Aggregates, LLC and Cal Sierra Development, Inc. have
expressed willingness to undertake this rehabilitation work in conjunction with their
mining operations; and

WHEREAS, TRLIA has concluded that the rehabilitation work is exempt from
review under the California Environmental Quality Act (CEQA), and that no exceptions
to CEQA exemption apply.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of the Three Rivers Levee Improvement Authority hereby
authorizes necessary funding for the rehabilitation of one embankment site through the
backfilling of cobble into an existing excavation in the Yuba Goldfields by Cal Sierra,
Inc. The Board authorizes the Executive Director to execute a contract with Cal Sierra,
Inc. for this work.

2. The Board hereby authorizes necessary funding for the rehabilitation of two
cobble embankment sites through the backfilling of cobble into existing excavations in
the Yuba Goldfields by Western Aggregates, LLC. The Board authorizes the Executive
Director to execute a contract with Western Aggregates, LLC for this work.

3. The Board finds that these projects are exempt from CEQA review pursuant to the
CEQA Guidelines, 14 Cal. Code Regs. §§ 15304 (Minor Alterations to Land), 15301
(Existing Facilities), and 15302 (Replacement or Reconstruction). The projects are
exempt because they involve minor backfilling of earth into previously excavated land with material that is compatible with the natural features of the site, will result in only minor changes to land and vegetation, and will not require the removal of any mature trees. No fill will be imported to the project sites. The projects involve minor alterations to existing topographical features with no expansion of existing use, and they also involve the reconstruction of deteriorated embankments to meet certain standards of flood protection. The Board also concludes that none of the exceptions to CEQA exemption listed in 14 Cal. Code Regs. § 15300.2 apply. The projects are not located in a sensitive environment, will not have cumulatively significant impacts when combined with successive projects of the same type over time, will not affect any scenic highways, hazardous waste sites, or historical resources, and there are no unusual circumstances that warrant CEQA review. The Board hereby authorizes the Executive Director to promptly file a CEQA Notice of Exemption for both projects with the County Clerk.

PASSED AND ADOPTED this _______ day of __________, 2011, by the Board of Directors of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________________________________________
Chairperson

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

__________________________________________________________
APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO
Notice of Exemption

To: County Clerk  From: Three Rivers Levee Improvement Authority
County of Yuba  1114 Yuba St., Suite 218
915 8th. St., Suite 107  Marysville, CA 95901
Marysville, CA 95901

Project Title: Funding for Minor Backfilling Project in the Yuba Goldfields by Western Aggregates, LLC.

Project Location - Specific: Section 12, Township 15 North, Range 4 East, M.D.B.&M.

Project Location - City:  Project Location - County: Yuba

Description of Nature, Purpose and Beneficiaries of Project: In conjunction with ongoing mining activities in the Yuba Goldfields area by Western Aggregates, LLC ("Western"), the Three Levee Rivers Improvement Authority ("TRLIA") will provide funding to Western for a small flood-protection project. Approximately 20,000 cubic yards of cobble will be back-filled from an adjacent area into two existing excavated sites, in order to enhance flood protection for nearby properties and communities.

Name of Public Agency Approving Project: Three Rivers Levee Improvement Authority

Name of Person or Agency Carrying Out Project: Western Aggregates, LLC

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: CEQA Guidelines, 14 Cal. Code Regs. §§ 15304 (Minor Alterations to Land), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction).
☐ Statutory Exemptions. State code number:

Reasons why project is exempt: The project is exempt from CEQA review pursuant to 14 Cal. Code Regs. § 15304 (Minor Alterations to Land) because it involves minor backfilling of earth into previously excavated land with material that is compatible with the natural features of the site. The project will result in only minor changes to land and vegetation and will not require the removal of any mature trees. No fill will be imported to the site. The project is also exempt from CEQA review pursuant to 14 Cal. Code Regs § 15301 (Existing Facilities) because it involves minor alterations to existing topographical features with no expansion of Western's existing use. Finally, the project is exempt from CEQA review pursuant to 14 Cal. Code Regs § 15302 (Replacement or Reconstruction) because it involves the reconstruction of a deteriorated embankment.

Lead Agency
Contact Person: Paul G. Brunner  Area Code/Telephone/Extension: (530) 749-5679

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: ___________________________  Date: __________  Title: TRLIA Executive Director

☒ Signed by Lead Agency  Date received for filing at County Clerk: ______________

☐ Signed by Applicant

1198754 1
DRAFT
AGREEMENT BETWEEN THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY AND CAL SIERRA
DEVELOPMENT, INC. FOR WORK IN THE GOLDFIELDS

THIS AGREEMENT is by and between Three Rivers Levee Improvement Authority ("TRLIA") and Cal Sierra Development, Inc. ("Cal Sierra"), and is effective on the date last signed by one of the parties.

TRLIA and Cal Sierra, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. RECITALS.

1.1 TRLIA is a joint powers authority, consisting of Yuba County and Reclamation District 784, that was formed to finance and construct levee improvements in South Yuba County.

1.2 Cal Sierra mines certain property in the Yuba Goldfields that is adjacent to the Yuba River training wall (the "Cal Sierra Mining Property").

1.3 TRLIA has identified various low lying areas on the Cal Sierra Mining Property that need to be filled in with native material in order to enhance flood protection in South Yuba County. Fill material will be obtained from designated areas of the Cal Sierra Mining Property and then placed in specifically designated areas in specific quantities.

1.4 Cal Sierra recognizes that the Work, which is described in more detail in Article 2, will benefit the Cal Sierra Mining Property as well as other property in South Yuba County.

1.5 As a result, TRLIA has agreed to pay for the cost of the Work, described in Article 2, below, and Cal Sierra has agreed to perform the Work (or to have the Work performed by a third party), at cost, without any added profit.

ARTICLE 2. WORK.

Cal Sierra, and/or its contractor or subcontractor, shall complete the Work as specified or indicated in this Agreement and the Plans and Specifications attached to this Agreement as Exhibit A (the "Plans and Specifications"), which are incorporated by this reference.

The Work is generally described as follows:

Clear, grub, and flatten designated areas on the Cal Sierra Mining Property. Gather fill material from separate, designated areas on the Cal Sierra Mining Property. Place approximately 36,000 cubic yards of fill material on the designated areas. (the "Work").
The Work is described in more detail in the Plans and Specifications.

ARTICLE 3. CONTRACT TIME.

TRLIA and Cal Sierra agree that the Work will be completed on or before October 31, 2011.

ARTICLE 4. CONTRACT PRICE.

TRLIA shall pay Cal Sierra $1.04 for each cubic yard of fill material that is placed in a designated fill area. The price per cubic yard is based on 1.48 tons of material in each cubic yard at .70 cents per ton. The parties anticipate that the Work will require movement of 36,000 cubic yards of fill material. Accordingly, the parties anticipate that the Total Price for the Work will be $37,440 (the “Anticipated Total Price”).

TRLIA and Cal Sierra agree that Cal Sierra will be paid an additional $1.04 above the Anticipated Total Price for every cubic yard of fill material that it is directed to place beyond 36,000 cubic yards. Cal Sierra agrees to notify TRLIA, in writing, and obtain approval from TRLIA, before it places any additional cubic yards beyond 36,000.

ARTICLE 5. PAYMENT PROCEDURES.

TRLIA shall pay Cal Sierra half of the Anticipated Total Price on, or prior to, the date that Cal Sierra begins the performance of actual, visible Work. TRLIA shall pay the remaining portion of the Anticipated Total Price, deducting $1.04 for each cubic yard of fill material below 36,000 cubic yards or adding $1.04 for each cubic yard of fill material placed by Cal Sierra beyond 36,000 cubic yards, within 30 days after the Work is complete.

ARTICLE 6. AGREEMENT DOCUMENTS.

The Agreement between TRLIA and Cal Sierra concerning the Work consists of this Agreement as well as the following documents:

- The Plans and Specifications.
- All required insurance certificates, endorsements, and policies.
- Workers Compensation Certificate.
- Change orders which may be delivered or issued after the date of this Agreement. The Agreement may only be amended by written change order.

ARTICLE 7. ASSIGNMENT.

No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the party sought to be
bound. Specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.

TRLIA and Cal Sierra each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Agreement.

ARTICLE 8. CONTRACTORS OR SUBCONTRACTORS.

8.1 Cal Sierra shall not contract or subcontract any of the Work to third parties without TRLIA’s written consent, whose consent will not be unreasonably withheld. Cal Sierra agrees that any third party contractor and/or subcontractor will provide the minimum insurance requirements required by this Agreement and be properly licensed contractors by the State of California.

8.2 Cal Sierra shall be fully responsible for all acts and omissions of its third party contractors, subcontractors, and suppliers as well as any persons and organizations directly or indirectly employed by them. Nothing in the Agreement shall create any contractual relationship between TRLIA and any such third party.

8.3 If requested in writing by TRLIA, Cal Sierra shall deliver to TRLIA a copy of each contract or subcontract with a third party contractor or subcontractor, or other person or organization performing a part of the work within seven (7) days of TRLIA’s request.

ARTICLE 9. CONSTRUCTION MANAGEMENT.

The firm Handen Company, Inc., (“Handen”) will perform Construction Management for the Work on behalf of TRLIA. Handen will represent TRLIA’s interest in assuring timely completion of the Work in accordance with the Specifications. As necessary, Handen will inspect the Work during construction, respond to requests for information, review the construction schedule, keep project records, and perform field testing. Handen will also be responsible for project close out and verifying that the project has been completed pursuant to the Specifications.

ARTICLE 10. CAL SIERRA RESPONSIBILITIES.

10.1 Supervision. Cal Sierra shall assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, and/or completion of the Work, regardless of whether they are provided by Cal Sierra or Cal Sierra’s contractor or subcontractor.
10.2 Permits. Cal Sierra has represented that it has all permits necessary for performance of the Work. To the extent that any additional permits are required, Cal Sierra is responsible to obtain such permits at its own cost.

10.3 Compliance with Laws. Cal Sierra shall give all notices required by, and shall be responsible for compliance with, all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither TRLIA nor Handen shall be responsible for monitoring Cal Sierra’s compliance with any Laws or Regulations. If Cal Sierra or its contractors or subcontractors perform any Work knowing or having reason to know that it is contrary to Laws or Regulations, Cal Sierra shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work.

10.4 Faithful performance and maintenance. Cal Sierra, and/or its third party contractors and subcontractors, shall perform the Work in accordance with the Specifications. The Work must also be performed in a timely manner and in a reasonable and workmanlike manner. Additionally, after completion of the Work, Cal Sierra agrees that it will not alter the Work in any way without written authorization from TRLIA.

ARTICLE 11. INSURANCE.

The below insurance requirements apply to both Cal Sierra and any of its third party contractors and/or subcontractors. Cal Sierra shall be required to have any of its contractors or subcontractors comply with all of the below requirements.

11.1 Cal Sierra shall not commence or continue to perform any Work unless it, at its own expense, has in full force and effect all required insurance. In the event that Cal Sierra employs contractors or subcontractors, or any person or entity involved by, for, with, or on behalf of Cal Sierra in the performance of the Work, Cal Sierra shall require and confirm that each meets the minimum insurance requirements specified below and shall not permit any of them to perform Work until they have complied with the same insurance requirements. All of the insurance shall be provided on policy forms satisfactory to TRLIA.

11.2 The types of insurance Cal Sierra shall obtain and maintain for the full period of the Agreement are:

- Worker’s Compensation and Employer’s Liability Insurance
- Commercial General Liability Insurance

11.3 Prior to exercising any right or commencing any Work, Cal Sierra and any of Cal Sierra’s third party contractors and subcontractors, shall furnish TRLIA with endorsements to the required policies of insurance, excepting workers’ compensation and employer’s liability, in such forms reasonably acceptable to TRLIA confirming that TRLIA is named as an additional insured for all liability risks on such policies. The
additional insured endorsements shall cover but not be limited to liability arising out of any and all activities performed by or on behalf of Cal Sierra and shall include coverage for premises operations and completed products hazards. Moreover, upon request of TRLIA, Cal Sierra shall provide a certified duplicate original of any of the herein described policies of insurance.

11.4 If any of the required coverages expire during the term of this Agreement, Cal Sierra shall deliver the renewal certificate(s) including the required policy additional insured endorsement(s) to TRLIA at least ten (10) days prior to the expiration date. In the event of cancellation for non-payment of premium, TRLIA may pay premiums due by Cal Sierra and deduct the paid payment from amounts then or subsequently owing to the Cal Sierra under this Agreement.

11.5 Cal Sierra hereby grants to TRLIA, on behalf of any insurer providing insurance to Cal Sierra with respect to the Work of Cal Sierra under this Agreement, a waiver of any right of subrogation which any such insurer of Cal Sierra may acquire against TRLIA by virtue of the payment of any loss under such insurance. Cal Sierra shall provide all applicable endorsements reflecting waiver of the right to subrogation.

11.6 All of the below insurance policies are to contain, or be endorsed to contain, the following provisions:

- For any claim related to the Work, Cal Sierra’s insurance shall be primary insurance with respect to TRLIA. Any insurance, self-insurance or other coverage maintained by TRLIA shall not contribute to it.

- Any failure of Cal Sierra to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to TRLIA.

11.7 Worker’s Compensation and Employer’s Liability Insurance. Before commencement of the Work, Cal Sierra shall provide a certificate of insurance and an endorsement evidencing that they have obtained for the period of the Agreement, full worker’s compensation insurance coverage as required by law for not less than the statutory limits and employer’s liability insurance in the sum of not less than $1,000,000 per accident for bodily injury and disease for all persons whom they employ or may employ in carrying out the Work. By Cal Sierra’s signature herein, Cal Sierra certifies that Cal Sierra is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that Code, and Cal Sierra shall comply with such provisions before commencing the performance of the Work under this Agreement.

11.8 Commercial General Liability Insurance. Cal Sierra agrees to carry commercial general liability insurance which shall be on an occurrence basis and which shall include coverage for third party liability risks including, without limitation, bodily injury including coverage for injury, sickness or disease, emotional distress, and death,
personal injury/advertising injury, property damage from injury to or destruction of property of others, contractual liability coverage sufficiently broad to insure as described in the section of this Agreement entitled “INDEMNIFICATION”, premises/operations and products/completed operations, underground excavation and removal of lateral support, explosion and collapse hazard, and independent contractors. Coverage shall have limits of liability of not less than the following:

Bodily Injury/Property Damage $1,000,000 each occurrence. $2,000,000 aggregate

Personal Injury/Advertising Injury $1,000,000 each occurrence. $2,000,000 aggregate

11.9 Nothing contained in these insurance requirements is to be construed as limiting the extent of the liability of the Cal Sierra or Cal Sierra’s insurers or sureties.

ARTICLE 12. NO WAIVER

The failure of TRLIA to insist upon the Cal Sierra’s performance of any of its obligations under the Agreement, or the waiver of any breach by Cal Sierra of its obligations under the Agreement, shall not be construed as thereafter waiving any such obligations or future breach.

Any inspection or approval of the Work by TRLIA shall not relieve Cal Sierra of its responsibility for compliance with the Agreement, nor from its responsibility for the quality of the Work.

ARTICLE 13. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

ARTICLE 14. ATTORNEYS’ FEES.

If either party commences an action in connection with any dispute arising out of, or in connection with, the Agreement or the Work, the prevailing party in any such action shall be entitled to recover its attorneys’ fees, its expert and consulting fees, and costs of suit.

IN WITNESS WHEREOF, TRLIA and Cal Sierra have caused this Agreement to be executed the day and year first above written.

<table>
<thead>
<tr>
<th>Three Rivers Levee Improvement Authority</th>
<th>Cal Sierra Development, Inc.</th>
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<tbody>
<tr>
<td>By: ____________________________</td>
<td>By: ____________________________</td>
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<td>Date: _______________________________</td>
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</table>
Exhibit A
Address: Problem Sites D,F

Action: Seal channel formed by excavated path
DRAFT
AGREEMENT BETWEEN THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY AND WESTERN AGGREGATES LLC FOR
WORK IN THE GOLDFIELDS

THIS AGREEMENT is by and between Three Rivers Levee Improvement Authority ("TRLIA") and Western Aggregates, LLC ("Western"), and is effective on the date last signed by one of the parties.

TRLIA and Western, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. RECITALS.

1.1 TRLIA is a joint powers authority, consisting of Yuba County and Reclamation District 784, that was formed to finance and construct levee improvements in South Yuba County.

1.2 Western mines certain property in the Yuba Goldfields that is adjacent to the Yuba River training wall (the "Western Mining Property").

1.3 TRLIA has identified various low lying areas on the Western Mining Property that need to be filled in with native material in order to enhance flood protection in South Yuba County. Fill material will be obtained from designated areas of the Western Mining Property and then placed in specifically designated areas in specific quantities.

1.4 Western recognizes that the Work, which is described in more detail in Article 2, will benefit the Western Mining Property as well as other property in South Yuba County.

1.5 As a result, TRLIA has agreed to pay for the cost of the Work, described in Article 2, below, and Western has agreed to perform the Work (or to have the Work performed by a third party), at cost, without any added profit.

ARTICLE 2. WORK.

Western, and/or its contractor or subcontractor, shall complete the Work as specified or indicated in this Agreement and the Plans and Specifications attached to this Agreement as Exhibit A (the "Plans and Specifications"), which are incorporated by this reference.

The Work is generally described as follows:

Clear, grub, and flatten designated areas on the Western Mining Property. Gather fill material from separate, designated areas on the Western Mining Property. Place approximately 14,600 cubic yards of fill material on the designated areas. (the "Work").
The Work is described in more detail in the Plans and Specifications.

ARTICLE 3. CONTRACT TIME.

TRLIA and Western agree that the Work will be completed on or before October 31, 2011.

ARTICLE 4. CONTRACT PRICE.

TRLIA shall pay Western $5,896 per day for the Work, plus mobilization and demobilization costs of $2,860.00. The parties anticipate that the Work will take nine (9) days to complete. Accordingly, the parties anticipate that the Total Price for the Work will be $55,924.00 (the “Anticipated Total Price”).

TRLIA and Western agree that Western will be paid an additional $5,896 above the Anticipated Total Price for each extra day it takes to complete the Work. If only a portion of a day is used, the price will be adjusted pro rata. Western agrees to notify TRLIA, in writing, and obtain approval from TRLIA, before it works past the nine (9) days contemplated in this Agreement.

ARTICLE 5. PAYMENT PROCEDURES.

TRLIA shall pay Western half of the Anticipated Total Price on, or prior to, the date that Western begins the performance of actual, visible Work. TRLIA shall pay the remaining portion of the Anticipated Total Price, deducting for each day of Work (or portion thereof) that is less than the anticipated nine (9) days or adding payment for each day (or portion thereof) beyond the anticipated nine (9) days, within 30 days after the Work is complete.

ARTICLE 6. AGREEMENT DOCUMENTS.

The Agreement between TRLIA and Western concerning the Work consists of this Agreement as well as the following documents:

- The Plans and Specifications.
- All required insurance certificates, endorsements, and policies.
- Workers Compensation Certificate.
- Change orders which may be delivered or issued after the date of this Agreement. The Agreement may only be amended by written change order.

ARTICLE 7. ASSIGNMENT.

No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the party sought to be
bound. Specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.

TRLIA and Western each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Agreement.

ARTICLE 8. CONTRACTORS OR SUBCONTRACTORS.

8.1 Western shall not contract or subcontract any of the Work to third parties without TRLIA’s written consent, whose consent will not be unreasonably withheld. Western agrees that any third party contractor and/or subcontractor will provide the minimum insurance requirements required by this Agreement and be properly licensed contractors by the State of California.

8.2 Western shall be fully responsible for all acts and omissions of its third party contractors, subcontractors, and suppliers as well as any persons and organizations directly or indirectly employed by them. Nothing in the Agreement shall create any contractual relationship between TRLIA and any such third party.

8.3 If requested in writing by TRLIA, Western shall deliver to TRLIA a copy of each contract or subcontract with a third party contractor or subcontractor, or other person or organization performing a part of the work within seven (7) days of TRLIA’s request.

ARTICLE 9. CONSTRUCTION MANAGEMENT.

The firm Handen Company, Inc., (“Handen”) will perform Construction Management for the Work on behalf of TRLIA. Handen will represent TRLIA’s interest in assuring timely completion of the Work in accordance with the Specifications. As necessary, Handen will inspect the Work during construction, respond to requests for information, review the construction schedule, keep project records, and perform field testing. Handen will also be responsible for project close out and verifying that the project has been completed pursuant to the Specifications.

ARTICLE 10. WESTERN RESPONSIBILITIES.

10.1 Supervision. Western shall assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, and/or completion of the Work, regardless of whether they are provided by Western or Western’s contractor or subcontractor.
10.2 Permits. Western has represented that it has all permits necessary for performance of the Work. To the extent that any additional permits are required, Western is responsible to obtain such permits at its own cost.

10.3 Compliance with Laws. Western shall give all notices required by, and shall be responsible for compliance with, all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither TRLIA nor Handen shall be responsible for monitoring Western's compliance with any Laws or Regulations. If Western or its contractors or subcontractors perform any Work knowing or having reason to know that it is contrary to Laws or Regulations, Western shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work.

10.4 Faithful performance and maintenance. Western, and/or its third party contractors and subcontractors, shall perform the Work in accordance with the Specifications. The Work must also be performed in a timely manner and in a reasonable and workmanlike manner. Additionally, after completion of the Work, Western agrees that it will not alter the Work in any way without written authorization from TRLIA.

ARTICLE 11. INSURANCE.

The below insurance requirements apply to both Western and any of its third party contractors and/or subcontractors. Western shall be required to have any of its contractors or subcontractors comply with all of the below requirements.

11.1 Western shall not commence or continue to perform any Work unless it, at its own expense, has in full force and effect all required insurance. In the event that Western employs contractors or subcontractors, or any person or entity involved by, for, with, or on behalf of Western in the performance of the Work, Western shall require and confirm that each meets the minimum insurance requirements specified below and shall not permit any of them to perform Work until they have complied with the same insurance requirements. All of the insurance shall be provided on policy forms satisfactory to TRLIA.

11.2 The types of insurance Western shall obtain and maintain for the full period of the Agreement are:

- Worker's Compensation and Employer's Liability Insurance
- Commercial General Liability Insurance

11.3 Prior to exercising any right or commencing any Work, Western and any of Western's third party contractors and subcontractors, shall furnish TRLIA with endorsements to the required policies of insurance, excepting workers' compensation and employer's liability, in such forms reasonably acceptable to TRLIA confirming that TRLIA is named as an additional insured for all liability risks on such policies. The
additional insured endorsements shall cover but not be limited to liability arising out of any and all activities performed by or on behalf of Western and shall include coverage for premises operations and completed products hazards. Moreover, upon request of TRLIA, Western shall provide a certified duplicate original of any of the herein described policies of insurance.

11.4 If any of the required coverages expire during the term of this Agreement, Western shall deliver the renewal certificate(s) including the required policy additional insured endorsement(s) to TRLIA at least ten (10) days prior to the expiration date. In the event of cancellation for non-payment of premium, TRLIA may pay premiums due by Western and deduct the paid payment from amounts then or subsequently owing to the Western under this Agreement.

11.5 Western hereby grants to TRLIA, on behalf of any insurer providing insurance to Western with respect to the Work of Western under this Agreement, a waiver of any right of subrogation which any such insurer of Western may acquire against TRLIA by virtue of the payment of any loss under such insurance. Western shall provide all applicable endorsements reflecting waiver of the right to subrogation.

11.6 All of the below insurance policies are to contain, or be endorsed to contain, the following provisions:

- For any claim related to the Work, Western’s insurance shall be primary insurance with respect to TRLIA. Any insurance, self-insurance or other coverage maintained by TRLIA shall not contribute to it.

- Any failure of Western to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to TRLIA.

11.7 Worker’s Compensation and Employer’s Liability Insurance. Before commencement of the Work, Western shall provide a certificate of insurance and an endorsement evidencing that they have obtained for the period of the Agreement, full worker’s compensation insurance coverage as required by law for not less than the statutory limits and employer’s liability insurance in the sum of not less than $1,000,000 per accident for bodily injury and disease for all persons whom they employ or may employ in carrying out the Work. By Western’s signature herein, Western certifies that Western is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that Code, and Western shall comply with such provisions before commencing the performance of the Work under this Agreement.

11.8 Commercial General Liability Insurance. Western agrees to carry commercial general liability insurance which shall be on an occurrence basis and which shall include coverage for third party liability risks including, without limitation, bodily injury including coverage for injury, sickness or disease, emotional distress, and death,
personal injury/advertising injury, property damage from injury to or destruction of property of others, contractual liability coverage sufficiently broad to insure as described in the section of this Agreement entitled “INDEMNIFICATION”, premises/operations and products/completed operations, underground excavation and removal of lateral support, explosion and collapse hazard, and independent contractors. Coverage shall have limits of liability of not less than the following:

Bodily Injury/Property Damage  $1,000,000 each occurrence. $2,000,000 aggregate  
Personal Injury/Advertising Injury  $1,000,000 each occurrence. $2,000,000 aggregate  

11.9 Nothing contained in these insurance requirements is to be construed as limiting the extent of the liability of the Western or Western’s insurers or sureties.

ARTICLE 12. NO WAIVER

The failure of TRLIA to insist upon the Western’s performance of any of its obligations under the Agreement, or the waiver of any breach by Western of its obligations under the Agreement, shall not be construed as thereafter waiving any such obligations or future breach.

Any inspection or approval of the Work by TRLIA shall not relieve Western of its responsibility for compliance with the Agreement, nor from its responsibility for the quality of the Work.

ARTICLE 13. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

ARTICLE 14. ATTORNEYS’ FEES.

If either party commences an action in connection with any dispute arising out of, or in connection with, the Agreement or the Work, the prevailing party in any such action shall be entitled to recover its attorneys’ fees, its expert and consulting fees, and costs of suit.

IN WITNESS WHEREOF, TRLIA and Western have caused this Agreement to be executed the day and year first above written.

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Action: Seal E-W lower Goldfields exit channels
Addresses: Problem Site B