

AMENDMENT NUMBER ONE TO AGREEMENT BETWEEN  
THE UNITED STATES OF AMERICA  
AND THE STOCKTON PORT DISTRICT  
FOR LOCAL COOPERATION ON THE SAN FRANCISCO BAY  
TO STOCKTON, CALIFORNIA  
(JOHN F. BALDWIN AND STOCKTON SHIP CHANNELS) PROJECT,  
AVON TO STOCKTON

This AMENDMENT, is entered into this 21st day of December 2000, by and between the DEPARTMENT OF THE ARMY (hereinafter referred to as the "Government"), acting by and through the Assistant Secretary of the Army (Civil Works), the CONTRA COSTA COUNTY WATER AGENCY (hereinafter referred to as "Water Agency"), acting by and through its governing board, the Contra Costa County Board of Supervisors, and the STOCKTON PORT DISTRICT (hereinafter referred to as "Stockton"), represented by the Port Director, Stockton Port District.

WITNESSETH, THAT:

WHEREAS, the San Francisco Bay to Stockton, California (John F. Baldwin and Stockton Ship Channels) Project, Avon to Stockton (hereinafter referred to as the "Project"), was authorized by the River and Harbor Act of 1965 (Public Law 89-298), 89th Congress, 1st Session; and,

WHEREAS, a portion of the Project lies within the limits of the jurisdiction of the San Francisco District, Corps of Engineers from Suisun Bay Navigation Channel station 0 + 00 to New York Slough Navigation Channel Station 232 + 02.13 (a.k.a. Channel Station 965 + 47.50) (San Francisco District - Sacramento District Jurisdiction Line) (hereinafter referred to as the "Suisun Bay and the New York Slough Segments"), as defined in Article I of this Amendment and,

WHEREAS, construction, operation and maintenance of the Project including the Suisun Bay and the New York Slough Segments are the responsibility of the Corps of Engineers, Sacramento District and Stockton under a Local Cooperation Agreement ("LCA") dated May 6, 1982; and,

WHEREAS, construction of the Suisun Bay and the New York Slough Segments was completed in 1988; and,

WHEREAS, there are no public recreation areas, no fish and wildlife mitigation developments, no fish and wildlife enhancement developments along the Suisun Bay and New York Slough segments; and,

WHEREAS, the Government, Stockton and Water Agency now desire to amend the LCA to add Water Agency as a joint Local Sponsor for certain local contribution and cost-sharing requirements and both Water Agency and Stockton intend to enter into a Joint

Powers Agreement ("JPA") for that purpose, so that non-Federal sponsorship of the operation and maintenance responsibilities relating to the Suisun Bay and the New York Slough Segments will be shared by Stockton and Water Agency effective on the date of this Amendment; and,

WHEREAS, under that JPA, the Water Agency will, subject to the reversion provision as set forth in this Amendment in Article II.c, assume primary responsibility for the Suisun Bay and the New York Slough Segments upon request by the Government for the disposal of dredged material for the operation and maintenance of those segments;

WHEREAS, the Sacramento District transferred operations and maintenance responsibilities for the Suisun Bay and New York Slough segments to the San Francisco District on January 1, 1974; and,

WHEREAS, Stockton is desirous of sharing its responsibilities relating to its participation in cost-sharing and financing for the Suisun Bay and the New York Slough Segments under the LCA but recognizes that it remains solely responsible under the LCA for cost-sharing and financing relating to that portion of the Project excluding the Suisun Bay and the New York Slough Segments and remaining within the jurisdiction of the Sacramento District; and,

WHEREAS, the Water Agency has the authority and capability to furnish the cooperation set forth in the LCA and this Amendment and is willing to participate in cost-sharing and financing in accordance with the terms of the LCA and this Amendment;

NOW, THEREFORE, the parties agree as follows:

#### ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

a. For purposes of this Amendment, the term "the Suisun Bay and the New York Slough Segments" shall mean the Suisun Bay Navigation Channel at Contra Costa County, Channel Station 0 + 00 to the New York Slough Navigation Channel at Water Agency County, Channel Station 232 + 02.13 (a.k.a. Channel Station 965 + 47.50) as designated by the drawings for Suisun Bay Channel, Martinez to Antioch Point (February, 1994), attached hereto and incorporated into this Amendment.

b. In Article I, Section b, paragraph 1 of the LCA, maintenance of the flood control levees shall be limited to rock levees constructed by the Government along the Suisun Bay and New York Slough segments.

#### ARTICLE II - OBLIGATIONS OF THE PARTIES

a. Effective on the date of this Amendment, and subject to the reversion provision in subsection c. below, all rights, responsibilities and obligations of Stockton, with respect to operation and maintenance (and primarily with provision of upland disposal sites as stated in the

LCA) relating to the areas identified as comprising the Suisun Bay and the New York Slough Segments, shall be shared jointly by Stockton and Water Agency under the terms and conditions of the Agreement between Stockton and the Water Agency for Joint Exercise of Power for operation and maintenance of Suisin Bay and New York Slough Segments (JPA"), executed concurrently herewith. When requested to do so by the Government, the Water Agency will identify and provide upland disposal sites in its jurisdiction. All other rights, responsibilities and obligations of Stockton, as stated in the LCA, relating to areas of the Project, excluding the Suisun Bay and the New York Slough Segments, shall remain as stated in the LCA.

b. Notwithstanding the above, Stockton shall remain solely liable to the Government under the save and hold harmless provisions of the LCA to the extent that any claim for damages concerning the Suisun Channel and the New York Slough Segments may relate to events that occurred prior to the execution of this Amendment, and Water Agency shall have no such obligation to the Government.

c. In recognition that the operation and maintenance of the Suisun Bay and the New York Slough Segments is necessary for benefits to accrue to the remaining areas of the Project, and in the event that Water Agency is unwilling or unable to perform its obligations under the LCA and this Amendment, effective upon the date of receipt of such written notification to Stockton from the Water Agency, Stockton shall reassume all obligations as stated in the LCA and this Amendment, and Stockton and the Government shall release Water Agency from any further liability, responsibility or obligation under the LCA and this Amendment. Nothing contained herein shall prevent any party to this Amendment from taking such action as is necessary to enforce its rights under the LCA or this Amendment or pursue any remedy at law or in equity, including Water Agency's power to set reasonable fees and charges.

d. In recognition of the completion of all construction related to the project, there are no construction obligations remaining.

e. The obligations of this Amendment do not apply to Article 1, Section C of the LCA.

f. The cost sharing provisions contained in the 1996 Water Resources Development Act shall apply as appropriate. All other provisions of the LCA remain in full force and effect.

(1) Except as provided in subparagraph, (2) of this paragraph, all other provisions of the LCA remain in full force and effect.

(2) As requested by Stockton under Section 201 (f) of the Water Resources Development Act of 1996 (110 Stat. 3673; 33 U.S.C. 2211 note) the LCA is amended in that the cost of construction of land based and aquatic dredged material disposal facilities and improvements required for the operation and maintenance of the Project after date of execution of this amendment is subject to cost-sharing as a general navigation feature under Section 201 (b)(2) of that Act, subject to the execution of a cost-sharing agreement between Stockton or Water Agency and the Government for that purpose.

ARTICLE III - NOTICES

All notices, requests, demands, and other communications required or permitted to be given under this Amendment or under the LCA shall be deemed to have been duly given if in writing and delivered personally, given by prepaid telegram, or mailed by first-class (postage pre-paid) registered, or certified mail, as follows:

If to Water Agency:

Contra Costa County Water Agency  
Attn: Staff, Water Agency, 4th Floor, N.Wing  
County Administration Building  
651 Pine Street  
Martinez, CA 94553-1290

If to Stockton:

Port of Stockton  
Port Director  
P.O. Box 2089  
2201 W. Washington  
Stockton, CA 95201

If to San Francisco District:

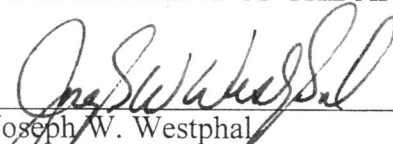
U.S. Army Corps of Engineers  
San Francisco District  
Attn: District Engineer, 8th Flr.  
333 Market Street, San Francisco, CA  
94105-2197

If to Sacramento District:

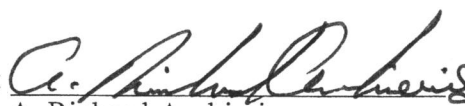
U.S. Army Corps of Engineers  
Sacramento District  
Attn: District Engineer  
1325 J Street  
Sacramento, CA 95814-2922

IN WITNESS WHEREOF, the parties hereto have executed this Amendment, which shall become effective upon the date it is signed by the Assistant Secretary of the Army (Civil Works).

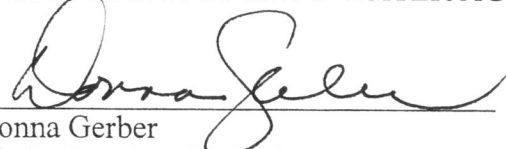
THE DEPARTMENT OF THE ARMY

By:  21 DEC 2000  
Joseph W. Westphal  
Assistant Secretary of the Army  
(Civil Works)

STOCKTON PORT DISTRICT

By:   
A. Richard Aschieris  
Port Director

CONTRA COSTA COUNTY WATER AGENCY

By:   
Donna Gerber  
Chair, Board of Supervisors, Contra Costa County  
as governing board of Contra Costa Water Agency