

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: PUBLIC WORKS *sp*  
Urgent \_\_\_\_\_ Routine   
CEO Concurs with Recommendation YES \_\_\_\_\_ NO \_\_\_\_\_  
(Information Attached)

BOARD AGENDA # C-5  
AGENDA DATE MAY 8, 2001  
4/5 Vote Required YES  NO \_\_\_\_\_

SUBJECT: APPROVAL OF AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND STANISLAUS COUNTY FOR THE WEST STANISLAUS FEASIBILITY STUDY

STAFF  
RECOMMEN-  
DATIONS:

1. APPROVE AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND STANISLAUS COUNTY FOR THE WEST STANISLAUS FEASIBILITY STUDY, AND THAT THE DIRECTOR OF PUBLIC WORKS BE AUTHORIZED TO SIGN THE AGREEMENT ON BEHALF OF THE COUNTY; AND,
2. DIRECT THE AUDITOR/CONTROLLER TO INCREASE ESTIMATED REVENUES AND APPROPRIATIONS AS SET FORTH IN THE ATTACHED BUDGET JOURNAL.

FISCAL  
IMPACT:

The total cost of associated with this amendment is \$3,220,000 of which Stanislaus County's obligation is 50% or \$1,610,000. The County has previously paid \$744,564. The cities of Newman and Patterson will contribute \$196,132 and the State of California will contribute approximately \$245,000. This leaves an outstanding balance of \$424,303 which will be funded as a part of the 2001/2002 budget process.

BOARD ACTION AS FOLLOWS:

No. 2001-355

On motion of Supervisor Caruso , Seconded by Supervisor Mayfield  
and approved by the following vote,

Ayes: Supervisors: Mayfield, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: Blom

Abstaining: Supervisor: None

1)  Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

Motion:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

File No.

**SUBJECT:** APPROVAL OF AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND STANISLAUS COUNTY FOR THE WEST STANISLAUS FEASIBILITY STUDY

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**DISCUSSION:** The west side of Stanislaus County has long been subjected to flooding. The Cities of Newman and Patterson experience significant floods every three to five years. Associated with these floods is a tremendous amount of property damage, loss of economic development, and a major threat to public safety.

In order to find solutions to this flooding problem, Congressman Condit obtained funds in the Federal Energy and Water Development Appropriations Act, Public Law 104-26, that authorized the U.S. Army Corps of Engineers to conduct, in conjunction with local communities, investigations into flood control measures. The Corps requires a local sponsor for any flood control project. It was agreed that Stanislaus County would fulfill that role.

The first step in the Corps of Engineers' investigative process is the preparation of a "Reconnaissance Study" that determines if it appears there would be a federal interest served in providing flood control. That study was completed and the required federal interest was found.

The next step in the Corps process is to prepare a "Feasibility Study". This is the most important part of the entire investigative process. The Feasibility Study develops flood control options in detail, assigns costs to those options, calculates benefits to providing flood control, and, if successful, will choose a flood control project and prepare an EIR for that project. Costs are shared between the U.S. Army Corps of Engineers and the local sponsor, 50-50.

On September 15, 1998, the Board of Supervisors approved a cost sharing agreement with the Army Corps of Engineers that provided for funding the Feasibility Study process. The Corps estimated that the total cost of preparing the Feasibility Study would be \$1,300,826. Our local obligation, one-half of the total project cost, was \$650,413.

Work has proceeded on the Feasibility Study, but it has become apparent that project costs have significantly increased. This is due to a variety of reasons, some of which are the inclusion of the study of Del Puerto Creek as a part of the project, broadening the scope of the studies to include a wider range of flood control options, including the investigation of multi-use flood control facilities; and, the original estimate was too low. A revised budget has been prepared that is \$3,220,000, with our local obligation being one-half of that amount, or \$1,610,000. The products that we will be receiving under this new agreement include complete analysis of the Orestimba Creek basin including flooding patterns, potential damages, development and cost of flood control options, the development of the recommended project for flood control, and an environmental impact report for the chosen option.

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**DISCUSSION:**  
(continued)

For Salado and Del Puerto Creeks the cost of various flood control options and a complete damage assessment will be performed. This will allow us to calculate a benefit cost ratio for these two creeks. If the benefit cost ratio is positive (the benefits of a project exceed the cost to providing flood protection) then a new cost sharing agreement with the Corps would have to be negotiated.

Several operational changes have been made to the project to allow us to exercise a greater degree of cost containment. Some of these measures are:

- Large project briefing meetings are no longer held. Large meetings are only called when there is a specific reason and purpose for the meeting. When issues arise that call for a meeting, only those people actually involved in the issue under discussion will attend.
- Stanislaus County will have a representative at all meetings.
- The County is no longer making cash payments to the Corps. To meet our financial obligations and to control the project schedule, we are providing engineering services for the project. These services will be provided mainly by the use of consultants. Almost all project engineering is now being provided by the County.

We are exploring an option to allow proceeding with a flood protection project on Orestimba Creek ahead of projects on Salado Creek and Del Puerto Creek. This is being explored because the Orestimba flood control project will be much less complicated than projects on Salado Creek and Del Puerto Creek. It appears that a flood control project on Orestimba Creek could be ready for project approval at least one year ahead of Salado Creek/Del Puerto Creek projects. This option would not delay work on Salado Creek or Del Puerto Creek.

As previously mentioned, should this agreement be approved, Stanislaus County's financial obligation would be \$1,610,000. To date, our contributions toward this project totals \$744,564.93. This leaves a remaining financial obligation of \$865,435.07. The Cities of Newman and Patterson have a remaining financial obligation of \$196,131.92. This leaves an outstanding obligation of \$669,303.15. We have been able to obtain a grant from the State of California in the amount of \$325,000 for this project. This grant should be before the Board very shortly for approval. Some State expenses will be charged towards this grant, leaving approximately \$245,000 available for the project. This leaves an outstanding balance of \$424,303.15.

It is, therefore, recommended that the Board approve Amendment No. 1 to the Agreement for the US Army Corps of Engineers. This will allow the project to proceed in providing flood protection to the westside community.

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**POLICY**

**ISSUE:** This action is consistent with the Board of Supervisors goals of safe communities and inter-jurisdictional cooperation.

**STAFFING**

**IMPACT:** This study will be conducted by present staff with the use of consultants. No additional staff will be required.

GWS:ke

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AUDITOR-CONTROLLER  
BUDGET JOURNAL



Budget Organization **Stanislaus Budget Org**  
 Budget **LEGAL BUDGET**  
 Accounting Period From **Jul-00**  
 To **Jun-01**



BATCH SCREEN

Journal Batch Category **PW - LW Budget** BO --

Line	Coding Structure							Period	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6	May-01 AMOUNT		
110 2-1	0104	40310	87000	0	0	0	.0	425,000.00	Increase Intrafund Transfer
110 2-2	0104	40310	63280	0	0	0	.0	425,000.00	Increase Appr
3							.0		
4							.0		
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23							.0		
24							.0		
25							.0		
Totals								850,000.00	

Explanation:  
 Increase Appr and Intrafund transfers for West Stanislaus feasibility study contract

Requesting Department	CEO	Auditors Office Only	
 Larry Wendel Signature 01-May-01 Date	_____ Signature _____ Date	 Approved By 5/1/01 Date	_____ Admin Approval (\$75K+) _____ Date

**AMENDMENT NO. 1  
TO  
AGREEMENT BETWEEN  
THE DEPARTMENT OF THE ARMY AND STANISLAUS COUNTY  
FOR THE WEST STANISLAUS COUNTY, CALIFORNIA,  
FEASIBILITY STUDY**

This Amendment No. 1 is entered into this \_\_\_\_\_ of \_\_\_\_\_, 2001, by and between the Department of the Army (hereinafter referred to as "Government"), represented by the U.S. Army Engineer, Sacramento District (hereinafter referred to as "District Engineer"), and Stanislaus County (hereinafter referred to as "Sponsor"), represented by the Director of the Department of Public Works, Stanislaus County.

WITNESSETH, THAT:

WHEREAS, the Government and the Sponsor entered into an Agreement on September 29, 1998 to perform a feasibility study of West Stanislaus County, California, Feasibility Study (hereinafter referred to as "Study");

WHEREAS, Section 225 of the Water Resources Development Act of 2000, Public Law 106-541 (Section 225), amends Section 105(a)(1)(E) of the Water Resources Development Act of 1986, Public Law 99-662 (33 U.S.C. 2215(a)(1)(E), to allow the Sponsor to provide their entire share of Study Costs through the provision of in-kind services; and,

WHEREAS, the Government and the Sponsor desire to amend the Agreement to allow the increase in in-kind services provided by Section 225 to apply to work under this Agreement that has not yet been undertaken.

NOW, THEREFORE, the Government and the Sponsor agree to amend the Agreement as follows:

1. Article II.B. is changed by deleting "25" and substituting "50".
2. Notwithstanding the above, nothing in this Amendment requires the Government to refund or reimburse the Sponsor for funds previously contributed by the Sponsor to the Government for the Study.

3. Article III.A. is changed concerning the estimated Study cost and scope. As of the effective date of this amended Agreement, estimated Study costs are \$3,220,000 and the Sponsor's share of estimated Study costs is \$1,610,000. In order to meet the Sponsor's cash payment requirements for its share of estimated Study costs, the Sponsor must provide a cash contribution currently estimated to be \$329,000. The dollar amounts set forth in this Article are based upon the Government's best estimates, which reflect the revised scope of the Study described in the Project Management Plan, projected costs, price-level changes, and anticipated inflation. Such cost estimates are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Sponsor.
4. All other terms and conditions of the Agreement remain unchanged.

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 which shall become effective upon the date it is signed by the District Engineer.

**STANISLAUS COUNTY**

**DEPARTMENT OF THE ARMY**

By: \_\_\_\_\_  
George Stillman, Director  
Department of Public Works

By: \_\_\_\_\_  
Colonel, Corps of Engineers  
District Engineer  
Sacramento District

**APPROVED AS TO FORM:**

Michael H. Krausnick  
County Counsel

By:  \_\_\_\_\_  
John P. Doering  
Deputy County Counsel