

Agreement for Professional Services – Standard Terms and Conditions

This Agreement for professional services is entered into between MBK Engineers, hereinafter referred to as the CONSULTANT and Three Rivers Levee Improvement Authority, hereinafter referred to as the CLIENT.

For and in consideration of the mutual covenants and conditions herein, CLIENT and CONSULTANT do hereby agree as follows:

1. Covenant for services

The CLIENT does hereby retain the CONSULTANT to perform the professional services identified herein. The CONSULTANT does hereby agree to perform such services for the CLIENT upon the terms and conditions set for in this AGREEMENT.

2. Scope of service

The CONSULTANT will provide all goods and services as set forth in the Scope of Work, attached hereto and incorporated by reference in this AGREEMENT as Attachment A.

3. Standard of care

CONSULTANT will strive to perform services under this AGREEMENT in a manner consistent with that level of care and skill ordinarily exercised by members of the same profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document, or otherwise.

CLIENT understands that the standard of care CONSULTANT is required to uphold can only be determined after the fact, through appropriate research by qualified experts. CLIENT agrees that, should it for any reason become necessary to identify the standard of care applicable to CONSULTANT's services, CLIENT shall cause CLIENT's expert to use those research methods agreed to by the American Society of Civil Engineers, American Institute of Architects, National Society of Professional Engineers, Interprofessional Council on Environmental Design, American Association of Engineering Societies, and other respected national, regional, and international organizations, as related in the document, *Recommended Practices for Design Professionals Engaged as Experts in the Resolution of Construction Industry Disputes*.

4. Definitions

When used in this AGREEMENT, the words and phrases listed below are defined as indicated, unless noted otherwise elsewhere in this AGREEMENT:

Agreement

This contract, including all appendixes, addenda, and any documents incorporated by reference.

Any Claim

This term, when used in a provision indicating CLIENT's obligation to waive claims against CONSULTANT or to hold CONSULTANT harmless from any claim arising from certain specified events, means "any claim in contract, tort, or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability."

Certify, Certification

Wherever these or derivative words are used in the AGREEMENT, or in any document developed or arising out of this AGREEMENT or services furnished by CONSULTANT thereunder, they shall mean CONSULTANT's furnishing an opinion of conditions based upon testing, analyses, or observation CONSULTANT has performed. CONSULTANT's certification of a condition's existence does not guarantee such condition exists, nor does it relieve other party of responsibilities or obligations such party has accepted by contract or custom.

Claims

See "Any Claim," above.

Client

Three Rivers Levee Improvement Authority

Consultant

The firm of MBK Engineers, subsidiaries and affiliates, and all officers and employees thereof.

Substantial Completion

Substantial completion of CONSULTANT's services shall have been accomplished when CONSULTANT submits a final report and recommendations or final plans and specifications. If the AGREEMENT calling for these services is terminated before the services are completed, substantial completion will have occurred on the date termination goes into effect.

5. Billing and payment

CLIENT recognizes that timely payment of CONSULTANT's invoices is a material part of the consideration for which CONSULTANT requires to perform the services indicated in this AGREEMENT.

CLIENT shall pay CONSULTANT for services rendered in U.S. funds drawn upon U.S. banks, in accordance with the rates and charges set forth herein. Routine invoices will be submitted by CONSULTANT from time to time, but no more frequently than every two (2) weeks, and shall be due and payable within thirty (30) calendar days of invoice date. If CLIENT objects to any portion of an invoice, CLIENT shall so notify CONSULTANT within fourteen (14) calendar days of the invoice date, identify the cause of the objection, and pay when due that portion of the invoice not in dispute.

CLIENT shall pay an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by law, whichever is lower) of the invoiced amount per month for any payment received by CONSULTANT more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter shall first be applied to accrued interest and then to the principal unpaid amount.

Payment of invoices is in no case subject to unilateral discounting or set-offs by CLIENT.

Application of the percentage rate indicated above as a consequence of CLIENT's late payments does not constitute any willingness on CONSULTANT's part to finance CLIENT's operation, and no such willingness should be inferred. If CLIENT fails to pay undisputed invoiced amounts within thirty (30) calendar days of the date of the invoice, as set forth hereinabove, CONSULTANT may at any time thereafter, without waiving any other claim against CLIENT and without thereby incurring any liability to CLIENT, suspend this AGREEMENT (as provided for in Section 9, SUSPENSION) or terminate this AGREEMENT (as provided for in Section 10, TERMINATION).

Accordingly, the CONSULTANT will provide all goods and services as set forth in the Scope of Work for the price described in the CONSULTANT's Cost Proposal, attached hereto and incorporated by reference in this AGREEMENT as Attachment B.

6. Limitation of liability

CLIENT and CONSULTANT agree to allocate certain of the risks so that, to the fullest extent permitted by law, CONSULTANT's total aggregate liability to CLIENT is limited to \$50,000 or to the proceeds available from CONSULTANT's required insurance coverages, whichever is higher, for any and all injuries, damages, claims, losses, expenses, or claim

expenses (including attorneys' and expert witness' fees) arising out of this AGREEMENT from any cause or causes. Such causes include, but are not limited to, CONSULTANT's negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability based upon contract, tort, or statute.

7. Insurance

CONSULTANT maintains workers' compensation and employer's liability insurance of a form and in the amount required by California state law; general liability and automotive liability insurance with limits of one million dollars (\$1,000,000), and professional liability insurance with a limit of one million dollars (\$1,000,000).

CLIENT recognizes that the insurance market can be erratic and that no CONSULTANT can guarantee an ability to maintain the coverages indicated above. CONSULTANT warrants that CONSULTANT will endeavor to do so, within a context of prudent business practices, and will notify CLIENT of any change in coverage no later than ten (10) calendar days after CONSULTANT becomes aware of such change. If any of CONSULTANT's coverages is withdrawn, or if CONSULTANT decides to forgo coverage because a replacement policy will afford inadequate protection and/or will require a significantly increased premium when compared to prior coverage, CONSULTANT and CLIENT shall confer about alternatives available, if any, and shall bargain in good faith in an attempt to achieve conditions acceptable to both.

8. Indemnification

CONSULTANT agrees to hold harmless and indemnify CLIENT from and against liability to the extent caused by CONSULTANT's negligent performance of the services.

CONSULTANT's opinion of certain conditions that CONSULTANT has evaluated on CLIENT's behalf may diminish the value of property. In order to establish an atmosphere where CONSULTANT feels free to report CONSULTANT's opinions, recommendations for remedial measures, et al., without fear of reprisal, CLIENT shall, to the fullest extent permitted by law, waive any claim against CONSULTANT, and indemnify, defend, and hold CONSULTANT harmless from any claim or liability for injury or loss arising from the theory that CONSULTANT's findings, conclusions, opinions, recommendations, plans, or specifications diminished the value of a property. CLIENT shall also compensate CONSULTANT for any time spent or expenses incurred by CONSULTANT in defense of any such claim. Such compensation shall be based

upon CONSULTANT's prevailing fee schedule and expense reimbursement policy.

CONSULTANT shall indicate to CLIENT the information needed for rendering services hereunder, and CLIENT shall provide to CONSULTANT as much of such information that is available to CLIENT. CLIENT shall inform CONSULTANT of reports or other materials prepared by others that relate to CONSULTANT's portion of the work, and CLIENT shall furnish these to CONSULTANT or otherwise help CONSULTANT gain access to them. CLIENT recognizes that CONSULTANT is unable to ensure the sufficiency of such information, either because doing so is impossible, or because of errors or omissions others may have committed when assembling the information. Accordingly, CLIENT shall, to the fullest extent permitted by law, waive any claim against CONSULTANT, and indemnify, defend, and hold CONSULTANT harmless from any claim or liability for injury or loss arising from alleged errors, omissions, or inaccuracies in documents or other information provided to CONSULTANT by CLIENT. CLIENT also shall compensate CONSULTANT for any time spent or expenses incurred by CONSULTANT in defense of any such claim. Such compensation shall be based upon CONSULTANT's prevailing fee schedule.

9. Suspension

If payment of CONSULTANT's invoices is not maintained on a thirty- (30-) calendar-day-current basis by CLIENT, CONSULTANT may, upon fourteen (14) calendar days' written notice to CLIENT, suspend further services until payment is restored to a current basis, or CONSULTANT may terminate this AGREEMENT. CLIENT may suspend CONSULTANT's services upon fourteen (14) calendar days' written notice. Any suspension by CLIENT exceeding forty-five (45) calendar days shall, at CONSULTANT's option, make this AGREEMENT subject to renegotiation or termination. Any suspension shall extend the performance schedule by an amount of time satisfactory to both CLIENT and CONSULTANT, and CLIENT shall compensate CONSULTANT for services performed and expenses incurred prior to the suspension date, plus suspension charges. Suspension charges shall include, but shall not be limited to, fees for service and expenses for putting analyses and documents in order, rescheduling and reassigning personnel and/or equipment, and issuing necessary or customary notices to appropriate government agencies. Compensation to CONSULTANT shall be based upon CONSULTANT's prevailing fee schedule.

10. Termination

CLIENT or CONSULTANT may terminate this AGREEMENT without penalty. The party initiating

termination shall so notify the other party, and termination shall become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party effects termination or the cause thereof, CLIENT shall within thirty (30) calendar days of termination pay CONSULTANT's fees for services rendered and costs incurred, in accordance with CONSULTANT's prevailing fee schedule. These fees and costs shall include those outstanding at the time of termination.

11. Ownership of instruments of professional service

Plans, specifications, reports, software, calculations, field data, field notes, estimates, and similar documents and materials prepared by or for CONSULTANT as instruments of professional service are CONSULTANT's property. CONSULTANT shall retain these instruments of professional service for five (5) years following submission of final project deliverables, during which period CONSULTANT's instruments of professional service will be made available for CLIENT's review at any reasonable time.

CLIENT agrees that instruments of professional service provided by CONSULTANT to CLIENT may not under any circumstances be altered by any party except CONSULTANT. CLIENT warrants that CONSULTANT's instruments of service will be used only and exactly as submitted by CONSULTANT.

CLIENT understands that CONSULTANT may become liable to third-parties that ill-advisedly rely on CONSULTANT's instruments of professional service under the mistaken assumption that their third-party needs are identical to CLIENT's or that, although their needs differ from CLIENT's, CONSULTANT would nonetheless have performed the identical services to satisfy those different needs. To help prevent problems from arising in this respect, CLIENT shall inform CONSULTANT of any specific third-parties or types of third-parties that CLIENT believes may ask to rely on CONSULTANT's instruments of professional service, and CLIENT shall not under any circumstance permit such reliance except with the express consent of CONSULTANT. CONSULTANT may withhold its consent if the third-party does not agree, in writing, (1) to be bound by the terms of this AGREEMENT, including without limitation, any provision limiting CONSULTANT's liability hereunder, (2) to use such information only for the purposes contemplated by CONSULTANT in performing its services, and (3) to be bound by the qualifications and limitations expressed in the opinions, conclusions, certificate, or report involved. CLIENT's payment of CONSULTANT's invoices, as provided for herein, shall not be made contingent on CONSULTANT's agreeing to permit third-party reliance against CONSULTANT's preferences, and CONSULTANT

shall be compensated by CLIENT for whatever additional service and/or risk stems from third-party reliance, if the third-party does not provide compensation per terms and conditions herein. In addition, CLIENT shall, to the fullest extent permitted by law, waive any claim against CONSULTANT, and indemnify, defend, and hold CONSULTANT harmless from any claim or liability for injury to loss allegedly arising from any third-party's reliance on CONSULTANT's instruments of services without CONSULTANT's specific authorization to do so. CLIENT also shall compensate CONSULTANT for any time spent or expenses incurred by CONSULTANT in defense of any such claim. Such compensation shall be based upon CONSULTANT's prevailing fee schedule.

12. Dispute resolution

All claims, disputes, or controversies arising out of, or in relation to the interpretation, application, enforcement, or implementation of this AGREEMENT or provision of the services indicated herein shall be decided through mediation. The parties further agree that OWNER will require, as a condition for participation in the project and their agreement to perform labor or services, that all contractors, all subcontractors at all tiers, and all suppliers whose portion of the work amounts to five thousand dollars

(\$5,000) or more, and their insurers and sureties, shall agree to this procedure.

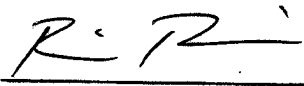
Should legal action be brought by one party against the other, the nonprevailing party shall reimburse the prevailing party for the prevailing party's documented legal costs, in addition to whatever other judgments or settlement sums may be due. Such legal costs shall include, but not be limited to, reasonable attorney's fees, court costs, forensic consultant and expert witness fees, and other documented expenses, as well as the value of time spent by the prevailing party and those in that party's employ to research the issues in question, discuss matters with attorneys and others, prepare for depositions, respond to interrogatories, and so on. Insofar as CONSULTANT is concerned, the value of time spent and expenses incurred shall be computed based upon CONSULTANT's prevailing fee schedule.

13. Governing law

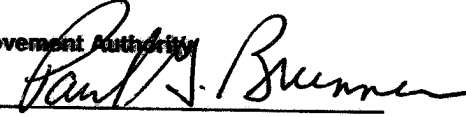
Unless otherwise provided, the substantive law of the state of California will govern the validity of this AGREEMENT, its interpretation and performance, and remedies for contract breach or any other claims related to this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their undersigned officials as duly authorized.

MBK Engineers

By: 
Name and title: Ric Reinhardt, P.E.
Date: December 10, 2007
Federal ID number: 94-2282149

Three Rivers Levee Improvement Authority

By: 
Name and title: Paul Brunner, Executive Director
Date: January 8, 2008

APPROVED AS TO FORM
SCOTT SHAPIRO
GENERAL COUNSEL

By: 

AMENDMENT 12 TO TRLIA/MBK CONTRACT
Scope of Work

The following is a general level of estimated involvement from January 1, 2008 to December 31, 2008.

Task 1 – Program Management Activities

- Project Management Meetings (every other week) – Coordinate agenda with Executive Director, attend meeting. **Effort – 12 hrs/month**
- Coordination with Reclamation Board – Meet with staff and coordinate on permit issues, program issues, and financing issues. **Effort – 12 hrs/month**
- Coordination with the Corps and FEMA on FEMA certification issues. **Effort – 9 hrs/month**
- Coordination with Finance team, DWR on Design Grant, Construction Grants and other implementation issues. **Effort – 22 hrs/month**
- General Coordination – Coordination on project issues with TRLIA staff, floodplain mapping outreach, land use adjacent to levees, public meetings, prepare PowerPoint presentations, prepare other correspondence, coordination and meetings with stakeholders, and JPA Board Meetings. **Effort – 36 hrs/month**

Task 1		
Principal Engineer	91 hrs @ \$200/h	\$18,200
Expenses		\$ 500
Total		\$18,700 per month

Total Cost = \$224,400

Task 2 – Design Management Activities

- Technical Meetings and Coordination – Participate in weekly conference calls with design teams, coordinate and participate in design issues resolution, attend field conferences on design issues. **Effort – 82 hrs/month**
- Coordination with Reclamation Board – Prepare monthly status reports provide information to Reclamation board as needed. **Effort – 10 hrs/month**
- General Coordination – Coordination on project issues with TRLIA staff, public meetings, prepare correspondence in support of Program Manager, coordination with RD 784, coordination and meetings with stakeholders. **Effort – 36 hrs/month**

Task 2		
Supervisory Engineer	128 hrs @ \$171/h	\$21,888
Total		\$21,888 per month

Total Cost = \$262,656

Task 3 – Mapping Support

- Prepare and update maps and figures that show all project features in RD 784. **Effort – 13 hrs/month**
- Prepare maps as needed for presentation and meetings. **Effort – 13 hrs/month**

Task 3		
Junior Engineer	26 hrs @ \$125/h	\$3,250
Expenses		\$ 250
Total		\$3,500 per month

Total Cost = \$42,000

Task 4 – Hydraulic Support for Final TRLIA Program

Numerous hydraulic modeling tasks will be necessary to complete the TRLIA program and get certification from FEMA. A final hydraulic document for the RD 784 system will have to be prepared. Additional hydraulic analysis are needed to address Corps concerns on the impacts of the setback levee and design of erosion protection at Site 2. Some hydraulic analysis is needed for evaluating the erosion problem downstream of the Yuba Goldfields for the south Yuba levee. These modeling efforts will include one and two dimensional modeling..

This task also will include meetings and coordination required with the Corps and other agencies and stakeholders to communicate the results of these modeling efforts and to obtain agency/stakeholder consensus with the final products.

Estimated Cost: \$ 100,000

Total Amendment 12 Costs for Tasks 1-4 = \$629,056 for the period January 1, 2008 to December 31, 2008.

The AGREEMENT shall be revised to increase the price ceiling for basic services by \$629,056 from \$1,882,689 to \$2,511,745

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