

AMENDMENT NO. 3 TO
JOINT EXERCISE OF POWERS AGREEMENT
OF THE WEST COUNTY AGENCY
BY AND AMONG WEST COUNTY WASTEWATER DISTRICT
AND THE CITY OF RICHMOND AND
RICHMOND MUNICIPAL SEWER DISTRICT

The parties to this Amendment No. 3 to the Joint Exercise of Powers Agreement do mutually agree and promise as follows:

1. **Parties.** The parties to this Amendment No. 3 to the Joint Exercise of Powers Agreement of the West County Agency, Contra Costa County, California, a joint exercise of powers agency (Agency) are:

City of Richmond
Richmond Municipal Sewer District
West County Wastewater District

2. **Purpose.** This Amendment No. 3 is being entered into to amend the amended and restated Joint Exercise of Powers Agreement which was entered into by and among the West County Wastewater District, formerly known as the West Contra Costa Sanitary District, and the City of Richmond and the Richmond Municipal Sewer District on June 15, 1984, and subsequently amended by Amendment No. 1 on April 2, 1990 and Amendment No. 2 on November 23, 1992. Said agreement shall hereinafter be referred to as the "Original Agreement" and is incorporated herein by reference.

3. **Original Agreement Provisions.** The parties hereto agree to continue to abide by those terms and conditions of the Original Agreement, and any amendments thereto, which are unaffected by this Amendment No. 3.

4. **Amendment Provisions.** This Amendment No. 3 is subject to the Amendment Provisions attached hereto as Exhibit A through F and which are incorporated herein by this reference. ~~Said Amendment Provisions supersede any conflicting provisions of the Original Agreement or any amendment thereto.~~

5. **Term.** This Amendment No. 3 shall be effective only for the period prior to, including, and ending June 30, 1991.

6. Signatures. These signatures attest the parties' agreement to the provisions of this Amendment No. 3 to the Joint Exercise of Powers Agreement:

Executed on December 21, 1993, at Richmond, California.

CITY OF RICHMOND
a municipal corporation

Attest:

Gula M. Barnes
City Clerk

By *Rosemary McCarben*
Mayor

Approved as to form:

Malcolm Hite
City Attorney

Executed on December 21, 1993, at Richmond, California.

RICHMOND MUNICIPAL SEWER DISTRICT

By *Rosemary McCarben*
Mayor

Approved as to form:

Malcolm Hite
City Attorney

Executed on December 21, 1993, at Richmond, California.

WEST COUNTY WASTEWATER DISTRICT

By *William L. Decker*
Title President

By *J. Magallon*
Title Secretary

Approved as to form:

Art Bell
District Counsel

AMENDMENT PROVISIONS

1. Schedule A, Methodology for Distribution of Capital Costs of the Amended and Restated Joint Exercise of Powers Agreement of the West County Agency is hereby amended to reflect the Final Percentage Allocations of the C06-1154 Grant/Project Wastewater Management Program to read as follows:

SCHEDULE A
ALLOCATION OF CAPITAL COSTS AND GRANTS OF THE
C06-1154 GRANT/PROJECT ELEMENTS

The allocation of capital costs have been developed by staff of members City of Richmond and West County Wastewater District as percentage allocation of each element of each grant/project of the C06-1154 Clean Water Grant Wastewater Management Program according to the following schedule:

| | <u>COST & GRANT</u> | |
|---|-------------------------|----------------|
| | <u>WCWD %</u> | <u>RICH. %</u> |
| <u>Project A1 (110)</u> | | |
| <u>Submarine Outfall (Joint Use)</u> | | |
| Predesign/Design (010,100) | 32.00% | 68.00% |
| R.O.W./Easements | 32.00% | 68.00% |
| Construction | 32.00% | 68.00% |
| Engineering/Other* | 32.00% | 68.00% |
| <u>Project A4 (120)</u> | | |
| <u>Richmond WPCP Improvement (Sole Use)</u> | | |
| Predesign/Design (010,100) | 0.00% | 100.00% |
| Construction | 0.00% | 100.00% |
| Engineering/Other* | 0.00% | 100.00% |
| <u>Project A3 (130)</u> | | |
| <u>Effluent Pump Station (Joint Use)</u> | | |
| Predesign/Design (010,100) | 99.20% | 0.80% |
| Construction | 99.20% | 0.80% |
| Engineering/Other* | 99.20% | 0.80% |
| <u>Project A2 (140)</u> | | |
| <u>Transmission Pipeline (Joint Use)</u> | | |
| Predesign/Design (010,100) | 77.30% | 22.70% |
| Design Contract, CCA 1216G (Sludge line design Mod.) | 0.00% | 100.00% |
| R.O.W./Easements | 77.30% | 22.70% |
| Tunnel | 32.00% | 68.00% |
| Construction | 77.30% | 22.70% |
| Engineering/Other* | 77.30% | 22.70% |

Exhibit A of Amendment No. 3
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| | | | | |
|---|-------------------------|---------------|--------------------|---------------|
| Project B1 (210) | <u>WCWD %</u> | <u>RICH.%</u> | <u>WCWD%</u> | <u>RICH.%</u> |
| <u>Richmond Pump Station (Sole Use)</u> | | | | |
| | <u>COST & GRANT</u> | | | |
| Predesign/Design (010,200) | 0.00% | 100.00% | | |
| Construction | 0.00% | 100.00% | | |
| Engineering/Other* | 0.00% | 100.00% | | |
| Project B3 (220) | | | | |
| <u>Equalization Basins & Sludge Handling Facilities (Joint Use)</u> | | | | |
| | <u>Costs Only</u> | | <u>Grants Only</u> | |
| Predesign/Design (010,200) | 76.55% | 23.45% | | |
| Land | 100.00% | 0.00% | 100.00% | 0.00% |
| Construction | 78.18% | 21.82% | 76.55% | 23.45% |
| Change Orders | 85.96% | 14.04% | 108.10% | - 8.10% |
| Eng./Other--Overall project* | 78.87% | 21.13% | 77.32% | 22.68% |
| Eng./Other--Equal.Basin Wall Repair | 100.00% | 0.00% | 100.00% | 0.00% |
| Eng./Other--Sludge Lagoons, Hazardous Waste Removal | 50.00% | 50.00% | 50.00% | 50.00% |
| Project B2 Phase 1 (230) | | | | |
| <u>Treatment Plant Additions and Modifications (Sole Use)</u> | | | | |
| | <u>COST & GRANT</u> | | | |
| Predesign/Design (010,200) | 100.00% | 0.00% | | |
| Construction | 100.00% | 0.00% | | |
| Engineering/Other* | 100.00% | 0.00% | | |
| Project B2 Phase 2 (240) | | | | |
| <u>Treatment Plant Modifications (Sole Use)</u> | | | | |
| Predesign/Design (010,200) | 100.00% | 0.00% | | |
| Construction | 100.00% | 0.00% | | |
| Engineering/Other* | 100.00% | 0.00% | | |
| Clean Water Grant (015) Step 1 | | | | |
| <u>Ultimate Sludge Disposal/Energy Recovery</u> | | | | |
| Predesign/Design (010) | 100.00% | 0.00% | | |
| State Solid Waste Management Grant (400) | | | | |
| <u>Ultimate Sludge Disposal/Energy Recovery</u> | | | | |
| Design | 100.00% | 0.00% | | |
| Old WCA Facilities Planning Grant (010) | | | | |
| | <u>WCWD %</u> | <u>RICH.%</u> | <u>OTHERS%</u> | |
| Predesign | 38.00% | 38.00% | 24.00% | |

*Engineering/Other includes construction engineering, force account, grant administration, appeals.

Exhibit B of Amendment No. 3 to
the Joint Exercise of Powers
Agreement of the West County Agency

SECTION 1, Definitions, is amended to add:

General and Administration Costs

1.18 "General and Administration Costs" shall mean those costs necessary for the continued business and operations of the Agency. Such costs shall include, but are not limited to, Director's fees, salaries, wages, legal, auditing, accounting, utilities, contract payments, studies, services and other expenses and may include some or all the costs as defined under section 1.11. Such costs may be incurred by the Agency or by either Member on behalf of the Agency upon prior approval by the Agency Board.

Exhibit C of Amendment No. 3 to
the Joint Exercise of Powers
Agreement of the West County Agency

SECTION 9.7, Budget, is amended by amending the first paragraph to read:

"A general budget for the operations of the Agency shall be adopted by the Board for the ensuing fiscal year prior to June 30 of each year. The budget shall provide sufficient detail to constitute an operating guideline including: revenues from various sources; the necessary contributions to be made by each Member; expenditures to be made for administration and operation of the Agency; expenditures for capital repairs or new projects; and, unless otherwise provided by separate arrangement between the Members, expenditures for administration, maintenance and operating costs of the Joint Facilities. Any budget for authorized Sole-Use Facilities or Projects shall be kept separately. Approval of the general budget shall constitute authority for the Manager to bill the Members for their contributions and expend funds for the purposes outlined in the approved budget, but within the availability of funds on hand as determined by the Controller. The Manager shall bill each Member in advance for its share in an amount not to exceed six months estimated expenses at a time. Said bill shall be immediately due and payable within 30 days of billing."

Exhibit D of Amendment No. 3 to
the Joint Exercise of Powers
Agreement of the West County Agency

SECTION 11, Joint Operating Fund, is amended by amending the first paragraph as follows:

"A Joint Operating Fund shall be established, which shall be used to pay all general and administration costs, operating, legal, engineering and other non-capital expenses incurred by the Agency in connection with its business and operations. Each Member shall pay to the Agency its share of estimated expenses within 30 days of billing and said amount shall be deposited into the Joint Operating Fund upon receipt from the Member."

Exhibit E of Amendment No. 3 to
the Joint Exercise of Powers
Agreement of the West County Agency

SECTION 16, Distribution of Operating Costs, is amended by amending the first paragraph to read:

"Operating costs for the State Project shall be allocated to each Member in proportion to its share of the capital costs as set forth in Schedule A, attached hereto and hereby made a part of this agreement. However, if circumstances require, the Agency Board by majority vote may determine an allocation on a case-by-case basis."

SECTION 16.1 is added to read as follows:

16.1 Distribution of General and Administration Costs.
General and Administration costs of the Agency shall be allocated on a 50/50 basis to each Member except where the costs are incurred on behalf of, or for the benefit of, one of the Members, in which case that Member shall bear 100% of those costs. The Agency Board, by resolution passed by a majority vote, may determine other ratios, based on pro rata shares of projects or on other means, where circumstances require deviation from the above.

Exhibit F of Amendment No. 3 to
the Joint Exercise of Powers
Agreement of the West County Agency

SECTION 17.1 is added to read as follows:

17.1 Payment of General and Administration Costs of the Agency. Upon adoption of the general budget for the ensuing year, and from time to time during the fiscal year, the Agency shall bill each Member its estimated share of the general and administration costs of an amount not to exceed six months at a time. Each Member hereby agrees to include in each annual budget approved by the governing body of such Member, amounts estimated to be sufficient to pay all such charges. Each Member shall pay to the Agency within thirty (30) days of the billing statement of its allocated share of the estimated general and administration costs for the billing period as determined by the Board. Adjustments shall be made on succeeding bills to take into account actual costs incurred during the preceding billing period. The Agency is hereby authorized to take any or all legal actions necessary and permitted by law to enforce the collection of such charges or any other compliance with this Agreement, including, but not limited to, actions or proceedings in mandamus to require each Member to include the amounts estimated to be necessary in each such estimated annual budget, or to collect such charges from the taxpayers, landowners or users of any of the facilities.