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.

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

II  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.

III  CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.

  A. Approve minutes of the meetings of September 19 and 27, 2011.

IV  ACTION ITEMS

  A. Approve resolution declaring certain real property APN 014-290-034 as surplus and authorizing the same for disposition.

  B. Approve contract Amendment No. 1 with HDR Engineering in the amount of $636,668 for Phase 4 construction management and authorize the Executive Director to execute same.

  C. Approve contract with Ray Costa in an amount not to exceed $35,000 to provide geotechnical oversight for modifications in the goldfields, and authorize the Executive Director to execute upon review and approval of Counsel.

  D. Approve contract with Sills Geotechnical Engineering in an amount not to exceed $24,000 to provide geotechnical opinions on the Upper Yuba Levee Improvement Project, and authorize the Executive Director to execute same upon review and approval of Counsel.

  E. Designate Scott Shapiro as representative for purposes of contract negotiations with Executive Director.

V  BOARD AND STAFF MEMBERS’ REPORTS

A. Western Pacific Interceptor Crack update

B. Upper Yuba Levee Improvement Project and Goldfields project update. (No background material)

C. Three Rivers Levee Improvement Authority community event update (No background material)
VI  CLOSED SESSION:

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

B. Personnel pursuant to Government Code §54957.6 - Provide instructions to representative Scott Shapiro on salary or compensation of Executive Director

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 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

SEPTEMBER 19, 2011

MINUTES

A joint workshop with the County of Yuba, Reclamation District 784 and the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 4:03p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer.

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

Board of Supervisors Vasquez, Nicoletti, Griego, Abe, Stocker – All present

RD 784 - Trustees Rick Brown, Don Graham, Robert Shinn, Dave Gothrow, Sarbdeep Atwal - Trustees Shinn and Atwal absent.

II  PRESENTATION

A. Receive presentation on interim findings of flood risk analysis of the Yuba Goldfields. TRLIA Executive Director Paul Brunner and Project Engineer Ric Reinhardt provided a Power Point presentation recapping the Interim Findings of Flood Risk Analysis of the Yuba Goldfields including the following:

- Stakeholders
- Goldfields Background
- Relationship of Levee Improvement Project to Goldfields
- Yuba Basin Project General Reevaluation Report Reach 7 Proposed Levee Alignment, Benefit, and Cost
- Goldfields Flood Management Context
- TRLIA Goldfields Analysis
- South Training Wall Evaluation Results -
  o Potential to breach during large flood event
  o Sensitivity to landform changes
  o Historic rate of erosion
  o Priority Site B, Site F, and Site D
- Four Phase Program to address Concerns
- Phase One - Design and Improvement for Highest Risk with estimated costs of $200,000
- Phase Two - Analysis and Construction for FEMA criteria for 100-year flood event
- Phase Three - Development of Sustainable 200-year Plan with stakeholders
- Phase Four - Implementation of 200-year Plan

Mr. Brunner and Mr. Reinhardt responded to specific Board inquiries regarding public relations, relationship with Corps of Engineers and role in resolution; State Mining and Geology Board relationship with flood control and reclamation; and certification for 100 year and 200 year.
Supervisor Stocker left the meeting 5:09 p.m. and did not return.

Chairman Abe opened the floor for public comment.

The following individuals spoke:
- Mr. Leon Ford, Hammonton Road
- Ms. Nancy Moricz, Central Valley Flood Control Board
- Ms. Freda Calvert, Hammonton Road
- Mr. Alberto Rameriz, Marysville

Director Nicoletti left the meeting at 5:53 p.m. and did not return.

III  **ADJOURN:** 6:01 p.m.

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

Chair

Approved:
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

September 27, 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 2:33 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, and Don L. Graham. Directors Mary Jane Griego and John Nicoletti absent. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Deputy Clerk Rachel Ferris. Vice Chair Brown presided.

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

MOTION: Move to postpone matter to October 18, 2011 MOVED: Jerry Crippen  SECOND: Don Graham
AYES: Rick Brown, Jerry Crippen, Don Graham,
NOES: None   ABSTAIN: None   ABSENT: Mary Jane Griego, John Nicoletti

III  ACTION ITEMS

1. Approve minutes of the meeting of August 12, 2011. Approved as written.

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

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.

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

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. Executive Director Paul Brunner recapped damage to plants from flooding and responded to Board inquiries.

Construction Manager Doug Handen recapped associated costs and responded to Board inquiries.
MOTION: Move to approvemoved: Jerry Crippensecond: Don Graham
ayes: Jerry Crippen, Rick Brown, Don Graham
noes: None abstain: None absent: Mary Jane Griego, John Nicoletti

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.

Executive Director Paul Brunner recapped work within Goldfields for flood protection and responded to Board inquiries.

Director Nicoletti joined the meeting at 3:02 p.m.

Public Comment: Mr. Don Rae, Plumas Lake

MOTION: Move to adopt resolution moved: Jerry Crippensecond: Don Graham
ayes: Jerry Crippen, Rick Brown, Don Graham, John Nicoletti
noes: None abstain: None absent: Mary Jane Griego

Adopted Resolution No. 2011-9 entitled: "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."

IV BOARD AND STAFF REPORTS

Director Brown: State requirements for approved plants on levee project

Design Manager Larry Dacus, MBK Engineering, provided a brief update on the status of crack located at on the Western Pacific Interceptor Canal advising information had been gathered for analysis and a report is forthcoming.

Executive Director Paul Brunner:
  • Water Education Foundation video for Department of Water Resources on flood protection which will feature TRLIA and be aired in November
  • Received and reviewed the rough draft of the KVIE script for TRLIA project
  • Floodplain Management Association Annual Conference held September 6 – 9, 2011
  • Upper Yuba Project on schedule
  • Conflict of interest waiver regarding mineral rights signed for Downey Brand
  • Goldfields project includes small contract with David Boyd Consultants for economic analysis to determine benefit cost ratio
  • Goldfields Phase II program includes request for proposal for cobble design to ensure work is certifiable

Director Nicoletti:
  • Floodplain Management Association Annual Conference held September 6 – 9, 2011
  • Consideration for closed sessions to be scheduled at the end meeting to benefit public attendance
Ms. Kim Floyd, Public Relations: Ribbon Cutting Ceremony to be held Saturday, October 29th between 11:00 a.m. and 2:00 p.m. at Eufay Wood Sr. Park, Olivehurst, including the following:
- Barbecue lunch
- Informational booths
- Levee tours during the event

V ADJOURN: 3:48 p.m. by Vice Chair Brown.

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

Chair

Approved:
October 13, 2011

TO: Three Rivers Levee Improvement Authority Board

FROM: Paul Brunner, Executive Director

SUBJECT: Disposal of Excess Lands – Uppal Parcel

**Recommended Action**

Approve Attached Resolution by the Board of Directors of Three Rivers Levee Improvement Authority Declaring Certain Real Property as Surplus and Authorizing the Same for Disposition.

**Background**

In October 2008, using eminent domain, the Three Rivers Levee Improvement Authority (“TRLIA”) acquired approximately 39.53 acres of real property (Assessor’s Parcel No. 014-290-034), located on Anderson Avenue in Marysville, California (the “Uppal Property”). The Uppal Property was acquired for the purpose of installing and constructing the Three Rivers Phase 4 Levee Repair Project (the “Project”).

Now that construction of the Project is complete, a portion of the Uppal Property that was previously used as a staging area during construction is no longer needed for the Project or any other use by TRLIA (the “Surplus Property”), and therefore qualifies as surplus land. The Surplus Property comprises approximately 23.406 acres, and is more particularly described in Exhibit A-1 and depicted in Exhibit A-2 to the attached proposed Resolution.¹

**Discussion**

The disposition of surplus land is governed by California Government Code sections 54220-54232. “Surplus land” means land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange. TRLIA, as a Joint Powers Authority, falls under the definition of “local agency.” The Surplus Property is no longer necessary for TRLIA’s use now that construction of the Project is complete, and the Surplus Property is not being held by TRLIA for the purpose of exchange.

¹ TRLIA will continue to use approximately 1 acre of the Uppal Property that was part of the staging area for operation and maintenance of the setback levee. That portion of the former staging area is therefore not a part of the attached proposed Resolution.
Accordingly, the Surplus Property is suitable to be declared surplus land, and to be disposed of in conformance with California Government Code sections 54220-54232.

Prior to disposing of the Surplus Property, California Government Code section 54222 requires TRLIA to send a written offer to sell or lease the Surplus Property as follows:

- A written offer to sell or lease for the purpose of developing low and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall be sent, upon written request, a written offer to sell or lease surplus land for the purpose of developing low and moderate-income housing.

- A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent (1) to any park or recreation department of any city within which the Surplus Property may be situated; (2) to any park or recreation department of the county within which the Surplus Property is situated; (3) to any regional park authority having jurisdiction within the area in which the Surplus Property is situated; and (4) to the State Resources Agency or any agency that may succeed to its powers.

- If the Surplus Property is suitable for school facilities construction or use by a school district for open-space purposes, a written offer to sell or lease the Surplus Property shall be sent to any school district in whose jurisdiction the Surplus Property is located.

- If the Surplus Property is in an area designated as an enterprise zone pursuant to Section 7073, a written offer to sell or lease for enterprise zone purposes shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

- A written offer to sell or lease for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4 or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7) shall be sent to any county, city, city and county, community redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the Surplus Property is located.

Any interested agency to which an offer is sent will have 60 days to notify TRLIA in writing that it wishes to purchase the Surplus Property. (Cal. Govt. Code § 54222(f).) If no written notice is received within 60 days of sending out offers then TRLIA may dispose of the Surplus Property without further regard to California Government Code sections 54220-54232.

If TRLIA timely receives written notice from an entity desiring to purchase or lease the Surplus Property, then TRLIA and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms. If TRLIA and the interested agency cannot agree upon price or terms after a good faith negotiations period of not less than 60 days, TRLIA may dispose of the Surplus Property without further regard to California Government Code sections 54220-54232.
TRLIA will need to obtain approval from the State of California Department of Water Resources to enter into any contract to sell or lease the Surplus Property.

**Fiscal Impact**

If TRLIA ultimately sells or leases the Surplus Property, revenue will initially come to TRLIA. However, TRLIA may be required to remit all or a portion of that revenue to the State in accordance with its funding agreement.

**Attachment:**

- Proposed Resolution
RESOLUTION NO. 2011-__

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING CERTAIN REAL PROPERTY AS
SURPLUS AND AUTHORIZING THE SAME FOR DISPOSITION

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") is the owner
of approximately 39.53 acres of real property located on Anderson Avenue in Marysville,
California (Assessor's Parcel No. 014-290-034) (the "Property"); and

WHEREAS, TRLIA acquired the Property for the purpose of installing and
constructing the Three Rivers Phase 4 Levee Repair Project (the "Project"); and

WHEREAS, approximately 23.406 acres of the Property ("Surplus Property")
that was used as a staging area for construction of the Project is no longer needed for the
Project. The Surplus Property is more particularly described in Exhibit A-1 and depicted
in Exhibit A-2 attached hereto and incorporated herein by reference; and

WHEREAS, the Surplus Property is no longer necessary for TRLIA's use; and

WHEREAS, the Surplus Property is currently suitable to be declared as surplus,
and be disposed of in conformance with California Government Code Sections 54220-
54232.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of the Three Rivers Levee Improvement Authority hereby
declares the Surplus Property as surplus.

2. The Board hereby authorizes and directs the Executive Director to commence the
procedures for disposing of surplus land pursuant to California Government Code
Sections 54220-54232.

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:

President
ATTEST: DONNA STOTTERMeyer,
CLERK OF THE BOARD

APPROVED AS TO FORM: GENERAL COUNSEL
SCOTT SHAPIRO
Exhibit 'A-1'

All that Real property situated in the County of Yuba, State of California, being a portion of the real property described in the Final Order of Condemnation, recorded in Document No. 2008R-016140, Official Records of said County, being a portion Lot 14, Block 24 as shown upon that certain map entitled “Arboga Colony”, filed in the Office of the Recorder in said County and State in Book 1 of maps at Page 31, and situated in the Southwest One Quarter of Section 24 Township 14 North, Range 3 East of the Mount Diablo Meridian, being more particularly described as follows:

Beginning at an Iron Pipe marking the Southeast corner of said Lot 14; thence along the South line of said Lot 14, South 89°45’45” West, 588.73 feet; thence leaving said South line, North 00°17’03” West, 230.00 feet; thence parallel with said South line, South 89°45’45” West, 200.00 feet; thence North 00°17’03” West, 92.56 feet; thence North 03°03’55” West, 998.65 feet more or less to a point on the North line of said Lot 14; thence along said North line, North 89°45’45” East, 837.61 feet to the Northeast corner of said Lot 14; thence along the East line of said Lot 14, South 00°15’56” East, 1320.00 feet more or less to the Point of Beginning, containing 23.406 acres, more or less.

See Exhibit ‘A-2’ attached hereto and made a part of this description.

End of description

The Basis of Bearings for this description is the California Coordinate System Zone 2.

This description has been prepared by me or under my direct supervision.

Kevin A. Heaney, P.L.S. 5914

Date 10/18/2011

LICENSED LAND SURVEYOR STATE OF CALIFORNIA
NO.5914 Exp.12-31-2012
October 18, 2011

TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul G. Brunner, Executive Director  
        Doug Handen, Construction Manager  
        Larry Dacus, Design Manager  
SUBJECT: Consider Approval of an Eleventh Contract Amendment to HDR Phase 4  
         Engineering and Construction Management Services Contract

**Recommended Action**  
Approve an eleventh contract amendment (Attachment 1) to the basic HDR contract for  
engineering services and authorize the TRLIA Executive Director to sign the amendment and  
execute once General Counsel has reviewed and approved.

**Discussion**  
This amendment provides additional funds for Engineering Services for construction  
management of the Upper Yuba Levee Improvement Project (Simpson Lane to the Goldfields)  
and to prepare CEQA documents and a set of plans and specifications to modify a stretch of the  
Yuba South Levee at Shadpad Road.

The attached HDR proposals (Exhibit A) are as follows:

- UYLIP extended CM (geotechnical subcontract)                  $472,000  
- UYLIP Environmental C.O./Debris Pile Consultation             $  80,000  
- Yuba South Levee @ Shadpad Road - Design                       $  84,668  

**Proposed Eleventh Amendment to HDR Agreement**                      $636,668  

All proposals are based on time and material (T&M) and TRLIA will compensate HDR for only  
the actual hours worked and materials utilized.

**UYLIP Construction Management**  
The TRLIA Board approved the HDR work order on 7/20/10 for the UYLIP construction  
management budget in the amount of $1,473,064. The T&M budget was based on a construction  
period for the UYLIP from August 1, 2010 through November 30, 2010. The project was  
postponed until the 2011 season and the construction documents allowed for a project start date  
of June 22, 2011, while the construction management period will still run to November 30th of  
this year. The time extension for the project allowed the contractor to include fewer slurry wall  
headings over a longer duration than that allowed in the original construction management  
proposal. The additional project time likely provided a benefit to the competitive construction
pricing obtained during the bid process in which the lowest bid was substantially below the Engineer’s estimate.

The additional construction duration required Kleinfelder, HDR’s Geotechnical and Quality Assurance and Testing Inspection subcontractor to provide additional services. Kleinfelder’s original budget included 156 shifts of slurry wall supervision and 78 shifts for earthwork oversight. Kleinfelder worked 232 shifts for the slurry wall and projects a total of 153 shifts for earthwork inspection and testing based on the scheduled completion date. The level of effort for each shift is consistent with the original budget.

HDR’s staff has been able to work within their original budget by relying on the Kleinfelder efforts and efficiently managing the HDR project management and inspection staff. The proposed construction management change order includes only T&M compensation related to the additional Kleinfelder work. The proposed change for this portion of contract amendment eleven is $472,000.

**UYLIP Debris Pile/Environmental Consulting**

During the clearing and rough grading operations the contractor, Magnus Pacific, discovered a “debris pile” buried below the surface of the ground. The debris was found just at the edge of the landside toe of the existing levee at the eastern boundary of the project. Magnus worked with HDR/Kleinfelder to remove the debris and stockpile the material (~900 CY) in an unused portion of the borrow site. Kleinfelder subsequently provided laboratory and narrative evaluations of the material that revealed that portions of the debris pile included material (soluble copper) that must be exported to a combination of Class I and II landfills. Kleinfelder has provided a “Stockpile Management Plan” that includes guidelines for removing the material and additional testing and observation.

Magnus has commenced sorting of the debris under the direction of Kleinfelder to allow for additional testing and classification of the material. The additional testing is required to provide a comfortable level of classification while minimizing the disposal costs to the more expensive Class I disposal site. Magnus is performing the debris relocation and disposal under a T&M change order to the construction contract. The Magnus change order is approximately $200,000 which is within the Executive Directors approval authority.

Kleinfelder estimates that their efforts to date and future work related to the debris classification and removal oversight includes $80,000 of T&M work.

The DWR/TRLIA UYLIP funding agreement precludes this work from being cost shared by the State. Thus, this work will be totally paid for by local dollars. TRLIA legal counsel will attempt to recover this cost from the property owner where the disposal site was located.

**Shadpad Road Modification**

A row of trees exists at the landside toe of the levee just downstream of Shadpad Road. The US Army Corps of Engineers (USACE) has begun to enforce its vegetation near levees policy much more strongly and these trees need to be removed. In addition TRLIA’s CVFPB Encroachment Permit for past repairs in this reach requires a toe access corridor be established at the landside toe. To meet current urban levee design criteria, this toe access corridor should be a minimum of 20 feet. Power poles at the toe of the levee will need to be relocated to the edge of the access corridor. USACE also noted in their periodic inspection some erosion at the toe of the levee that has been caused by the difference in levee material where the 2004 constructed levee crown
meets the original levee material. Removal of the trees, establishment of the toe access corridor, and repair of the eroded toe will require some reshaping of the landside levee slope for about 500 feet of the levee. An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for work accomplished in 2004 through 2006. This initial CEQA document discussed environmental impacts in this reach that are the same as impacts that would be caused by the proposed tree removal and corridor establishment. However these particular efforts were not explicitly identified in the former CEQA document and an addendum to the IS/MND is necessary to ensure CEQA coverage for this work. This levee modification will require an encroachment permit and contract documents to be advertised for construction. This will require some engineering services for design and preparation of contract documents for advertisement and award. The CEQA and engineering effort has a cost of $84,668.

HDR has background in these levee reaches and expertise for all of the evaluations proposed.

**Fiscal Impact:**
This amendment would increase the contract by $636,668 for services on a time and expenses basis, to a maximum amount not to exceed a total contract amount of $9,617,690. The amount in the amendment is based on FY 08/09 billing rates. $556,668 of 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%. The $280,000 for the UYLIP Debris Pile work will initially be paid for by TRLIA prior year local funds, which legal counsel will attempt to recover costs from the property owner where the disposal site was located. Local funds are available to pay the local EIP cost share and debris pile.

2 Attachments:
1. Proposed Eleventh HDR Contract Amendment
2. Exhibit A
ELEVENTH AMENDMENT
TO
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
HDR ENGINEERING, INC.

THIS ELEVENTH AMENDATORY AGREEMENT is made and entered into this ____ day of October 2011, by and between the Three Rivers Levee Improvement Authority, ("TRLIA"), a California Joint Powers Authority, and HDR Engineering, Inc. ("CONSULTANT").

WHEREAS, TRLIA and CONSULTANT entered into an agreement on December 13, 2005 to provide professional services for Engineering Design and Environmental Studies for Phase 4 Levee Repairs - Upper Yuba River, Continuation of Phase 2 Construction Management (2006), and FEMA Certification of Contract Work ("Agreement");

WHEREAS, a FIRST AMENDATORY AGREEMENT, executed February 14, 2006, increased the maximum not to exceed contract fee from $2,580,038 by $118,955 to $2,698,993; and

WHEREAS, a SECOND AMENDATORY AGREEMENT, executed March 7, 2006, increased the maximum not to exceed contract fee from $2,698,993 by $117,649 to $2,876,642; and

WHEREAS, a THIRD AMENDATORY AGREEMENT, executed August 8, 2006, increased the maximum not to exceed contract fee from $2,876,642 by $661,193 to $3,537,835; and

WHEREAS, a FOURTH AMENDATORY AGREEMENT, executed October 16, 2007, increased the maximum not to exceed contract fee from $3,537,835 by $280,000 to $3,817,835; and

WHEREAS, a FIFTH AMENDATORY AGREEMENT, executed August 5, 2008, increased the maximum not to exceed contract fee from $3,817,835 by $954,524 to $4,772,359; and

WHEREAS, a SIXTH AMENDATORY AGREEMENT, executed September 9, 2008, extended the time of services rendered to December 31, 2009; and

WHEREAS, a SEVENTH AMENDATORY AGREEMENT, executed May 12, 2009, increased the maximum not to exceed contract fee from $4,772,359 by $2,416,874 to $7,189,233 and extended the time of services rendered to December 31, 2010; and

WHEREAS, an EIGHTH AMENDATORY AGREEMENT, executed September 15, 2009 increased the maximum not to exceed contract fee from $7,189,233 by $155,846 to $7,345,079; and

WHEREAS, a NINTH AMENDATORY AGREEMENT, executed July 20, 2010 increased the maximum not to exceed contract fee from $7,345,079 by $1,473,064 to $8,818,143; and
WHEREAS, a TENTH AMENDATORY AGREEMENT, executed August 12, 2011 increased the maximum not to exceed contract fee from $8,818,143 by $162,879 to $8,981,022; and

WHEREAS, TRLIA and CONSULTANT desire to amend Agreement;

NOW, THEREFORE, TRLIA and CONSULTANT agree as follows:

1. Exhibit A of AGREEMENT shall be amended to perform those additional services as described in Exhibit A to this ELEVENTH AMENDMENT.

2. Attachment B, Provision B.1 of the Agreement shall be revised to increase the maximum not to exceed contract fee by $636,668 from $8,981,022 to $9,617,690.

All other terms and conditions contained in AGREEMENT shall remain in full force and effect.

This Amended agreement is hereby executed on this ____ day of October, 2011.

“TRLIA”

__________________________
Paul G. Brunner
Executive Director

“CONSULTANT”

__________________________
Robert M. Boling
Senior Vice President

ATTEST:
DONNA STOTTEMEYER
CLERK OF THE BOARD

APPROVED AS TO FORM:

__________________________
SCOTT L. SHAPIRO
GENERAL COUNSEL
EXHIBIT A

Scope of Work

(Amendment No. 11)

For Engineering Design Services
Yuba Levee Improvement Project at Shadpad Road

September 29, 2011

Three Rivers Levee Improvement Authority
Yuba City, California
# Table of Contents

## Contents

**Background** .......................................................................................................................... 2

**Scope of Work** ....................................................................................................................... 2

1. CEQA DOCUMENTATION ........................................................................................................ 2

2. TECHNICAL STUDIES ............................................................................................................. 2

3. CIVIL ENGINEERING ............................................................................................................. 3

3.1 Geotechnical Analyses ........................................................................................................ 3

3.2 Civil Plans ............................................................................................................................ 4

3.3 Assistance During Bidding .................................................................................................. 5
Background

As a part of previously approved contracts between the Three Rivers Levee Improvement Authority (TRLIA) and HDR Inc., HDR provided civil engineering and environmental services for improvements and repairs along the south levee of the Yuba River.

In 2004 TRLIA prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for improvements and repairs along the south levee from the Western Pacific Railroad located just downstream of State Route (SR) 70 to approximately 2,000 lineal feet upstream of the Western Pacific Railroad. In 2006, a second IS/MND was prepared for additional improvements along the south levee, which encompassed the same area as the 2004 IS/MND.

Plans, specifications, and estimates for the south levee were prepared by HDR to the 100% level and construction has since commenced and been completed. This amendment is for additional service to address erosion along the landside of the south levee between SR 70 and Shad Pad Road. Previous work along this stretch included the construction of a cutoff wall using conventional methods and a flattening of the waterside slope. A seepage berm and stability berm has been constructed upstream of this site.

Scope of Work

The following outlines HDR’s scope for the Shad Pad repair project. This work will be completed in accordance with our existing contract and subsequent amendments.

1 CEQA DOCUMENTATION

Since the 2004 IS/MND and the 2006 IS/MND were prepared there has been additional erosion on the landside of the south levee of the Yuba River that has developed a scarp from just upstream of SR 70 to Shad Pad Road. As a result, an approximate 400-foot long segment of the Yuba River south levee must be repaired. Although the details of this repair were not included in the previous environmental documents, the project goals and objectives to provide flood protection to the area have not changed and the project area for the scarp repair was thoroughly analyzed and evaluated in the 2004 and 2006 IS/MNDs. Therefore, it is HDR’s opinion that the scarp repair constitutes a minor addition to the 2004 and 2006 project descriptions and does not result in new or substantial changes in impacts under CEQA. Thus, HDR is proposing to prepare an Addendum to the 2004 and 2006 IS/MNDs in accordance with Section 15164 of the State CEQA Guidelines. The CEQA Addendum would not be circulated for public review and comment.

Deliverables:

- Draft and final versions of the CEQA Addendum, NOD (if requested).

2 TECHNICAL STUDIES

As part of compliance with CEQA, biological and cultural resources surveys will be conducted. Results of the biological and cultural resources surveys will be documented in the CEQA Addendum. HDR will not prepare
a stand alone report for biological resources. During the biological resources survey, a tree survey and a survey for nesting raptors will be conducted.

As a result of the cultural resources survey, if cultural resources technical documentation is warranted then HDR will:

- Conduct a Records Search: HDR will conduct a records search for cultural resources at the Central California Information Center of the California Historical Resources Information System. This record search will consult California’s database of previous studies and previously recorded sites within the proposed project area and within a ¼-mile radius. HDR will initiate Native American consultation through the Native American Heritage Commission. HDR’s consultation with the Commission will result in a list of interested individuals possibly having knowledge of cultural resources in the project area. HDR will also contact Yuba County, and any additional appropriate museums, historical societies, and interested persons to request information regarding the types of potential cultural resources in the study area.

- Prepare Area of Potential Effects Map: A draft Area of Potential Effects (APE) for cultural resources at the proposed project area will be established prior to the survey. The map will be modified depending upon the findings of the field survey and any changes will be reflected in a revised APE.

- Prepare Technical Memo: Based upon resources encountered in the field, HDR will prepare a cultural resources technical memo.

This scope of work and associated fee estimate do not include the preparation of permit applications. If permits are required, HDR can provide additional support in both application preparation and agency coordination, as necessary.

3 CIVIL ENGINEERING

3.1 Geotechnical Analyses

HDR will perform geotechnical analyses of the proposed remediation using the State of California Department of Water Resources Interim Levee Design Criteria for Urban and Urbanizing Levees to ensure the 200-year criteria are met.

This portion of the work will include the following tasks:

- Review existing geotechnical data in the project vicinity and previous analyses performed as part of the 2004 construction effort.
- Prepare geotechnical models utilizing the software package GeoStudios to analyze seepage and stability of the proposed remediation. Analysis will be performed at the 200-year water surface elevation and the hydraulic top of levee, both of which will be provided by others.
- Prepare a Draft and Final Geotechnical Design Memorandum summarizing the findings.

Deliverables:
- Geotechnical Design Memorandum (Draft and Final).
Scope of Work

Assumptions:
- All hydraulic and hydrology information will be provided by others.
- Topography created as part of the design will be amended as necessary with recent survey information. No additional surveys will be performed.
- HDR will meet with the Board of Senior Consultants for review of the geotechnical design memorandum, if necessary.

3.2 Civil Plans

HDR will prepare a design package to include plans, specifications, and an opinion of probable construction costs as outlined below. It is assumed that the design package will be submitted to TRLIA for review and approval prior to issuing for bidding.

HDR's scope for this portion of the work will include the following:
- Review survey data provided CTA Engineering & Surveying.
- Review geotechnical recommendations.
- Prepare designs and associated drawings using AutoCAD Civil 3D software. The plans will include general layout, notes, typical details and typical sections, levee plan and profile, and levee cross section sheets. The plans will also include a demolition sheet for the retaining wall, the two buildings, the concrete pad, and paving located adjacent to the toe of levee.
- Existing power poles will be impacted by levee construction. HDR will coordinate with the real estate team and PG&E regarding easements and power pole relocation requirements.
- Prepare specifications to include TRLIA's General Provisions, any Special Provisions, and the Technical Specifications associated with the plans. Specifications will be used from previous TRLIA projects.
- Prepare one opinion of probable construction costs once the 100% plans have been completed.
- Prepare a Design Documentation Report.

Deliverables:
- Draft Plans on 11x17 sheets, specifications, and opinion of probable construction costs.
- Final Plans on 11x17 sheets, specifications, and opinion of probable construction costs.

Assumptions:
- All hydraulic and hydrology information will be provided by others.
- All surveys will be completed by others.
- HDR will meet with the Board of Senior Consultants for review of the design documents if necessary. Land ownership information and Real Estate acquisition, including acquisition of easements for relocated PG&E power poles, will be addressed by others. It is assumed that any requirements will be provided prior to start of civil designs.
3.3 Assistance During Bidding

HDR will provide assistance during the bidding process. HDR’s scope for this portion of the work will include the following:

- Prepare design package prints for bidding.
- Distribute design package to the various building exchanges and to contractors as requested.
- Respond to contractor requests for information.
- Prepare addenda as necessary.

Attend bid opening meeting and prepare conformed plans and specifications for construction.
## Three Rivers Levee Improvement Authority

### HDR Fee Summary

<table>
<thead>
<tr>
<th>No.</th>
<th>Task Description</th>
<th>Sub-Technical Specialist</th>
<th>Project Engineer</th>
<th>Project Engineer</th>
<th>Engineer</th>
<th>Civil Engineer</th>
<th>Environmental Scientist</th>
<th>Environmental Scientist</th>
<th>Sr. CAD Technician</th>
<th>Acct</th>
<th>Clinical</th>
<th>Total Hours</th>
<th>Total Labor ($)</th>
<th>Expenses</th>
<th>10% Markup on ODC's</th>
<th>Taber</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1</td>
<td>CEQA Documentation</td>
<td>10</td>
<td>88</td>
<td>24</td>
<td>127</td>
<td>$18,660</td>
<td>$1,049</td>
<td>135</td>
<td>$18,344</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 2</td>
<td>TECHNICAL STUDIES</td>
<td>4</td>
<td>16</td>
<td>20</td>
<td>$2,080</td>
<td>205</td>
<td>21</td>
<td>2,892</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 3</td>
<td>Cultural Resources Survey</td>
<td>2</td>
<td>8</td>
<td>32</td>
<td>8</td>
<td>54</td>
<td>8,980</td>
<td>595</td>
<td>59</td>
<td>7,594</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 4</td>
<td>Civil Engineering</td>
<td>2</td>
<td>12</td>
<td>16</td>
<td>2</td>
<td>32</td>
<td>4,890</td>
<td>374</td>
<td>37</td>
<td>5,092</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL EFFORT</td>
<td>30</td>
<td>29</td>
<td>68</td>
<td>1</td>
<td>27</td>
<td>30</td>
<td>12</td>
<td>102</td>
<td>8</td>
<td>30</td>
<td>524</td>
<td>46,300</td>
<td>3,644</td>
<td>394</td>
<td>53,638</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Notes:
- The table provides a breakdown of labor hours and labor costs for various tasks and sub-tasks.
- The total labor cost is calculated by multiplying the total hours by the labor rate.
- Expenses and 10% markup on ODC's are also included for each task.
- The total for each task is calculated by adding the labor cost to the expenses and applying the markup.
- The final total for all tasks is also provided.
October 18, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Larry Dacus, Design Manager
SUBJECT: Consider Approval of Contract with Ray Costa to Provide Geotechnical Oversight for TRLIA Proposed Modifications in the Goldfields

Recommended Action
Approve an individual contract (Attached) with Raymond Costa, Jr. for engineering services and authorize the TRLIA Executive Director to sign and execute this contract once General Counsel has reviewed and approved. The attached contract is modified from the standard to remove the insurance requirements. The staff would ask that the contract for Mr. Costa waive the normal insurance requirements. The total contracted amount is for services on a time-and-expenses basis, to a maximum amount not to exceed $35,000 without prior approval of TRLIA.

Background
Working with the mining interests in the Goldfields, TRLIA is proposing to construct modifications in the Goldfields to minimize the risk of flooding from the Goldfields should a breach occur in the Training Wall. TRLIA wishes to utilize the experience and expertise of Mr. Costa to provide geotechnical oversight to this construction to help ensure the effectiveness of these modifications. TRLIA will also ask Mr. Costa to review other geotechnical products for completeness.

Discussion
Mr. Costa is an experienced and knowledgeable geotechnical engineer. His expertise is sought by DWR and other agencies. Mr. Costa is familiar with TRLIA projects and provides the most efficient and cost effective way to obtain this type of expertise. Mr. Costa is an independent consultant who does not carry liability insurance due to the high cost of this insurance and to the nature of his practice. Mr. Costa will not be performing design for TRLIA and will only offer his expert opinion as to the best ways to construct the high ground modifications in the Goldfields and provide expert review and advice on other geotechnical matters. Mr. Costa is not required to carry liability insurance for the similar services he provides to DWR. Staff strongly desires to utilize Mr. Costa’s experience and expertise and requests that the Board waive the normal insurance requirements and approve the contract with Mr. Costa.

Fiscal Impact
This contract would be for services on a time-and-expenses basis, to a maximum amount not to exceed $35,000 without prior approval. There are local funds within the TRLIA program to cover these expenses.

Attachments:
1. Raymond Costa, Jr. Professional Services Contract with Appendix to Exhibit A (Scope of Work)
AGREEMENT FOR
PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement") is made as of the Agreement Date set forth below by and between the Three Rivers Levee Improvement Authority, a joint exercise powers agency established pursuant to the laws of California ("TRLIA"), and Ray Costa, ("Contractor") (each a "party" and collectively "the parties").

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

OPERATIVE PROVISIONS

1. SERVICES.

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

2. TERM.

Commencement Date: October 19, 2011
Termination Date: June 30, 2012

Notwithstanding the term set forth above, and unless this contract is terminated by either party prior to its termination date, the term of this Agreement shall be automatically extended from the termination date for ninety days. The purpose of this automatic extension is to allow for continuation of services, and to allow TRLIA time in which to complete a novation or renewal contract for Contractor and TRLIA approval.

Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor pursuant to this Agreement will be purchased by TRLIA under a new agreement following expiration or termination of this Agreement.

3. PAYMENT.

TRLIA shall pay Contractor for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all billings for said services to TRLIA in the manner specified in Attachment "B".

Page 1 of 3.
4. **FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.**

Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, unless an exception to this requirement is provided in Attachment "A", Provision A-4.

5. **GENERAL PROVISIONS.**

The general provisions set forth in Attachment "C" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

6. **DESIGNATED REPRESENTATIVES.**

Paul G. Brunner, Executive Director, is the representative of the TRLIA and will administer this Agreement for the TRLIA. Raymond Costa, Jr. is the authorized representative for Contractor. Changes in designated representatives shall occur only by advance written notice to the other party.

7. **ATTACHMENTS.**

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - General Provisions
8. **TERMINATION.** TRLIA and Contractor shall each have the right to terminate this Agreement upon **30** days written notice to the other party.

    IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ______________________, 2011.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY  

RAYMOND COSTA, JR.

__________________________

Paul G. Brunner, P.E.  
Executive Director

Raymond Costa, Jr.

ATTEST:  
DONNA STOTLLEMEYER,  
SECRETARY

APPROVED AS TO FORM:  
SCOTT L. SHAPIRO

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY GENERAL COUNSEL

__________________________

Page 3 of 3.
ATTACHMENT A

A.1 SCOPe OF SERVICES AND DUTIES.

The services to be provided by Contractor and the scope of Contractor's duties are described in the Scope of Work titled Scope of Work for Ray Costa, which is an appendix to this Attachment A.

A.2. TIME SERVICES RENDERED.

See Appendix.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, Contractor shall be responsible for providing services and fulfilling obligations hereunder in a professional manner: TRLIA shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

Contractor shall, at his/her sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
Appendix to Attachment A

Scope of Work for Ray Costa
Geotechnical Oversight of Upper Yuba High Ground Modifications
October 5, 2011

Hydraulic evaluation of critical high ground areas of the Upper Yuba has determined that there is a risk of flooding through these high ground areas if breaches in the Yuba River Training Walls occur. MBK Engineers at the request of the Three Rivers Levee Improvement Authority (TRLIA) is formulating and evaluating the hydraulic effectiveness of modification to these high ground areas to minimize flow through them that could exit into Reclamation District (RD) 784. These modifications will include the construction of berms of cobbles and sand (most prevalent material in the area) in key waterways to block flow through the high ground area.

Ray Costa, an experienced professional geotechnical engineer, will assist TRLIA by overseeing the construction of these modifications. Mr. Costa may also provide recommendations from a geotechnical aspect to increase the geotechnical stability of the modification being constructed. Mr. Costa will also provide recommendations for foundation preparation prior to construction and provide guidance on construction methods for the modifications. This evaluation will be of a qualitative nature and will not include seepage and stability calculations that would provide factors of safety for seepage and stability of the proposed modifications. From time to time, Mr. Costa will be asked to provide his experienced opinion on other geotechnical problems related to the Upper Yuba Project.

This is a time and expense contract. For this geotechnical assistance, Mr. Costa’s initial contract will be limited to 160 hours at $200 per hour ($32,000) and $3,000 for expenses for a total contract price of $35,000. Additional effort over this initial scope of work will require an amendment to the contract.
ATTACHMENT B

PAYMENT

TRLIA shall pay Contractor as follows:

B.1 BASE CONTRACT FEE. TRLIA shall pay Contractor a contract fee not to exceed $35,000; Contractor shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. In no event shall total compensation paid to Contractor under this Provision B.1 exceed $35,000 without an amendment to this Agreement approved by the TRLIA Board of Directors.

B.2 TRAVEL COSTS. TRLIA shall not pay Contractor for meals, lodging or other travel costs not included in this Agreement unless said costs are approved in advance by the TRLIA representative designated by Operative Provision No. 6, and then TRLIA shall pay TRLIA per diem rates in effect on the date of invoice upon presentation of invoices.

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

GENERAL PROVISIONS

C.1 INDEPENDENT CONTRACTOR STATUS. At all times during the term of this Agreement, the following apply:

C.1.1 All acts of Contractor shall be performed as an independent contractor and not as an agent, officer or employee of TRLIA. It is understood by both Contractor and TRLIA that this Agreement is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

C.1.2 Contractor shall have no claim against TRLIA for employee rights or benefits, including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

C.1.3 Contractor is solely obligated to pay all applicable taxes, deductions and other obligations, including, but not limited to, federal and state income taxes, withholding and Social Security taxes, unemployment and disability insurance and Workers’ Compensation and Medi-Care payments.

C.1.4 As an independent contractor, Contractor is not subject to the direction and control of TRLIA except as to the final result contracted for under this Agreement. TRLIA may not require Contractor to change its manner of doing business, but may require it to redirect its efforts to accomplish what it has agreed to do.

C.1.5 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

C.1.6 As an independent contractor, Contractor hereby indemnifies and holds TRLIA harmless from any and all claims that may be made against TRLIA based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

C.2 LICENSES, PERMITS, ETC. Contractor represents and warrants to TRLIA that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally
required for Contractor to practice its profession and that it shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, such licenses, permits, and approvals at the time the services are performed. Failure of the Contractor to comply with this provision shall authorize the TRLIA to immediately terminate this agreement notwithstanding Operative Provision No. 2.

C.3 TIME. Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor’s obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

C.4 INDEMNITY. Contractor shall defend, indemnify, and hold harmless TRLIA, its elected and appointed councils, boards, commissions, officers, agents, and employees from and against any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise from the intentional misconduct, recklessness, or negligent acts or omissions of Contractor in the performance of services rendered under this Agreement by Contractor, or any of Contractor’s officers, agents, employees, contractors, or subcontractors.

C.5 CONTRACTOR NOT AGENT. Except as TRLIA may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of TRLIA in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind TRLIA to any obligation whatsoever.

C.6 ASSIGNMENT PROHIBITED. Contractor may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

C.7 PERSONNEL. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that TRLIA, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, Contractor shall remove any such person immediately upon receiving written notice from TRLIA of its desire for removal of such person or persons.

C.8 STANDARD OF PERFORMANCE. Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged. All products of whatsoever nature which Contractor delivers to TRLIA pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality

Attachment C – Page 2 of 8.
normally observed by a person practicing in Contractor's profession.

C.9 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code, §107. For all purposes of compliance by TRLIA with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the TRLIA. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the TRLIA Assessor and the contracting parties hereto. A taxable possessory interest may be created by this contract; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

C.10 TAXES. Contractor hereby grants to the TRLIA the authority to deduct from any payments to Contractor any TRLIA imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to Contractor.

C.11 TERMINATION. Upon termination of this Agreement as otherwise provided herein, Contractor shall immediately cease rendering service upon the termination date and the following shall apply:

C.11.1 Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

C.11.2 TRLIA shall have full ownership and control of all such writings or other communications delivered by Contractor pursuant to this Agreement.

C.11.3 TRLIA shall pay Contractor the reasonable value of services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed the amount documented by Contractor and approved by TRLIA as work accomplished to date; provided, however, TRLIA shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to TRLIA such financial information as in the judgment of the TRLIA is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of the TRLIA shall be final. The foregoing is cumulative and does not affect any right or remedy which TRLIA may have in law or equity.

Contractor may terminate its services under this Agreement upon thirty (30) days written notice to the TRLIA, without liability for damages, if Contractor is not compensated.
according to the provisions of the Agreement or upon any other material breach of the Agreement by TRLIA.

C.12 NON-DISCRIMINATION. Throughout the duration of this Agreement, Contractor shall not unlawfully discriminate against any employee of the Contractor or of the TRLIA or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. Contractor shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. Contractor shall give written notice of its obligations under this clause to any labor agreement. Contractor shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

C.13 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990. In addition to application of the non-discrimination provision of this Agreement, above, Contractor agrees to comply with all provisions of section 504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

C.14 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of TRLIA, and Contractor agrees to deliver reproducible copies of such documents to TRLIA on completion of the services hereunder. The TRLIA agrees to indemnify and hold Contractor harmless from any claim arising out of reuse of the information for other than this project.

C.15 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

C.16 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific
Attachment C – Page 4 of 8.
C.17  **SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

C.18  **ATTORNEY'S FEES.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable costs and attorneys' fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

C.19  **CAPTIONS.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

C.20  **DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

C.20.1  **NUMBER AND GENDER.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

C.20.2  **MANDATORY AND PERMISSIVE.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

C.21  **TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

C.22  **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto,

shall be binding upon and inure to the benefit of such party, its successors and assigns.

C.23  **MODIFICATION.** No modification or waiver of any provision of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

C.24  **COUNTERPARTS.** This Agreement may be executed simultaneously and in several

Attachment C – Page 5 of 8.
counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

C.25 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

C.26 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

C.27 JURISDICTION. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the County of Yuba, State of California.

C.28 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

C.29 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term a condition herein.

C.30 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

C.31 CONFLICT OF INTEREST. Neither a TRLIA employee whose position in TRLIA enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by Contractor herein, or have any other direct or indirect financial interest in this Agreement.

Contractor may be subject to the disclosure requirements of the TRLIA conflict of interest code if in a position to make decisions or influence decisions that could have an effect on the Contractor's financial interest. The TRLIA Administrator shall determine in writing if Contractor has been hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the Yuba County Conflict...
of Interest Code.
C.32 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to TRLIA:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Paul G. Brunner, Executive Director
1114 Yuba Street, Suite 218
Marysville, CA 95901

If to Contractor:

Raymond Costa, Jr.
6187 Reservoir Ct
Granite Bay, CA 95746
October 18, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
        Larry Dacus, Design Manager
SUBJECT: Consider Approval of Contract with George Sills Geotechnical Engineering Consultant, L.L.C. to Provide Geotechnical Assistance for TRLIA Evaluations in the Goldfields

**Recommended Action**

Approve a contract (Attached) with George Sills Geotechnical Engineering Consultant, L.L.C. for engineering services and authorize the TRLIA Executive Director to sign and execute this contract once General Counsel has reviewed and approved. The total contracted amount is for services on a time-and-expenses basis, to a maximum amount not to exceed $24,000 without prior approval of TRLIA.

**Background**

TRLIA has requested proposals from geotechnical engineering firms to evaluate dredge tailing mounds in the Goldfields. These proposals will need to be evaluated and a engineering geotech firm selected. The engineering firm will develop and apply an evaluation procedure to evaluate the reliability of existing dredge tailing mounds as well as constructed dredge tailing embankments to withstand the hydraulic pressures presented by passing the design floods through identified waterways in the Goldfields. In addition, the firm will also evaluate the ability of identified low crossings within these identified waterways to withstand overtopping during the 100 and 200 year flood events. Evaluations will be accomplished for the 100-year and 200-year design flood events. Hydraulic information provided will consist of elevation profiles through the waterways, elevation hydrographs at key locations, and velocities through the waterways. Preliminary hydraulic analysis indicates that these roadway crossings could be overtopped for a duration of 6 days during a 200 year flood event. The engineering team will identify vulnerable locations in the confining dredge tailing mounds (both existing and constructed) and provide recommendations for increasing the stability of these vulnerable locations to withstand the hydraulic pressures. The engineering firm will present its evaluation procedure, findings, and recommendations in an Engineering Evaluation Report. Evaluation of the training walls along the Yuba River for erosion will be addressed separately from this scope of work.
The Engineering firm will be selected in November, 2011. The selected engineering firm will complete draft evaluations and a draft report by March, 2012 and the final report will be completed by June, 2012.

**Discussion**

These proposals will need to be evaluated and a firm selected. TRLIA wishes to utilize the experience and expertise of Mr. Sills to provide geotechnical review for these proposals and to help select the best firm to do these evaluations. Mr. Sills will also review and comment on the draft and final reports of these evaluations.

Mr. Sills is an experienced and knowledgeable geotechnical engineer. His expertise is sought by DWR and other agencies in the State of California. Mr. Sills is more than capable of providing the geotechnical services that TRLIA requires for these tasks. Mr. Sills operates as a LLC company, and the company is a sole proprietorship. The normal TRLIA professional services contract calls for workers compensation insurance. However since Mr. Sills is the only worker in his company, staff requests that the worker's compensation insurance requirements be waived by the Board for his contract.

**Fiscal Impact**

This contract would be for services on a time-and-expenses basis, to a maximum amount not to exceed $24,000 without prior approval. There are local prior year funds within the TRLIA program to cover these expenses.

Attachments:
1. George Sills Geotechnical Engineering Consultant, L.L.C. Professional Services Contract with Appendix to Exhibit A (Scope of Work)
AGREEMENT FOR
PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement") is made as of the Agreement Date set forth below by and between the Three Rivers Levee Improvement Authority, a joint exercise powers agency established pursuant to the laws of California ("TRLIA"), and George Sills Geotechnical Engineering Consultant, L.L.C., ("Contractor") (each a “party” and collectively “the parties”).

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

OPERATIVE PROVISIONS

1. SERVICES.

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

2. TERM.

Commencement Date: October 19, 2011
Termination Date: June 30, 2012

Notwithstanding the term set forth above, and unless this contract is terminated by either party prior to its termination date, the term of this Agreement shall be automatically extended from the termination date for ninety days. The purpose of this automatic extension is to allow for continuation of services, and to allow TRLIA time in which to complete a novation or renewal contract for Contractor and TRLIA approval.

Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor pursuant to this Agreement will be purchased by TRLIA under a new agreement following expiration or termination of this Agreement.

3. PAYMENT.

TRLIA shall pay Contractor for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all billings for said services to TRLIA in the manner specified in
Attachment "B".

4. **FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.**

Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, unless an exception to this requirement is provided in Attachment "A", Provision A-4.

5. **GENERAL PROVISIONS.**

The general provisions set forth in Attachment "C" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

6. **DESIGNATED REPRESENTATIVES.**

Paul G. Brunner, Executive Director, is the representative of the TRLIA and will administer this Agreement for the TRLIA. George Sills is the authorized representative for Contractor. Changes in designated representatives shall occur only by advance written notice to the other party.

7. **ATTACHMENTS.**

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - General Provisions
8. **TERMINATION.** TRLIA and Contractor shall each have the right to terminate this Agreement upon 30 days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ____________________, 2011.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

______________________________
Paul G. Brunner, P.E.
Executive Director

______________________________
George Sills, P.E.
Manager

ATTEST:
DONNA STOTTLEMEYER,
SECRETARY

______________________________
APPROVED AS TO FORM:
SCOTT L. SHAPIRO
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY GENERAL COUNSEL
ATTACHMENT A

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by Contractor and the scope of Contractor's duties are described in the Scope of Work titled Scope of Work for George Sills, which is an appendix to this Attachment A.

A.2 TIME SERVICES RENDERED.

See Appendix.

A.3 MANNER SERVICES ARE TO BE PERFORMED.

As an independent contractor, Contractor shall be responsible for providing services and fulfilling obligations hereunder in a professional manner: TRLIA shall not control the manner of performance.

A.4 FACILITIES FURNISHED BY THREE RIVERS LEVEE IMPROVEMENT AUTHORITY.

Contractor shall, at his/her sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
Appendix to Attachment A

Scope of Work for George Sills
Geotechnical Opinions Regarding Upper Yuba High Ground Evaluations
October 6, 2011

Hydraulic evaluation of critical high ground areas of the Upper Yuba has determined that there is a risk of flooding through these high ground areas if breaches in the Yuba River Training Walls occur. MBK Engineers at the request of the Three Rivers Levee Improvement Authority (TRLIA) is evaluating the hydraulic effectiveness of flood paths through these high ground areas that exit into Reclamation District (RD) 784. This evaluation also includes the construction of berms of cobbles and sand (most prevalent material in the area) in key waterways to block flow through the high ground area.

George Sills, an experienced professional geotechnical engineer, will assist TRLIA by providing geotechnical opinions regarding proposals submitted to TRLIA by other geotechnical firms for evaluating dredge tailing mounds ability to withstand hydraulic pressures. Mr. Sills will be on the selection panel for choosing the geotechnical firm to perform these evaluations. Mr. Sills will also review the successful firm’s evaluation procedure and offer opinions on how it might be improved. Mr. Sills will review and comment on draft and final evaluation reports submitted by the successful firm. From time to time, Mr. Sills will be asked to provide his experienced opinion on other geotechnical problems related to the Upper Yuba Project.

This is a time and expense contract. For this geotechnical assistance, Mr. Sill’s initial contract will be limited to 80 hours at $250 per hour ($20,000) and $4,000 for expenses for a total contract price of $24,000. Additional effort over this initial scope of work will require an amendment to the contract.
ATTACHMENT B

PAYMENT

TRLIA shall pay Contractor as follows:

B.1 BASE CONTRACT FEE. TRLIA shall pay Contractor a contract fee not to exceed $24,000; Contractor shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. In no event shall total compensation paid to Contractor under this Provision B.1 exceed $24,000 without an amendment to this Agreement approved by the TRLIA Board of Directors.

B.2 TRAVEL COSTS. TRLIA shall not pay Contractor for meals, lodging or other travel costs not included in this Agreement unless said costs are approved in advance by the TRLIA representative designated by Operative Provision No. 6, and then TRLIA shall pay TRLIA per diem rates in effect on the date of invoice upon presentation of invoices.

B.3 AUTHORIZATION REQUIRED. Services performed by Contractor and not authorized in this Agreement shall not be paid for by TRLIA. Payment for additional services shall be made to Contractor by TRLIA if, and only if, this Agreement is amended by both parties in advance of performing additional services.

Attachment B – Page 1 of 1.
ATTACHMENT C

GENERAL PROVISIONS

C.1 INDEPENDENT CONTRACTOR STATUS. At all times during the term of this Agreement, the following apply:

C.1.1 All acts of Contractor shall be performed as an independent contractor and not as an agent, officer or employee of TRLIA. It is understood by both Contractor and TRLIA that this Agreement is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

C.1.2 Contractor shall have no claim against TRLIA for employee rights or benefits, including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

C.1.3 Contractor is solely obligated to pay all applicable taxes, deductions and other obligations, including, but not limited to, federal and state income taxes, withholding and Social Security taxes, unemployment and disability insurance and Workers’ Compensation and Medi-Care payments.

C.1.4 As an independent contractor, Contractor is not subject to the direction and control of TRLIA except as to the final result contracted for under this Agreement. TRLIA may not require Contractor to change its manner of doing business, but may require it to redirect its efforts to accomplish what it has agreed to do.

C.1.5 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

C.1.6 As an independent contractor, Contractor hereby indemnifies and holds TRLIA harmless from any and all claims that may be made against TRLIA based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

C.2 LICENSES, PERMITS, ETC. Contractor represents and warrants to TRLIA that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally
required for Contractor to practice its profession and that it shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, such licenses, permits, and approvals at the time the services are performed. Failure of the Contractor to comply with this provision shall authorize the TRLIA to immediately terminate this agreement notwithstanding Operative Provision No. 2.

C.3 TIME. Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

C.4 INSURANCE. Prior to rendering services provided by the terms and conditions of this Agreement, Contractor or its subcontractors shall acquire and maintain during the term of this Agreement, insurance coverage, through and with an insurer acceptable to TRLIA, naming the TRLIA and TRLIA's officials and employees as additional insured (excluding workers' compensation and professional liability insurance). The limits of insurance herein shall not limit the liability of the Contractor hereunder.

C.4.1 TERM. Policies of insurance shall be in effect during the term of this Agreement and shall provide that they may not be canceled without first providing TRLIA with thirty (30) days written notice of such intended cancellation. If Contractor fails to maintain the insurance provided herein, TRLIA may secure such insurance and deduct the cost thereof from any funds owing to Contractor.

C.4.2 MINIMUM SCOPE OF INSURANCE. Contractor shall procure the following insurance forms:

(a) Insurance Services Office (ISO) Commercial General Liability Occurrence form number CG 0001 or equivalent ISO form. A non-ISO form must be reviewed and approved by the TRLIA Risk Manager prior to acceptance of the Agreement.

(b) Insurance Services Office Business Auto Coverage form number CA 0001 0187 covering Automobile Liability, code 1 "any auto" and Endorsement CA 0029.

(c)

If this Agreement is for the provision of professional services, Professional Errors and Omissions Liability Insurance, a coverage form subject to TRLIA approval.

C.4.3 OTHER INSURANCE PROVISIONS. The policies are to contain, or be endorsed to contain the following provisions:

Attachment C – Page 2 of 11.
(a) General Liability and Automobile Liability Coverages.

(i) The TRLIA and its officials and employees are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased, occupied, or used by the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the TRLIA and its officials and employees.

(ii) The Contractor’s insurance coverage shall be primary insurance as respects the TRLIA, its officials, employees and volunteers and any other insureds under this Agreement. Any insurance or self-insurance maintained by the TRLIA and its officials and employees or other insureds shall be in excess of the Contractor’s insurance and shall not contribute with it.

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

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

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

(c) All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended,
voided, canceled by either party, reduced in coverage or below minimum limits required under this Agreement except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the TRLIA.

C.4.4 ACCEPTABILITY OF INSURERS. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII.

C.4.5 MINIMUM LIMITS OF INSURANCE. Contractor shall maintain limits no less than:

(a) Commercial General Liability: One Million Dollars ($1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: $1,000,000 combined single limit per accident for bodily injury or property damage.

(c) Professional Errors and Omissions Liability (if required): Policy limits of not less than One Million Dollars ($1,000,000) per claim and One Million Dollars ($1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars ($2,500). Coverage may be made on a claims-made basis with a “Retro Date” either prior to the date of the Agreement or the beginning of the Agreement services. If claims-made, coverage must extend to a minimum of twelve-months beyond completion of the services. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a “Retro Date” prior to the Agreement effective date, the Contractor must purchase “extended reporting” coverage for a minimum of twelve (12) months after completion of services.

C.4.6 SUBCONTRACTORS. In addition to the above policies, if Contractor hires a subcontractor under this Agreement Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. If Contractor requires subcontractors to provide insurance coverage, then Contractor shall be named as an additional insured under such policy or policies (excluding workers’ compensation and professional liability insurance).

Attachment C – Page 4 of 11.
C.4.7 DEDUCTIBLES AND SELF-INSURED RETentions. Except as otherwise provided in this Agreement, any deductibles or self-insured retentions must be declared to and approved by the TRLIA. At the option of TRLIA, either the insurer shall reduce or eliminate such deductions or self-insured retentions as respects TRLIA, its officials, employees and volunteers; or, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

C.4.8 VERIFICATION OF COVERAGE.

(a) Contractor shall furnish TRLIA with Certificates of Insurance and with original endorsements effecting coverage required by this clause. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) and endorsement(s) are to be on forms provided by the TRLIA or on forms received and approved by the TRLIA before work commences. TRLIA reserves the right to require complete, certified copies of all required insurance policies at any time.

(b) Contractor shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and Contractor has delivered the certificate(s) of insurance and endorsement(s) to TRLIA as previously described. If Contractor shall fail to procure and maintain said insurance, TRLIA may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by Contractor to TRLIA upon demand. The policies of insurance provided herein which are to be provided by Contractor shall be for a period of time sufficient to cover the term of the Agreement, including TRLIA’s acceptance of Contractor’s work. It is understood and agreed that thirty (30) days prior to the expiration of any policy of insurance, Contractor will deliver to TRLIA certificate(s) and endorsement(s) evidencing a renewal or new policy to take the place of the policy expiring.

C.5 INDEMNITY. Contractor shall defend, indemnify, and hold harmless TRLIA, its elected and appointed councils, boards, commissions, officers, agents, and employees from and against any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise from the intentional misconduct, recklessness, or negligent acts or omissions of Contractor in the performance of services rendered under this Agreement by Contractor, or any of Contractor’s officers, agents, employees, contractors, or subcontractors.

Attachment C – Page 5 of 11.
C.6 CONTRACTOR NOT AGENT. Except as TRLIA may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of TRLIA in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind TRLIA to any obligation whatsoever.

C.7 ASSIGNMENT PROHIBITED. Contractor may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

C.8 PERSONNEL. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that TRLIA, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, Contractor shall remove any such person immediately upon receiving written notice from TRLIA of its desire for removal of such person or persons.

C.9 STANDARD OF PERFORMANCE. Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged. All products of whatsoever nature which Contractor delivers to TRLIA pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in Contractor’s profession.

C.10 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code, §107. For all purposes of compliance by TRLIA with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the TRLIA. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the TRLIA Assessor and the contracting parties hereto. A taxable possessory interest may be created by this contract; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

C.11 TAXES. Contractor hereby grants to the TRLIA the authority to deduct from any payments to Contractor any TRLIA imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to Contractor.

C.12 TERMINATION. Upon termination of this Agreement as otherwise provided herein, Contractor shall immediately cease rendering service upon the termination date and the following shall apply:

C.12.1 Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording.
upon any tangible thing and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

C.12.2 TRLIA shall have full ownership and control of all such writings or other communications delivered by Contractor pursuant to this Agreement.

C.12.3 TRLIA shall pay Contractor the reasonable value of services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed the amount documented by Contractor and approved by TRLIA as work accomplished to date; provided, however, TRLIA shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to TRLIA such financial information as in the judgment of the TRLIA is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of the TRLIA shall be final. The foregoing is cumulative and does not affect any right or remedy which TRLIA may have in law or equity.

Contractor may terminate its services under this Agreement upon thirty (30) days written notice to the TRLIA, without liability for damages, if Contractor is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by TRLIA.

C.13 NON-DISCRIMINATION. Throughout the duration of this Agreement, Contractor shall not unlawfully discriminate against any employee of the Contractor or of the TRLIA or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. Contractor shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. Contractor shall give written notice of its obligations under this clause to any labor agreement. Contractor shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

C.14 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990. In addition to application of the non-discrimination provision of this Agreement, above, Contractor agrees to comply with all provisions of section 504 et seq. of the Rehabilitation Act
of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all
amendments thereto, and all administrative rules and regulations issued pursuant to said Acts,
pertaining to the prohibition of discrimination against qualified handicapped and disabled
persons, in all programs or activities, as to employees or recipients of services.

C.15 OWNERSHIP OF INFORMATION. All professional and technical information
developed under this Agreement and all work sheets, reports, and related data shall become the
property of TRLIA, and Contractor agrees to deliver reproducible copies of such documents to
TRLIA on completion of the services hereunder. The TRLIA agrees to indemnify and hold
Contractor harmless from any claim arising out of reuse of the information for other than this
project.

C.16 WAIVER. A waiver by any party of any breach of any term, covenant or condition
herein contained or a waiver of any right or remedy of such party available hereunder at law or in
equity shall not be deemed to be a waiver of any subsequent breach of the same or any other
term, covenant or condition herein contained or of any continued or subsequent right to the same
right or remedy. No party shall be deemed to have made any such waiver unless it is in writing
and signed by the party so waiving.

C.17 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific
references and attachments, constitutes all of the agreements, understandings, representations,
conditions, warranties and covenants made by and between the parties hereto. Unless set forth
herein, neither party shall be liable for any representations made express or implied.

C.18 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that
this Agreement shall supersede any prior agreements, discussions, commitments, representations,
or agreements, written or oral, between the parties hereto.

C.19 ATTORNEY’S FEES. If any action at law or in equity, including an action for
declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing
party shall be entitled to reasonable costs and attorneys’ fees, which may be set by the Court in
the same action or in a separate action brought for that purpose, in addition to any other relief to
which such party may be entitled.

C.20 CAPTIONS. The captions of this Agreement are for convenience in reference only and
the words contained therein shall in no way be held to explain, modify, amplify or aid in the
interpretation, construction or meaning of the provisions of this Agreement.

C.21 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context
otherwise requires, the following definitions and rules of construction shall apply herein.

C.21.1 NUMBER AND GENDER. In this Agreement, the neuter gender includes the
feminine and masculine, and the singular includes the plural, the word "person" includes
corporations, partnerships, firms or associations, wherever the context so requires.
C.21.2 MANDATORY AND PERMISSIVE. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

C.22 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

C.23 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto,

shall be binding upon and inure to the benefit of such party, its successors and assigns.

C.24 MODIFICATION. No modification or waiver of any provision of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

C.25 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

C.26 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

C.27 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

C.28 JURISDICTION. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the County of Yuba, State of California.

C.29 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

C.30 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term a condition herein.

C.31 AUTHORITY. All parties to this Agreement warrant and represent that they have the Attachment C – Page 9 of 11.
power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

C.32 CONFLICT OF INTEREST. Neither a TRLIA employee whose position in TRLIA enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by Contractor herein, or have any other direct or indirect financial interest in this Agreement.

Contractor may be subject to the disclosure requirements of the TRLIA conflict of interest code if in a position to make decisions or influence decisions that could have an effect on the Contractor’s financial interest. The TRLIA Administrator shall determine in writing if Contractor has been hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the Yuba County Conflict of Interest Code.
C.33 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to TRLIA:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Paul G. Brunner, Executive Director
1114 Yuba Street, Suite 218
Marysville, CA 95901

If to Contractor:

George Sills Geotechnical Engineering Consultant, L.L.C.
George Sills, Manager
470 Dogwood Lake Drive
Vicksburg, MS 39183

Attachment C – Page 11 of 11.
October 18, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
     Scott Shapiro, General Counsel
SUBJECT: Consider Designation of Scott Shapiro as TRLIA’s Representative for Purposes of Contract Negotiations with Paul Brunner

Recommended Action

Designate Scott Shapiro, TRLIA general counsel, as TRLIA’s representative for purposes of contract negotiations with Paul Brunner.

Background

The existing contract for Paul Brunner, Executive Director of TRLIA, expires on December 31, 2011. In order to conduct discussions and negotiations with Mr. Brunner with respect to the length and terms of his contract, it is appropriate for TRLIA to designate a representative. Pursuant to the Brown Act, that representative may receive instructions from the board in closed session regarding Mr. Brunner’s salary and/or compensation. This action designates Mr. Shapiro as TRLIA’s representative for this purpose. Final action on Mr. Brunner’s contract will be considered by the TRLIA board at a future meeting.

Fiscal Impact

None.