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AMENDMENT TO AGREEMENT

THIS AGREEMENT is entered into on July 16, 1979, between the California Department of Boating and Waterways (DEPARTMENT) and the City of Benicia (APPLICANT).

I.

DEFINITIONS

PREVIOUS AGREEMENT - The agreement between DEPARTMENT and APPLICANT dated July 12, 1976, as amended July 18, 1977; December 5, 1977; and July 17, 1978.

EXHIBIT D - The report incorporated herein (Addendum, Benicia Marina, Feasibility Report, dated July, 1979) which sets forth the justification of a loan for the continued development of the Benicia Marina.

All other terms are as defined by the PREVIOUS AGREEMENT.

II.

GENERAL TERMS

The DEPARTMENT and APPLICANT agree as follows:

1. The part of the definition of the TERM OF THE AGREEMENT appearing on line 20 of the first page of the PREVIOUS AGREEMENT as reads "THIRTY (30)" shall be deleted and "FIFTY (50)" shall be substituted instead.

2. The part of paragraph 1 of the PREVIOUS AGREEMENT as reads by amendment "FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$4,800,000)" shall be deleted and the following substituted instead: "FIVE MILLION TWO HUNDRED THOUSAND DOLLARS (\$5,200,000)".

3. Paragraph 12(a) of the PREVIOUS AGREEMENT shall be deleted and the following substituted instead:

.....

1 "The repayment of principal and interest of the first FIVE HUNDRED
2 THOUSAND DOLLARS (\$500,000) of the loan shall be made in FORTY-THREE
3 (43) approximately equal annual installments as established by
the DEPARTMENT and shall be due and payable on the first day of
August of each year beginning with August 1, 1983.

4 "The repayment of principal and interest on that portion of the loan
5 over \$500,000 but less than \$3,350,000 and equaling TWO MILLION
6 EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$2,850,000) shall be made
7 in FORTY-THREE (43) approximately equal annual installments as
8 established by the DEPARTMENT; repayment of this portion shall
9 be due and payable on the first day of August of each year
10 beginning with August 1, 1984.

11 "The repayment of principal and interest on that portion of the
12 loan over \$3,350,000 but less than \$4,800,000 and equaling ONE
13 MILLION FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$1,450,000) shall
14 be made in FORTY-THREE (43) approximately equal annual installments
15 as established by the DEPARTMENT; repayment of this portion
16 shall be due and payable on the first day of August of each
17 year beginning with August 1, 1985.

18 "The repayment of principal and interest on that portion of
19 the loan in excess of FOUR MILLION EIGHT HUNDRED THOUSAND
20 DOLLARS (\$4,800,000) shall be made in TWENTY-SEVEN (27) approximately
21 equal annual installments as established by the DEPARTMENT;
22 repayment of this portion shall be due and payable on the
23 first day of August of each year beginning with August 1, 1986."

24 4. The following paragraph shall be added to the PREVIOUS AGREEMENT:

25 "36. The APPLICANT shall review berthing charges of other public and
26 privately owned boating facilities in the general area, serving the
27 same boating public, and shall then set rates at comparable levels
for comparable facilities and services; however, the rates for the
rental of berths within the project area described by this contract
shall not be less than \$3.50 per foot of boat or berth length
(whichever is longer) per month. The APPLICANT shall adjust such
rates as necessary to keep them at comparable levels with other
public and privately owned boating facilities in the general area;
however, such adjustments shall be made no less than once each year
and shall not be less than the equivalent percentage change (over the

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preceding year) in the United States Bureau of Labor Statistics' Consumer Price Index for the United States, or such other index as selected by the DEPARTMENT".

5. The part of paragraph 17 of the PREVIOUS AGREEMENT as reads "May 1, 1980" shall be deleted and "May 1, 1981" shall be substituted instead.

6. Save and except as herein amended, the PREVIOUS AGREEMENT shall remain in full force and effect.

STATE OF CALIFORNIA

DEPARTMENT OF BOATING AND WATERWAYS

CITY OF BENICIA

BY Margaret Mercedes
Director

BY Werner R. O'Brien

7-9-80
Date Signed

June 30, 1980
Date Signed

I hereby certify that all conditions for exemption set forth in State Administrative Manual Section 1209 have been complied with and this document is exempt from review by the Department of Finance.

Margaret Mercedes
Director

FORM	VALUE	BUDGET	DESCRIPT.
Department of General Services			
APPROVED			
JUL 30 1980			
BY <u>Diane Kuckham</u>			
Deputy Director			

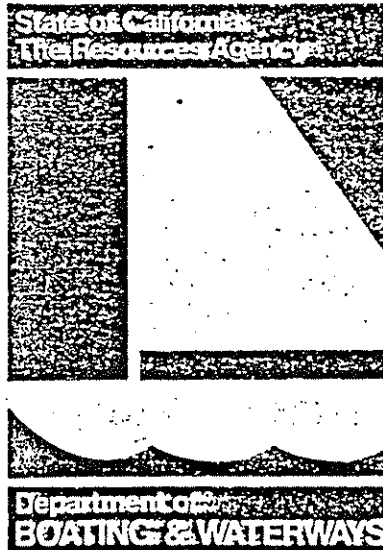
ADDENDUM*

BENICIA MARINA

PHASE IV

FEASIBILITY REPORT
JULY 1979

\$400,000
Fourth Increment Loan



ADDENDUM
to
BENICIA MARINA FEASIBILITY REPORT

PROJECT DESCRIPTION

The proposed site of the marina is on the northern shoreline of the Carquinez Straits within the city limits of Benicia and will be a major part of a waterfront development plan which will encompass the entire shoreline of the City of Benicia. The marina will consist of a small craft harbor with 309 berths, a breakwater, a deepwater entrance channel, parking areas, fuel dock, overnight berthing, sanitary facilities, landscaping and utilities.

PREVIOUS COMMISSION ACTION

The Boating and Waterways Commission consented to the first loan increment of \$500,000 at its meeting held at Eureka, on July 9, 1976, and to the second loan increment of \$2,000,000 at its meeting held at Oxnard on July 15, 1977. In December, 1977, a third loan increment of \$850,000 was required to complete the construction of Phase II. The Commission approved a category fund transfer at the Emeryville meeting on December 2, 1977, transferring \$850,000 to the Benicia project. In July, 1978, the Commission consented to a fourth loan increment of \$1,450,000.

PROPOSED FUNDING

The fifth increment of the loan, amounting to \$400,000, is included in the current fiscal year's budget; although this is the balance of the total loan, the engineer's estimate for the final construction phase for the marina is more than the funds available for the project. The City must pay for the cost overrun or seek a lessee to complete the marina development.

PROJECT PROGRESS

A number of old and deteriorated piles along the shoreline within the project site have been removed. This was essential for the design of the harbor entrance as stated in Dr. Krone's report on siltation in the Carquinez Straits. Dredging has been completed for the project, and the marina basin and the sheet pile breakwater at the entrance to the marina were completed in January, 1979.

The engineering consultant obtained by the City of Benicia has completed the final plans and specifications for the Phase III construction, and the City is preparing to advertise for bids for the final phase.

Phase III construction will consist of parking lot paving, restrooms, a pumpout facility, fuel dock facility, berthing system for 309 boats, gangways, irrigation and landscaping and utilities.

ENGINEERING ANALYSIS

The engineering feasibility of the proposed project at Benicia has not changed from that presented in the Department's "Benicia Marina Feasibility Report" dated July, 1976.

ECONOMIC JUSTIFICATION AND FINANCIAL FEASIBILITY

It was anticipated that the maximum loan amount to be provided to the City of Benicia for construction of the Benicia Marina would be \$5,200,000. However, since the projected construction cost of the marina now exceeds the maximum loan amount, the City must either (a) provide the funds for those project costs in excess of the original loan amount, or (b) seek a lessee to complete the revenue-producing features of the marina development. Under either of the above alternatives, the project continues to be economically justified.

The revised financial feasibility under conditions of a lessee developing all the revenue-producing features of the marina is presented in the following table. As demonstrated by this table, the project remains financially feasible.

RECOMMENDATION

The Department of Boating and Waterways recommends Commission consent to the last increment of funding in the amount of \$400,000 to the City of Benicia.

REVISED FINANCIAL ANALYSIS
of the Benicia Marina

Fiscal Year	CONCESSIONS REVENUES ^{1/}		LOAN EXPENSES					Annual Net Income
	Berthing ^{2/}	Restaurants, Apartments, Offices, Etc. ^{3/}	Total	\$500,000 Phase I	\$2,850,000 Phase II	\$1,450,000 Phase III	\$450,000 Phase IV	
1976-77								
77-78								
78-79								
79-80								
1980-81	\$ 16,000		\$ 16,000					\$ 16,000
81-82	44,000	\$ 38,000	82,000					82,000
82-83	89,000	79,000	168,000					168,000
83-84	125,000	160,000	285,000					285,000
84-85	132,000	220,000	352,000					352,000
85-86	141,000	250,000	391,000	\$36,000	\$205,000	\$104,000		345,000
87-88	149,000	250,000	409,000	\$36,000	\$205,000	\$104,000	\$29,000	374,000
2026-27								
27-28								
28-29								
29-30	\$149,000	\$260,000	\$409,000	\$36,000	\$205,000	\$104,000	\$29,000	\$374,000

^{1/} Revenue figures are escalated at 6% per year until the total loan is being repaid.

^{2/} Assumes an average base berth rental rate of \$3.50/ft./month and that the lessee will pay a rent equal to 25% of berth rental fees collected.

^{3/} Concessions income other than berthing is based on concessions income predicted in Addendum to Benicia Marina Feasibility Report, dated July, 1976; however, the anticipated schedule of development has been delayed two years.

AMENDMENT TO AGREEMENT

THIS AGREEMENT is entered into on April 1, 1981, between the California Department of Boating and Waterways (DEPARTMENT) and the City of Benicia (APPLICANT).

I.

DEFINITIONS

PREVIOUS AGREEMENT - The agreement between DEPARTMENT and APPLICANT dated July 12, 1976, as amended July 18, 1977, December 5, 1977, July 17, 1978, and July 16, 1979.

All other terms are as defined by the PREVIOUS AGREEMENT.

II.

GENERAL TERMS

The DEPARTMENT and APPLICANT agree as follows:

- 1. The part of paragraph 17 of the PREVIOUS AGREEMENT as reads by amendment "May 1, 1981" shall be deleted and "May 1, 1983" shall be substituted instead.
2. Save and except as herein amended, the PREVIOUS AGREEMENT shall remain in full force and effect.

STATE OF CALIFORNIA

DEPARTMENT OF BOATING AND WATERWAYS

CITY OF BENICIA

By [Signature] Director

By [Signature] MAYOR

[Signature] CITY CLERK

May 5 1981 Date Signed

Date Signed

FORM POLICY BUDGET
Department of General Services
APPROVED
DEC 3 1981
BY [Signature]
Asst. Chief Counsel

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I hereby certify that all conditions for exemption set forth in State Administrative Manual Section 1209 have been complied with and this document is exempt from review by the Department of Finance.

Margaret M. Meranda
Director

DEPARTMENT OF BOATING AND WATERWAYS

CONTRACT # 6-21-73 with City of Escondido
Amendment # 5
APPROPRIATION DATA CS 923/76, Item 553 (a) F.Y. 1980-81
FUND Harbors and Watercraft Revolving Fund

Line Item Allotment 1000 - extends completion time

Amount of this estimate \$ -0-
Unencumbered Balance after posting this estimate \$

I certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.

6/4/77
Date

Arthur J. Lee
Accounting Officer

RESOLUTION NO. 3-81

A RESOLUTION AUTHORIZING THE PRESIDENT AND CLERK TO EXECUTE THE AMENDMENT TO THE ORIGINAL LOAN AGREEMENT BETWEEN THE SURPLUS PROPERTY AUTHORITY AND THE DEPARTMENT OF BOATING AND WATERWAYS - BENICIA MARINA

BE IT RESOLVED BY THE COMMISSION OF THE SURPLUS PROPERTY AUTHORITY OF THE CITY OF BENICIA that its President, Warren R. O'Blennis, and Clerk, Betty M. Pellinen, be and they are hereby authorized to execute the Amendment to the original Loan Agreement between the Surplus Property Authority and the Department of Boating and Waterways - Benicia Marina.

On motion of Commissioner Cody, seconded by Commissioner Lipman, the above resolution was introduced and passed by the Commission of the Surplus Property Authority of the City of Benicia at a regular meeting of said Commission held on the 21st day of April, 1981, and adopted by the following vote:

Ayes: Commissioners Arteaga, Cody, Lipman, Winston and President O'Blennis

Noes: None

Absent: None

Attest:

/s/ Warren R. O'Blennis
Warren R. O'Blennis, President

/s/ Betty M. Pellinen
Betty M. Pellinen, Clerk

I, Betty M. Pellinen, Clerk of the Surplus Property Authority of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Resolution No. 3-81 was introduced and passed by the Commission of the Surplus Property Authority of the City of Benicia at a regular meeting of said Commission on the 21st day of April, 1981, and adopted by the following vote:

Ayes: Commissioners Arteaga, Cody, Lipman, Winston and President O'Blennis

Noes: None

Absent: None

WITNESS my hand and the seal of said Authority
of April, 1981.

Betty M. Pellinen
Betty M. Pellinen,

RESOLUTION NO. 81-50.

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE THE AMENDMENT TO THE ORIGINAL LOAN AGREEMENT BETWEEN THE CITY OF BENICIA AND THE DEPARTMENT OF BOATING AND WATERWAYS - BENICIA MARINA

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BENICIA that Warren R. O'Blennis, Mayor, and Betty M. Pellinen, City Clerk, be and they are hereby authorized to execute the Amendment to the original Loan Agreement between the City of Benicia and the Department of Boating and Waterways - Benicia Marina.

On motion of Councilman Cody, seconded by Councilman Lipman, the above resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 21st day of April, 1981, and adopted by the following vote:

Ayes: Councilmen Arteaga, Cody, Lipman, Winston and Mayor O'Blennis

Noes: None

Absent: None

Attest:

/s/ Warren R. O'Blennis
Warren R. O'Blennis, Mayor

Betty M. Pellinen
Betty M. Pellinen, City Clerk

I, Betty M. Pellinen, City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing resolution was introduced and passed by the Council of the City of Benicia at a regular meeting of said Council held on the 21st day of April, 1981, and adopted by the following vote:

Ayes: Councilmen Arteaga, Cody, Lipman, Winston and Mayor O'Blennis

Noes: None

Absent: None

WITNESS my hand and the seal of said City this 22nd day of April, 1981.

Betty M. Pellinen
Betty M. Pellinen, City Clerk