



REPORT TO COUNCIL
City of Sacramento
915 I Street, Sacramento, CA 95814-2604
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STAFF REPORT
January 5, 2006

Honorable Mayor and
Members of the City Council

Subject: Port of Sacramento Governance Modification

Location/Council District: Citywide

Recommendation:

Adopt a Resolution authorizing execution of a Joint Port Governance Agreement outlining a proposed modification of governance for the Port of Sacramento, and related actions.

Contact: Tom Zeidner, Senior Project Manager, (916) 808-1931

Presenters: Tom Zeidner, Senior Project Manager

Department: Economic Development

Division: Citywide

Organization No: 4453

Summary:

This report describes the results of recent negotiations concerning a proposed modification of the governance structure of the Sacramento-Yolo Port District Commission in order to grant the City of West Sacramento a voting majority on that Commission.

Committee/Commission Action: None

Background Information:

Staff has been reporting to the Council on a regular basis recently concerning the woes faced by the Port of Sacramento. The origins of the Port go back to 1947, when the Sacramento-Yolo Port District entity was created by a vote of the citizens of Sacramento and Yolo Counties. This entity was subsequently authorized to construct and operate an inland deepwater port, ship channel and harbor for the purpose of expanding the economy of the Sacramento region. Voter-approved bond issues

followed and the ship channel and port facilities were constructed between 1949 and 1963, when the facility opened for business.

The working Port terminal occupies 150 acres of land (shown in Exhibit C to the Attachment) in the geographic center of the City of West Sacramento, which incorporated around the Port property in 1987. The Port entity also owns several hundred acres of undeveloped land (shown in Exhibit E to the Attachment) located directly across the deepwater channel from the Port Terminal. This undeveloped property is commonly referred to as "Southport".

The Sacramento-Yolo Port District Commission is the governing Board of the Port of Sacramento. As originally composed, the Commission consisted of five members, with two representing the City of Sacramento, two representing the County of Sacramento and one representing Yolo County. Following incorporation of the City of West Sacramento, the Commission was enlarged and its composition modified. This resulted in a seven-member Commission, with one each from City of West Sacramento and Yolo County, two each from the City of Sacramento and Sacramento County, and a single member jointly appointed by Sacramento City and County.

As has been discussed in earlier reports to Council, the Port is currently at a critical juncture. Cargo volumes and revenues are in decline and a serious cash deficit is in the offing. Against this backdrop, some in the community believe the Port is no longer viable and has outlived its usefulness, while others believe it could be an economic engine adding greater vitality to the region. While these issues have been under discussion for years, current circumstances add considerable urgency to the situation, prompting the Port and its appointing jurisdictions (City of West Sacramento, Yolo County, City of Sacramento and Sacramento County) to closely examine the Port's future.

To address the issue of long-term viability, the Port commissioned a Maritime Demand Analysis and Port Master Land Use Plan. The goal of these was to provide a fact-based analysis to assist policy makers in clearly defining the Port's future. In doing so, the scope of the effort was to include the following elements:

- Provide a detailed assessment of the market opportunities, competitiveness and cargo outlook for the Port;
- Characterize the Port's regional economic significance;
- Identify the Port's future facility and land requirements;
- Provide recommendations on a Port development strategy;
- Evaluate the potential for non-maritime activities on the Port's undeveloped lands;
- Evaluate land-use alternatives in the Port area;
- Identify traffic and air quality impacts associated with port activity; and
- Establish a land-use plan that protects and buffers Port and non-Port activities.

The Maritime Demand Analysis was completed in September, 2004. Among its findings was a conclusion that, should the Port remain open, all anticipated cargo volumes could be handled on property north of the shipping channel. Thus, the bulk of the Port's vacant property in the Southport area was deemed to be surplus to current and future needs as projected in that study.

The Master Land Use Plan therefore proceeded to develop alternative scenarios for non-maritime use of these surplus Port lands. This was done through two public workshops in the latter half of 2004. The process resulted in five land use alternatives, ranging from an expansion of Port-related activities to Southport, to eliminating Port activities completely in favor of residential and commercial development.

The five alternative land-use scenarios were presented to the Port Commission and West Sacramento City Council in February 2005. Rather than providing recommendations regarding preferred alternative(s), both bodies recommended preparation of findings and principles on which to base formulation of a preferred conceptual land use plan. A joint meeting of the Port Commission and West Sacramento City Council was held on February 28, 2005, at which time the findings and principles were approved.

Prominent within both was the matter of Port governance and the City of West Sacramento's representation therein. As mentioned above, West Sacramento currently appoints only one of seven members to the Port Commission. Among the findings approved on February 28th was that "there is a fundamental imbalance in Port governance – the host city has inadequate representation on the Port Commission." Accordingly, a guiding principle concurrently approved was: "The appointing jurisdictions are committed to amending the governance structure of the Port District to provide the City of West Sacramento a greater voice on the Port Commission."

On June 7, 2005, following one of Staff's periodic updates on the Port, the City Council adopted an intent motion with respect to a potential shift in governance in favor of the City of West Sacramento. That motion specified four conditions to be satisfied in connection with any relinquishment of representation by the City and County of Sacramento on the Port Commission. Those conditions were:

1. There will be no liability or recourse back to the City and County and Sacramento due to actions on the part of the Port;
2. The Port Commission's powers, which include that of real property condemnation, will not be exercised in the City or County of Sacramento without specific prior authorization from those jurisdictions;
3. The Port's deepwater channel and terminal cannot be sold or dismantled without prior consent of the City and County of Sacramento; and

4. The City and County of Sacramento are to receive a fair return on their original investment in the Port of Sacramento.

The fourth condition relates to the City and County of Sacramento having funded more than 90 percent of the original costs associated with acquiring Port property and constructing its facilities. To assure that the City and County receive recompense for this investment in connection with relinquishing some or all representation on the Port Commission, arrangements were to be considered to allow sharing of revenues that result from eventual development of the Southport property.

Staffs representing the various appointing jurisdictions have thus been in discussions regarding potential terms of an arrangement through which the City of West Sacramento would be given a greater voice in the Port's governance. Those discussions resulted in a Letter of Intent (LOI), approved by the Council on September 27, 2005. That LOI indicated the general agreement of the appointing jurisdictions to support state legislation that will: 1) reduce the geographic boundaries of the Port District to coincide with Yolo County's first supervisorial district; and 2) reduce the Port Commission to five members, four of whom will be appointed by the City of West Sacramento, and one by the County of Yolo.

The LOI also signaled the appointing jurisdictions' intent to execute a formal binding agreement directing the Port to "expeditiously market its Seaway real estate" (the surplus Southport property referred to above). Resulting transactions will generally require that property be sold for no less than 90 percent of either appraised value or offering price. The City and County of Sacramento are to be given notice of pending sales or leases of Port property, as well as any request for proposals (RFP), appraisals, or offerings involving Port property. Following such notification, the City/County will have 30 days to express any objections to the terms of proposed sales, RFPs, appraisals or offerings. In event such objections cannot be resolved, the Port may refer the matter to arbitration.

The LOI intends that the subject property will be completely liquidated, or leased, within ten years. The ten-year period may be extended upon agreement of all parties to the LOI. In the event any property is not liquidated or leased after ten years, and such period is not extended, remaining property will go to a third party commercial real estate firm for liquidation.

The LOI was specific in the disposition of funds from the Port's sale or lease of the surplus property. The first \$50 million will be retained by the Port for its payment of obligations including: 1) payment of outstanding debt; 2) operations liabilities, to include pension fund payments, and other liabilities; 3) addressing deferred maintenance at the Port terminal facilities; and 4) costs related to transition to a "landlord" Port.

The parties to the LOI further agreed that, once this \$50 million accrues to the Port, the next \$23 million in proceeds will be paid into a Riverfront Enhancement Fund, to be controlled by the City and County of Sacramento. The next and subsequent \$27 million resulting from the sale of Port property will be shared equally between the Port and the

Enhancement Fund. To the extent that there are sales proceeds exceeding \$100 million, 60 percent of these will accrue to the Enhancement Fund, with the remaining 40 percent accruing to the Port.

The intent of the Riverfront Enhancement Fund will be to finance projects of regional benefit along the Sacramento and American Rivers, within Sacramento and Yolo Counties. Proposed projects are to be described in summary form to the Port District by the City and County of Sacramento. The District and its Commission will have 30 days to reject proposed projects. In the event such objections are not resolved, the disputed matter may be referred to arbitration.

To address other conditions contained in the intent motion adopted by the City Council on June 7th, the LOI indicated the parties' intent to prohibit exercise of the Port's powers within the City and County of Sacramento without specific authorization from those entities. The Port's deepwater channel and terminal are also agreed not to be sold or dismantled without the prior consent of the City and County of Sacramento and the County of Yolo.

With approval of the LOI by the appointing jurisdictions, administrative staff representing those entities has been engaged in drafting a formal binding agreement incorporating the terms and intent of the LOI. In addition to those mentioned above, other provisions of the LOI to be incorporated that agreement will be interim modifications to the composition of the Port Commission such that: 1) the City and County of Sacramento will each retain one of their seats on the Commission; 2) the County of Yolo will retain its one seat; and 3) the City of West Sacramento will have four seats on the Port Commission. In increasing West Sacramento's interim representation on the Commission, the City and County of Sacramento will: 1) reaffirm the Mayor of West Sacramento is their joint appointment; and 2) each appoint members of the West Sacramento City Council as their second seats on the Commission. This interim modification to the Commission will remain in effect until legislation is adopted at the state level, permanently modifying the Commission to four appointees from the City of West Sacramento and one from the County of Yolo.

A Joint Port Governance Agreement is now in final form and is included with this report as Attachment 1 for the Council's consideration and approval. This Agreement formalizes the above-described provisions of the LOI, and provides direction related to the administration of some provisions. These include requiring that the first \$50 million in land sale proceeds to be retained by the Port be used for expenditures that directly benefit the Port including 1) pay existing and contingent obligations; 2) putting the north terminal facilities in a good state of repair; 3) funding transition costs to implement recommendations contained within the Maritime Demand Analysis; and 4) satisfying all Port pension fund and bond reserve obligations.

The Agreement also requires the reconfigured Port to "indemnify, defend, protect and hold harmless" the original appointing jurisdictions into the future, including any period after the City and County of Sacramento cease to be represented on the Port

Commission. Both the City and County will be named as "additional insureds" within liability insurance policies that the Agreement will require the Port to maintain.

Concurrent with its reconfiguration as outlined within the Joint Port Governance Agreement, the Port of Sacramento is pursuing a strategic operating alliance with the Port of Oakland. Indeed, at its meeting of December 20, 2005, the Oakland Port Commission approved a Memorandum of Understanding (MOU) outlining an arrangement through which the Oakland entity will assume operating responsibilities at the Port of Sacramento beginning midyear in 2006. Through this alliance, the Sacramento Port is expected to benefit from Oakland's maritime industry relationships and alliances, and its operational expertise as the nation's fourth largest port. The Port of Sacramento should also benefit by way of shipping container traffic between Oakland and Sacramento, via barges moving through the existing deepwater channel, as contemplated within the MOU.

The attached Resolution approves the terms of the Joint Port Governance Agreement and authorizes its execution on behalf of the City of Sacramento. As mentioned above, the Agreement provides for the City of Sacramento to retain one of its two current appointees on the Port Commission, while appointing a member of the West Sacramento City Council to its second position. Thus, the Resolution also authorizes the appointment of West Sacramento City Councilmember Oscar Villegas as one of the City of Sacramento's two representatives on the Commission.

The process described above related to sales of excess property provides for a 30-day period for "administrative approval" of proposed transactions by the City of Sacramento. It could prove unwieldy for each of these transactions to be considered at a formal meeting of the City Council. Therefore, the Resolution grants to the City Manager authority for administrative approval of individual transactions.

Finally, excess property sales proceeds in excess of \$50 million will accrue to a Riverfront Enhancement Fund. The Resolution thus authorizes the City Manager to arrange, with administrative staff from the County of Sacramento, the establishment and administration of the Fund, pursuant to the terms of the Joint Port Governance Agreement.

Financial Considerations:

Approval and execution of the Joint Port Governance Agreement and related actions will have no direct financial impact on the City of Sacramento. Any projects approved pursuant to the Riverfront Enhancement Fund described herein will be funded solely by that Fund, unless otherwise approved specifically by the City Council.

Environmental Considerations:

Projects funded through the Riverfront Enhancement Fund will be subject to specific environmental review, as required.

Policy Considerations:

The actions described in this report are consistent with the City's Strategic Plan goals to expand economic development throughout the City and achieve sustainability and livability.

Emerging Small Business Development (ESBD):

No goods or services are being purchased in connection with the recommended action.

Respectfully Submitted By: 
Wendy S. Saunders
Economic Development Manager

Recommendation Approved:


RAY KERRIDGE
Interim City Manager

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**APPROVING A JOINT PORT GOVERNANCE AGREEMENT
TO MODIFY THE GOVERNANCE STRUCTURE OF THE
SACRAMENTO-YOLO PORT DISTRICT COMMISSION AND RELATED ACTIONS**

BACKGROUND

- A. On June 7, 2005, Council adopted an intent motion indicating conditions under which the City of Sacramento (City) would support diminishing its role in the governance of the Sacramento-Yolo Port District Commission (Port Commission) in favor of the City of West Sacramento.
- B. A Letter of Intent (LOI) consistent with the intent motion was approved by the Council on September 27, 2005, indicating the general terms under which the appointing jurisdictions of the Port Commission would proceed in modifying the governance structure of the Port Commission.
- C. A Joint Port Governance Agreement (Agreement) has since been negotiated amongst the appointing jurisdictions of the Port Commission remunerating specific terms under which they will proceed in modifying the governance structure of the Port Commission.
- D. The terms specified in the Agreement are consistent with those of the intent motion and LOI.
- E. The Agreement calls for the City to appoint a member of the West Sacramento City Council as one of its two appointees to the Port Commission.
- F. The Agreement provides for administrative approval by the City of proposed sales of excess real property by the Port Commission (Sales Proceeds).
- G. The Agreement calls for the establishment of a Riverfront Enhancement Fund to receive Sales Proceeds.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

- Section 1. The terms of the Agreement presented at this meeting of the Council are hereby approved.
- Section 2. Mayor Fargo, Councilmember Waters and the City Manager are authorized to execute the Agreement on behalf of the City.
- Section 3. The City hereby appoints Oscar Villegas, a current member of the West Sacramento City Council, as one its two appointees to the Port Commission.

Section 4. The City Manager is authorized to evaluate sales of excess real property proposed by the Port Commission and grant administrative approval of such sales, as appropriate, based upon criteria contained within the Agreement.

Section 5. The City Manager is authorized to arrange, in cooperation with the County of Sacramento, the establishment and administration of a Riverfront Enhancement Fund to receive Sales Proceeds pursuant to the Agreement.

JOINT PORT GOVERNANCE AGREEMENT

This Joint Port Governance Agreement (this "Agreement") is by and between the Sacramento-Yolo Port District (the "Port"), the County of Yolo, the County of Sacramento, the City of Sacramento, and the City of West Sacramento (the cities and counties are collectively referred to herein as the "Member Jurisdictions"), for the purposes stated herein. The Port and the Member Jurisdictions are collectively referred to herein as "Parties," and individually referred to herein as "Party," as the context requires.

RECITALS:

A. The Port faces significant financial distress prompting several recent studies, including a maritime demand analysis, master land use plan and financial and operational analysis and a workout plan; and

B. Those studies stimulated renewed discussions regarding possible changes to the structure of governance of the Port; and

C. The Port and the Member Jurisdictions have endorsed guiding principles regarding the future of the Port including the need to modify the governance of the Port to increase representation from the City of West Sacramento; and

D. The Port Commission requested that administrative executives from the Member Jurisdictions examine the issues surrounding a change in governance and recommend a course of action, and the administrative executives have presented a set of recommendations to the Port Commission and its Member Jurisdictions; and

E. In accordance with the 2004 Port of Sacramento Maritime Demand Analysis, defined real estate owned by the Port, with the exception of the North Terminal Property and the Deepwater Channel (as hereinafter defined), can be sold as necessary by the exercise of the Port's powers to satisfy existing obligations and to recognize previous investments; and

F. Upon the full implementation of this Agreement, in the event of a closure, liquidation or other legal action resulting in closure or liquidation, current law provides the City of West Sacramento would be the beneficiary of all Port assets, net of liabilities, as a result of the governance change contemplated herein; and

G. During the months of September and October 2005, the Port Commission and each Member Jurisdiction approved of that certain Letter of Intent attached hereto as Exhibit "A" ("Letter of Intent"). The Letter of Intent addressed, among other things, the terms and conditions under which the Port and Member Jurisdictions have agreed to accomplish a change in the governance structure of the Port. The Parties to the Letter of Intent intended that the principles expressed therein be implemented by means of a legally binding agreement. This Agreement is entered into to achieve such purpose; and

H. The City of Sacramento and the County of Sacramento have established the following four conditions for modifying the governance of the Port to increase representation from the City of West Sacramento:

1. There should be no liability or recourse back to the City of Sacramento and the County of Sacramento due to actions of the Port;

2. The Port Commission's powers cannot be exercised in the City of Sacramento or the County of Sacramento without the specific authorization of those jurisdictions;

3. The Port's Deepwater Channel, as described in Exhibit B hereto, and North Terminal Property, as described in Exhibit C hereto, will not be sold or dismantled without prior consent of the City of Sacramento and the County of Sacramento;

4. The City of Sacramento and the County of Sacramento should receive a fair return on their original investment in the Port; and

I. The Parties seek to recognize investments in the Port by directing revenues not immediately required by the Port to projects of mutual benefit to the Parties through the Riverfront Enhancement Fund herein established; and

J. The pressing nature of the Port's financial situation requires immediate action to maintain control, preserve options and achieve the best outcome in the best interests of the Port and the Member Jurisdictions;

NOW, THEREFORE, THE PARTIES DO AGREE AS FOLLOWS:

1. Transition Government

A. Within seven (7) calendar days of the Effective Date of this Agreement the Parties to this Agreement agree that, consistent with existing law, one current member each from the City of Sacramento and the County of Sacramento shall resign from the Port Commission, the City of West Sacramento shall nominate two members of the City Council in the normal manner to fill those resigned positions, and the City of Sacramento and the County of Sacramento shall appoint those nominees to the vacant seats for which they have appointing authority pursuant to current law. Thereafter:

(1) The City of Sacramento and the County of Sacramento shall reaffirm that the Mayor of the City of West Sacramento represents their joint appointment to the Port Commission.

(2) The County of Sacramento shall appoint a member of the West Sacramento City Council as its second seat on the Port Commission as submitted by the West Sacramento City Council.

(3) The City of Sacramento shall appoint a member of the West Sacramento City Council as its second seat on the Port Commission as submitted by the West Sacramento City Council.

(4) The City of West Sacramento shall retain its own appointment to the Port Commission.

(5) The County of Yolo shall retain its own appointment to the Port Commission.

B. The reconstituted Port Commission shall comply with the provisions of this Agreement in a manner consistent with law.

2. Legislation

The Port Commission shall prepare legislation to propose to the California State Legislature, the language of which shall be subject to the approval of the Member Jurisdictions ("Proposed Legislation"). The Parties each shall use their best efforts to introduce the Proposed Legislation at the beginning of the 2006 year of the legislative session. The Proposed Legislation shall include provisions to accomplish the following:

A. Contracting the size of the Port so that the boundaries would coincide with the first supervisorial district of the County of Yolo as of the date of the Letter of Intent, which boundaries are described in Exhibit D hereto.

B. Changing the Port governing board to five members as follows:

(1) Four (4) members appointed by the City of West Sacramento, who will be residents of the City of West Sacramento;

(2) One (1) member appointed by the County of Yolo, who will be a resident of the City of West Sacramento.

C. Establishing provisions to:

(1) Insure that the Port Commission membership changes and any related operational changes are consistent with laws providing that they are not incompatible offices.

(2) Authorize the establishment of, deposit to and use of funds in the Riverfront Enhancement Fund described in Section 5 of this Agreement, and authorize the disposition of net proceeds of sale of property upon dissolution as provided for in Section 5.B. hereof.

(3) Require the consents for certain Port actions as set forth in Sections 6.A. and 6.B. hereof.

3. Seaway Property Disposition

A. Upon the Effective Date of this Agreement, the Port Commission shall commence to expeditiously market its Seaway real estate (the "Seaway Property or Properties") described in Exhibit E hereto.

B. Prior to the disposition of any of the Seaway Properties, defined herein as the sale of any of the Seaway Properties or the lease of any of the Seaway Properties for a term greater than five (5) years, including any RFP, appraisal or offering relating to such sale or lease as described above, the Port Commission shall find that such disposition is consistent with the goal of maintaining the on-going operation of the Port and its financial viability.

C. Disposition of the Seaway Properties shall proceed in consultation with the City of Sacramento and the County of Sacramento in the manner set forth below and which permits

the Port to secure favorable prices without jeopardizing Port operations and its on-going financial viability:

(1) The Port will provide the City of Sacramento and the County of Sacramento thirty (30) calendar days notice of the terms of the disposition and will forward to the City of Sacramento and the County of Sacramento copies of any appraisals, contracts, RFPs, leases, written offers to purchase or lease, and written materials received by the Port from the prospective purchaser or lessee or their representatives, as applicable, including a written statement explaining why the proposed disposition represents a fair market value return as defined in Section 3.C.6.

(2) Disposition will require the administrative approval of the City of Sacramento and the County of Sacramento except as provided in Section 3.C.5 below.

(3) Administrative approval or denial of a disposition shall be based solely upon a determination of whether the disposition represents a fair market value return for the property as set forth in Section 3.C.6. Any administrative denial of a disposition must be supported in writing setting forth the reasons for the denial and any changes that would make the transaction acceptable.

(4) The City of Sacramento and the County of Sacramento shall have thirty (30) calendar days from the date of receipt of the notice and any applicable materials set forth in 3.C.1. above, to object in writing to the terms of a disposition. If the Port receives no objection within the thirty (30) calendar day period, the disposition is deemed approved. A proposed disposition shall not be considered for approval by the Port Commission until the thirty (30) day period of time has elapsed or, if rejected, until the receipt of a final, binding decision by an arbitrator as contemplated in Section 3.C.6, below. If a counter-proposal is submitted by the City of Sacramento and the County of Sacramento with an objection, the Port may proceed with a disposition on such terms as contained within the counter-proposal without the need for further administrative review or approval provided that the City of Sacramento and the County of Sacramento are notified of the Port's acceptance of such counter-proposal. Resubmission for administrative approval or denial, although not required, is only necessary if the Port chooses to propose a modification to a counter-proposal.

(5) No administrative approval shall be required, and no objection to a proposed disposition may be made, if any of the following conditions are met:

a. The specific Seaway Property is ten (10) acres or less in size; however, the above-referenced administrative approval will be required for more than one disposition of Seaway Property, ten (10) acres or less in size, to the same buyer within a two-year period of the first disposition; or

b. If the specific Seaway Property has been offered for at least one hundred-eighty (180) days pursuant to an offering approved under Section 3.C.4, above, and the sales or capitalized lease price is at least ninety percent (90%) of the offering price; or

c. If an M.A.I. appraisal has been prepared for the specific Seaway Property, and approved under Section 3.C.4, above, and the sales or capitalized lease price is at least ninety percent (90%) of the appraised value; or

d. If the Port solicits proposals for the specific Seaway Property pursuant to an RFP approved under Section 3.C.4, above, and receives at least three proposals and selects a proposal that is at least ninety percent (90%) of the highest proposal; or

e. If the specific project is contained within the Sacramento Riverfront Master Plan dated July 2003 and adopted by the Sacramento City Council and the West Sacramento City Council on July 31, 2003, as amended.

(6) Notwithstanding Section 3.C.5, above, if the City of Sacramento or the County of Sacramento objects to a proposed disposition of specific Seaway property, pursuant to Section 3, above, and the Port rejects such objection, the Port may refer the matter to arbitration under the provisions of Sections 6.D., 6.G. and 6.H., hereof. The arbitrator shall then determine whether the proposed disposition falls within one or more of the express exceptions to the requirement for City of Sacramento or County of Sacramento administrative approval or, if not, whether the proposed disposition is the product of an open and fair marketing and selection process between knowledgeable parties. The arbitrator's determination as to the disposition shall be final and binding upon the Parties as provided in Civil Code section 1285 *et seq.*

(7) The Port is not required to notify the City of Sacramento and the County of Sacramento of the terms of a lease disposition of any Seaway Properties for a term of less than five (5) years. Such disposition is neither the subject of notice, administrative approval or rejection by the City of Sacramento or the County of Sacramento.

(8) All Seaway Property will be disposed of within ten (10) years of the Effective Date of this Agreement; however the ten (10)-year period may be extended upon written agreement of all Parties. The Parties agree that the approval of any extension of time will not be unreasonably withheld.

(9) If the ten (10)-year period is not extended by mutual written agreement, the Port will place all remaining Seaway Properties with a third party commercial real estate firm for liquidation.

4. Distribution of Proceeds from Seaway Property Disposition

A. The proceeds from the disposition of Seaway Properties shall be distributed such that:

(1) The first \$50 million of proceeds is to be retained by the Port, and used for expenditures that directly benefit the Port, to:

a. Pay existing and contingent obligations, including but not limited to:

- (i) The payment of outstanding debt;
- (ii) The payment of operations liabilities;

- (a) Accounts Payable;
 - (b) Other operations liabilities;
 - (iii) The payoff of obsolete equipment leases;
 - (iv) Environmental cleanup;
 - (v) The creation of working capital;
 - (vi) The creation of a reserve fund for operations;
- b. Putting the north terminal facilities in a state of good repair; and
 - c. Funding the transition costs to implement the maritime demand analysis prepared by Parsons Brinckerhoff on September, 2004.
 - d. Keep all Port pension fund obligations, if any, current, and to ensure that all Port bond reserve obligations are met.

(2) Revenues from the disposition of the Port's Seaway Properties beyond the initial \$50 million would accrue to the Riverfront Enhancement Fund (the "Fund"), described in Section 5 below, for programs and projects (the "Project") described therein of mutual benefit to the Parties until \$23 million had been so delivered.

(3) The next \$27 million in revenues from the disposition of the Port's Seaway Properties are to be equally shared between the Port and the Fund.

(4) Any revenues from the disposition of the Port's Seaway Properties beyond the initial \$100 million, shall be divided with forty percent (40%) accruing to the Port and sixty percent (60%) accruing to the Fund.

(5) Proceeds from the disposition of any Port property other than the Port's Seaway Properties will accrue to the Port for operation and maintenance while the Port is in operation.

5. Riverfront Enhancement Fund

A. The Parties agree that a Riverfront Enhancement Fund (the "Fund") shall be established to receive the proceeds from disposition of the Port's Seaway Properties not dedicated to the Port for on-going operations. The Fund shall be a separate special fund to be established, controlled and managed by the County of Sacramento and the City of Sacramento under separate agreement. The Fund shall be established no later than July 15, 2006. Any interest, which shall accrue on monies on deposit in the Fund, shall be deposited to the Fund and used as provided for other monies in the Fund. The City of Sacramento and the County of Sacramento by and through its Fund Manager, as subsequently identified by the City of Sacramento and the County of Sacramento (hereinafter "Fund Manager"), shall provide the Port and the Member Jurisdictions with a written annual accounting of all Fund activities by January 31st of each year.

B. Once a project (the "Project" or "Projects") is agreed upon, a summary of the Project and anticipated costs will be sent to the Port for review. The Port Commission shall have thirty (30) calendar days (including holidays and weekends) from the receipt of such

summary to object to the Project. Administrative approval shall not be unreasonably withheld. If the Fund Manager receives no written objection within the thirty (30) calendar day period, the Project and expenditures will be deemed approved and to conform to Port purposes. A proposed Project shall not be considered for approval by the City of Sacramento, the County of Sacramento or the Fund Manager until the thirty (30) day period of time for Port review has elapsed or, if rejected, until the receipt of a final, binding decision by an arbitrator as contemplated herein. Administrative denial must cite in writing reasons for denial and changes that would make the transaction acceptable. If a counter-proposal is submitted by the Port with an objection, the Fund Manager may proceed with a Project on such terms as contained within the Port's counter-proposal without the need for further administrative review or approval provided that the Port is notified of the Fund Manager's acceptance of such counter-proposal. Resubmission for administrative approval or denial, although not required, is only necessary if the Fund Manager chooses to propose a modification to a counter-proposal. In the event that the City of Sacramento, the County of Sacramento and the Port cannot come to a resolution, either party may ask for the matter to be finally resolved by arbitration pursuant to the provisions of Sections 6.D., 6.G. and 6.H., hereof. The arbitrator shall determine whether the Project is consistent with the standards set forth in the last sentence of this Section, 5.B. Funds shall be expended on Projects related to the Sacramento and American Rivers, including tributaries and fluvial features, encompassed within the Counties of Sacramento and Yolo. Projects may include, but are not limited to, those of regional significance; capital improvements on riverfronts; maintenance and operations of riverfronts, waterways, and parkways; conservation and environmental studies and projects, but all of which must be designed to improve commerce within the Port.

C. If the North Terminal Property described in Exhibit C ("North Terminal Property") is closed and liquidated within ten (10) years from the Effective Date of this Agreement, net proceeds as defined herein will accrue to the Fund, less funds already transmitted and any closure and liquidation costs. If the North Terminal Property is closed and liquidated after ten (10) years from the date of this Agreement and prior to twenty (20) years, net proceeds from the liquidation will be distributed to the Fund less ten (10) percent for each year after the initial ten (10) year period. For example if such closure and liquidation occurs during year eleven (11), ninety (90) percent will accrue to the Fund and ten (10) percent will accrue to the City of West Sacramento; if the closure and liquidation occurs in year twelve (12), eighty (80) percent will accrue to the Fund and twenty (20) percent will accrue to the City of West Sacramento, and so on until year twenty (20) in which one hundred (100) percent of the net proceeds will accrue to the City of West Sacramento. Net proceeds are defined for the purposes of Section 5.C. as the amount of money received for the Port's remaining assets less funds already transmitted and less any liquidation costs, including retirement of Port liabilities and Port environmental remediation, and less reimbursement to the City of West Sacramento for any investment the City of West Sacramento has made in the Port, infrastructure required for the Port and on Port property, and infrastructure required to market Port property.

6. General Provisions

A. The Port's powers, including but not limited to the power to acquire property by right of eminent domain, shall not be exercised in the County of Sacramento, the City of Sacramento or the County of Yolo (excepting the City of West Sacramento), without specific authorization respectively from the County of Sacramento, the City of Sacramento or the County of Yolo, or in the City of West Sacramento if West Sacramento has fewer than two-thirds (2/3) of the appointments to the Port Commission.

B. The Port's Deepwater Channel and North Terminal Property will not be sold or dismantled without prior consent of the City of Sacramento, the County of Sacramento and the County of Yolo.

C. The Port will continue to work with the current appointing Member Jurisdictions of the Port on the location of future sub-zones of the Port Free Trade Zone to be potentially located within Sacramento and Yolo Counties. Existing sub-zones in the City of Sacramento and the County of Sacramento shall remain in place unless the jurisdiction in which they are located requests that they be terminated.

D. Arbitration Provisions. Any dispute between the Parties hereto, including those matters required to be resolved by arbitration pursuant to the provisions of Sections 3.C.6. and 5.B., hereof, with regard to the interpretation or enforcement of the terms of this Agreement shall be finally resolved by binding arbitration before a single arbitrator to be appointed by the San Francisco Office of the American Arbitration Association ("AAA") in accordance with AAA's Commercial Arbitration Rules. Any Party may commence such arbitration by written notice to the other Parties and to the San Francisco Office of AAA. The San Francisco Office of AAA shall appoint a single arbitrator within a period of 20 days of receipt of a Notice of Arbitration hereunder, notifying all Parties of the name and contact information for such arbitrator. Such arbitration shall be conducted within a period of 30 days following the appointment of the arbitrator. Such arbitration shall be conducted in the County of Yolo, California in accordance with Section 6.G. hereof, and the costs and expenses of arbitration shall be borne in accordance with the provisions of Section 6.H. hereof, with the fees and costs of the arbitrator split equally between the Parties.

E. This Agreement constitutes the entire understanding and agreement between the Parties and no modification or amendment hereof shall be effective unless and until such modification is evidenced by a writing signed by all Parties to this Agreement. There are no other understandings, agreements, conditions, representations, warranties or promises, with respect to this Agreement, except those contained or referred to herein.

F. All notices that are required to be given by one Party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the Parties at the following addresses:

Port:

Port Commission
3251 Beacon Blvd., Suite 210
West Sacramento, CA 95691
Telephone: (916) 371-8000
Fax: (916) 371-7655

County of Sacramento:

Sacramento County Board of Supervisors
700 H Street, Suite 2450
Sacramento CA 95814
Telephone: (916) 874-5485
Fax: (916) 874-7593

County of Yolo:

Yolo County Board of Supervisors
 625 Court Street, Room 204
 Woodland, CA 95695
 Telephone: (530) 666-8150
 Fax: (530) 666-8147

City of Sacramento:

City of Sacramento
 City Hall
 915 "I" Street, Suite 321
 Sacramento, CA. 95814
 Telephone: (916) 808-5300
 Fax: (916) 264-7680

City of West Sacramento:

City of West Sacramento
 1110 West Capitol Avenue
 West Sacramento, CA 95691
 Telephone: (916) 617-4500
 Fax: (916) 372-8765

G. Any action arising out of this Agreement shall be brought in the County of Yolo, California, regardless of where else venue may lie.

H. In any action brought by any Party to enforce the terms of this Agreement, each Party shall bear responsibility for its attorneys' fees and all costs regardless of whether one Party is determined to be the prevailing party.

I. All Recitals and Exhibits hereto are expressly made a part hereof and incorporated herein as if set forth in full in the text of this Agreement.

J. Whenever consent or approval of any Party is required by this Agreement, that Party shall not unreasonably withhold such consent or approval.

K. If any term of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

L. The Port shall indemnify, defend, protect and hold harmless the Member Jurisdictions, their elected and appointed officials, officers, agents, employees, contractors, and subcontractors (individually and collectively referred to as "Indemnitees") from and against any and all claims, damages, demands, liability, costs, losses and expenses, including, without limitation, any obligation imposed by Government Code sections 825 through 825.6, and California Workers' Compensations laws, court costs and reasonable attorneys' fees, arising out of or in connection with the performance of this Agreement, including actions or omissions of the

Port which may create liability or recourse back to the Member Jurisdictions, except as relates to the Riverfront Enhancement Fund which is established, controlled and jointly managed by the City of Sacramento and the County of Sacramento, and except as to such loss or damage that was caused by the sole negligence or willful misconduct of the Indemnitees.

M. Insurance.

(1) The Port shall obtain and shall maintain in force at all times during the duration and performance of this Agreement the policies of insurance specified in this Section. Such insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(2) Prior to execution of this Agreement and prior to commencement of any work, the Port shall furnish the Member Jurisdictions with original endorsements effecting coverage for all policies required by the Agreement. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. As an alternative, the Port's insurer may, subject to the approval of the Member Jurisdictions, provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by this Section. The Port agrees to furnish one copy of each required policy to the Member Jurisdictions, and additional copies as requested in writing, certified by an authorized representative of the insurer. Approval of the insurance by the Member Jurisdictions shall not relieve or decrease any liability of the Port.

(3) In addition to any other remedy the Member Jurisdictions may have, if the Port fails to maintain the insurance coverage as required in this Section, the Member Jurisdictions may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and charge the Port the cost of such insurance.

(4) Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Member Jurisdictions.

(5) Any deductibles, aggregate limits, pending claims or lawsuits which may diminish the aggregate limits, or self-insured retention's, must be declared to, and approved by, the Member Jurisdictions.

(6) Aggregate Limits/Impairment.

If any of the above-required insurance coverage contains annual aggregate limits, the Port must give the Member Jurisdictions notice of any pending claim or lawsuit that may diminish the aggregate. The Port must take steps to restore the impaired aggregates or provide replacement insurance protection. The Member Jurisdictions have the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage that may affect the Member Jurisdictions' protection are allowed without the Member Jurisdictions' prior written consent.

(7) The requirement as to types, limits, and the Member Jurisdictions' approval of insurance coverage to be maintained by the Port are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Port under this Agreement.

(8) The Port shall, at its expense, maintain in effect at all times during the performance of work under this Agreement not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the Member Jurisdictions. The maintenance by the Port and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Agreement. The failure of the Port or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the Member Jurisdictions as a material breach of this Agreement.

(9) Worker's Compensation and Employer's Liability Insurance.

a. Worker's Compensation - Insurance to protect the Port and the Member Jurisdictions, their officers, officials, employees, agents, contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage or self-insurance shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The Port shall execute a certificate in compliance with Labor Code Section 1861.

b. The insurer shall agree to waive all rights of subrogation against the Member Jurisdictions.

(10) Comprehensive General and Automobile Liability Insurance.

The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees, agents, contractors or subcontractors, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$50,000,000 per occurrence in primary and umbrella coverage.

The comprehensive general liability insurance and the automobile liability insurance coverages shall also include, or be endorsed to include, the following:

a. Provision or endorsement naming the Member Jurisdictions and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under this Agreement; liability arising out of activities performed by or on behalf of the Port; premises owned, occupied or used by the Member Jurisdictions; or automobiles owned, leased, hired or borrowed by the Member Jurisdictions. The coverage shall contain no special limitations on the scope of protection afforded to the Member Jurisdictions, its officers, officials, employees, agents, contractors or subcontractors.

b. Provision or endorsement stating that for any claims related to this project, the Port's insurance coverage shall be primary insurance as respects the Member Jurisdictions, its officers, officials, employees, agents, contractors and subcontractors to the extent the Member Jurisdictions is an additional insured. Any insurance or self insurance maintained by the Member Jurisdictions, its officers, officials, employees, agents, contractors or

subcontractors shall be in excess of the Port's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.

c. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the Member Jurisdictions, its officers, officials, employees, agents, contractors or subcontractors.

d. Provision or endorsement stating that the Port's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Port under this Agreement, including, but not limited to that set forth in Section 6.L.

N. The Effective Date of the Agreement shall be January 15, 2006.

O. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

In Witness whereof, the Parties hereto executed this Agreement on the dates indicated below.

Adopted by each of the current appointing jurisdictions of the Sacramento-Yolo Port District.

Mike McGowan, Chair Sacramento-Yolo Port District	Date of Adoption
Roger Dickinson, Chair, Board of Supervisors County of Sacramento	Date of Adoption
Helen Thomson, Chair, Board of Supervisors County of Yolo	Date of Adoption
Heather Fargo, Mayor City of Sacramento	Date of Adoption
Christopher M. Cabaldon, Mayor City of West Sacramento	Date of Adoption

Attest:

Clerk Port Commission	Date
--------------------------	------

Clerk of the Board of Supervisors County of Sacramento	Date
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Clerk of the Board of Supervisors County of Yolo	Date
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City Clerk City of Sacramento	Date
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City Clerk City of West Sacramento	Date
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Letter of Intent

Made and Entered Into by

the Sacramento Yolo Port District (Port), the County of Sacramento, the County of Yolo, the City of Sacramento, and the City of West Sacramento (collectively the "Parties") regarding the Governance of the Port

Whereas, the Port faces significant financial distress prompting the several recent studies, including a maritime demand analysis, master land use plan and financial and operational analysis and a workout plan; and

Whereas, those studies stimulated renewed discussions regarding possible changes to the structure of governance of the Port; and

Whereas, at the most recent joint meeting of the Port Commission and the City of West Sacramento, the bodies endorsed guiding principles regarding the future of the Port including the need to modify the governance of the Port to increase representation from West Sacramento; and

Whereas, the Port Commission requested that administrative executives from the appointing jurisdictions examine the issues surrounding a change in governance and recommend a course of action; and

Whereas, the administrative executives developed a set of recommendations for presentation to the Port and the appointing jurisdictions of the Port Commission; and

Whereas, in accordance with the 2004 Port of Sacramento Maritime Demand Analysis, real estate owned by the Port with the exception of the north terminal property could be sold to satisfy existing obligations and recognize previous investments; and

Whereas, in the event of a closure, liquidation or other legal action resulting in closure or liquidation, under current law the City of West Sacramento would be the beneficiary of all Port assets, net of liabilities, as a result of the governance change contemplated herein; and

Whereas, Sacramento City and Sacramento County have established the following four conditions for modifying the governance of the Port to increase representation from West Sacramento:

1. There be no liability or recourse back to the City and County due to actions of the Port;
2. The Port Commission's powers cannot be exercised in the City or County of Sacramento without the specific authorization of those jurisdictions;

3. The Port's deepwater channel and terminal will not be sold or dismantled without prior consent of the City and County of Sacramento; and
4. The City and County receive a fair return on their original investment in the Port.

Whereas, the Parties seek to recognize investments in the Port by directing revenues not required by the Port to projects of mutual benefit to the Parties such as projects or programs on the Sacramento and American riverfronts; and

Whereas, the pressing nature of the Port's financial situation requires immediate action to maintain control, preserve options and achieve the best outcome; and

Whereas, the content of this letter of intent, once adopted, will be converted into a binding agreement which will be presented to the Port Commission, the County of Sacramento, the County of Yolo, the City of Sacramento and the City of West Sacramento.

Now therefore the Parties express their Intent as follows:

1. To promote state legislation that would modify the Port District by:
 - a. Contracting the size of the District so that the boundaries would coincide with the first supervisorial district of the County of Yolo as of the date of this letter of intent.
 - b. Changing the governing board to five members as follows:
 - (1) Four (4) members appointed by the City of West Sacramento, which will be residents of the City of West Sacramento.
 - (2) One (1) member appointed by the County of Yolo, which will be a resident of the City of West Sacramento.
- b. Legislation shall include provisions to clarify the use of funds deposited in the Riverfront Enhancement Fund.
2. To adopt a formal binding agreement between the Parties to:
 - a. In accordance with the September 2004 Port of Sacramento Maritime Demand Analysis, permit the Port to expeditiously market its Seaway real estate that is not required for the on-going

operation of a landlord port (Exhibit "A") and in consultation with the original appointing jurisdictions permit the Port to sell its real estate in a manner consistent with securing favorable prices.

- (1) The Port will provide the City/County 30 days notice of the terms of a pending sale or lease of subject Port property, including any RFP, appraisal or offering.
- (2) Sales will require the administrative approval of the City and County except as provided in 2 a.(6) below.
- (3) Administrative approval shall be based solely upon "fair return" for the property.
- (4) Administrative denial must cite in writing reasons for denial and changes that would make the transaction acceptable.
- (5) The City/County have 30 calendar days to voice objections to the terms of sale or lease, RFP, appraisal or offering. If no objection is put forth in this period, the sale or a lease, RFP, appraisal or offering document is deemed approved.
- (6) No administrative approval shall be required if any of the following conditions are met :
 - (a) The project is 10 acres or less in size; (however, administrative approval will be required for any more than one sale of property, 10 acres or less in size, to the same buyer within a two-year period) or
 - (b) If the property has been offered for at least 180 days and the sales or capitalized lease price is at least 90% of the offering price, or
 - (c) If an M.A.I. appraisal has been prepared for the property, the City and County of Sacramento have been given 30 days written notice and a copy of the appraisal, and the sales or capitalized lease price is at least 90% of the appraised value;or
 - (d) If the Port solicits proposals for the property, and receives at least three proposals and selects a proposal that is at least 90% of the highest proposal
 - (e) If the project is contained within the Sacramento Riverfront Master Plan
- (7) In the event that City/County objects to a proposed sale or lease, and the Port rejects such objection, the Port may ask for the matter to be referred to arbitration with the parties splitting costs of arbitration.
- (8) All Seaway property (as depicted in Exhibit A) will be liquidated or leased within 10 years; however the 10 year period may be extended upon agreement of all parties. The

parties agree that the approval of the extension of time will not be unreasonably withheld.

- (9) If the 10-year period is not extended by mutual agreement, all remaining Seaway property will go to a third party commercial real estate firm for liquidation
- b. Distribute proceeds from the sale of Seaway properties such that:
- (1) the first \$50 million would be retained by Port to
 - (a) Pay existing and contingent obligations, including but not limited to:
 - a. The payment of outstanding debt
 - b. The payment of operations liabilities
 - i. Pension fund
 - ii. Accounts Payable
 - iii. Other operations liabilities
 - c. The payoff of obsolete equipment leases
 - d. Environmental cleanup
 - e. The creation of working capital
 - f. The creation of a reserve fund
 - (b) Putting the north terminal dockside facilities in a state of good repair and
 - (c) Funding the transition costs to a landlord Port
 - (2) Revenues from the sale of the Port's real estate beyond the initial \$50 million would accrue to the Enhancement Fund for programs and projects of mutual benefit to the Parties exclusive of the Port until \$23 million had been so delivered.
 - (3) The next \$27 million in revenues from the sale of the Port's Seaway real estate between the Port and the Enhancement Fund be equally shared
 - (4) Any revenues from the sale of Port's real estate beyond the initial \$100 million, 40% will accruing to the Port and 60% will accrue to the Enhancement Fund.
- c. Establish a Riverfront Enhancement Fund to receive the proceeds from the sale of the Port's real estate that is not dedicated to the Port for on-going operations. The Riverfront Enhancement Fund will be controlled by the County and City of Sacramento. Once a project is agreed upon, a summary of the project and anticipated costs will be sent to the Sacramento-Yolo Port District for review. The District and its Commission shall have 30 days (including holidays and weekends) to reject the proposal. Administrative approval shall not be unreasonably withheld. Administrative denial must cite in writing reasons for denial and changes that would make the transaction acceptable. If no written response occurs within the 30-day review period, the expenditure will be deemed

approved and deemed to conform to District purposes. In the event that City/County of Sacramento and the Port District can not come to a resolution, either party may ask for the matter to be referred to arbitration with the parties splitting costs of arbitration. Funds will be expended on projects related to the Sacramento and American Rivers, including distributaries and fluvial features, encompassed within the Counties of Sacramento and Yolo. Projects may include, but are not limited to, those of regional significance; capital improvements on riverfronts; maintenance and operations of river fronts, water ways, and park ways; conservation and environmental studies and projects all of which are designed to improve commerce within the District.

- d. Proceeds from the lease or sale of north terminal properties or any other properties of the Port not previously described herein will accrue to the port for operation and maintenance while the port is in operation.
- e. If the Port is closed and liquidated within ten (10) years, net proceeds will accrue to the Riverfront Enhancement Fund, less funds already transmitted and any liquidation costs. If the port is closed and liquidated after 10 years from the date of this agreement and prior to 20 years, net proceeds from the liquidation will be distributed to the Riverfront Enhancement Fund less 10 percent for each year after the initial ten (10) year period. For example if such liquidation occurs during year eleven, 90 percent will accrue to the "Fund" and 10 percent will accrue to the host jurisdiction, if the liquidation occurs in year 12, 80 percent will accrue to the fund and 20 percent will accrue to the host jurisdiction, and so on until year 20 in which 100 percent of the net proceeds will accrue to the host jurisdiction. Net proceeds are defined for the purposes of this letter of intent as the amount of money received for the Port's remaining assets less funds already transmitted and any liquidation costs, including retirement of Port liabilities and environmental remediation and less reimbursement to the City of West Sacramento for any investment the city has made in the Port of Sacramento, infrastructure required for the Port and on port property, and infrastructure required to market Port property.
- f. Prohibiting the exercise of the Port's powers in the County of Sacramento, the City of Sacramento and the County of Yolo, without the specific authorization respectively from the County of Sacramento, the City of Sacramento or the County of Yolo (excepting that portion within the City of West Sacramento), and in

the City of West Sacramento if West Sacramento has fewer than 2/3 of the appointments to the Port Commission.

- g. The Port's deepwater channel and terminal will not be sold or dismantled without prior consent of the City and County of Sacramento and the County of Yolo
- h. After the adoption of a binding agreement between the Port Commission, County of Sacramento, County of Yolo, City of Sacramento and the City of West Sacramento containing the items enclosed in this letter of intent, and until such time that a permanent legislative change is made to the composition of the Port Commission, the following modifications will be made to the composition of the Port Commission for an indefinite period of time:
 - 1. The City of Sacramento shall retain one(1) of its seats on the Port Commission
 - 2. The County of Sacramento shall retain one(1) of its seats on the Port Commission
 - 3. The County of Yolo shall retain one(1) seat on the Port Commission
 - 4. The City of West Sacramento shall have four seats on the Commission as follows:
 - a. The City and County of Sacramento shall reaffirm that the Mayor of the City of West Sacramento represents their joint appointment to the Port Commission
 - b. The County of Sacramento shall appoint a member of the West Sacramento City Council as its second seat on the Port Commission as submitted by the West Sacramento City Council.
 - c. The City of Sacramento shall appoint a member of the West Sacramento City Council as its second seat on the Port Commission as submitted by the West Sacramento City Council.
 - d. The City of West Sacramento shall retain is own appointment to the Port Commission
- m. The reconstituted Port Commission shall comply with all provisions of the letter of intent and subsequently adopted binding agreement.
- n. The Port of Sacramento will continue to work with the current appointing jurisdictions of the Sacramento-Yolo Port District on the location of future sub-zones of the Port of Sacramento Free Trade Zone to be potentially located within Sacramento and Yolo Counties. Existing sub-zones in the City and County of Sacramento shall remain in place unless the jurisdiction in which they are located request that they be terminated.

Adopted by each of the current appointing jurisdictions of the Sacramento-Yolo Port District.

Mike McGowan, Chair Sacramento Yolo Port District	Date of Adoption
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Roger Dickinson, Chair, Board of Supervisors County of Sacramento	Date of Adoption
--	------------------

Helen Thomson, Chair, Board of Supervisors County of Yolo	Date of Adoption
--	------------------

Heather Fargo, Mayor City of Sacramento	Date of Adoption
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Christopher M. Cabaldon, Mayor City of West Sacramento	Date of Adoption
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Attest:

Clerk Port Commission	Date
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Clerk of the Board of Supervisors County of Sacramento	Date
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Clerk of the Board of Supervisors County of Yolo	Date
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City Clerk City of Sacramento	Date
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City Clerk City of West Sacramento	Date
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Exhibit B Deep Water Ship Channel

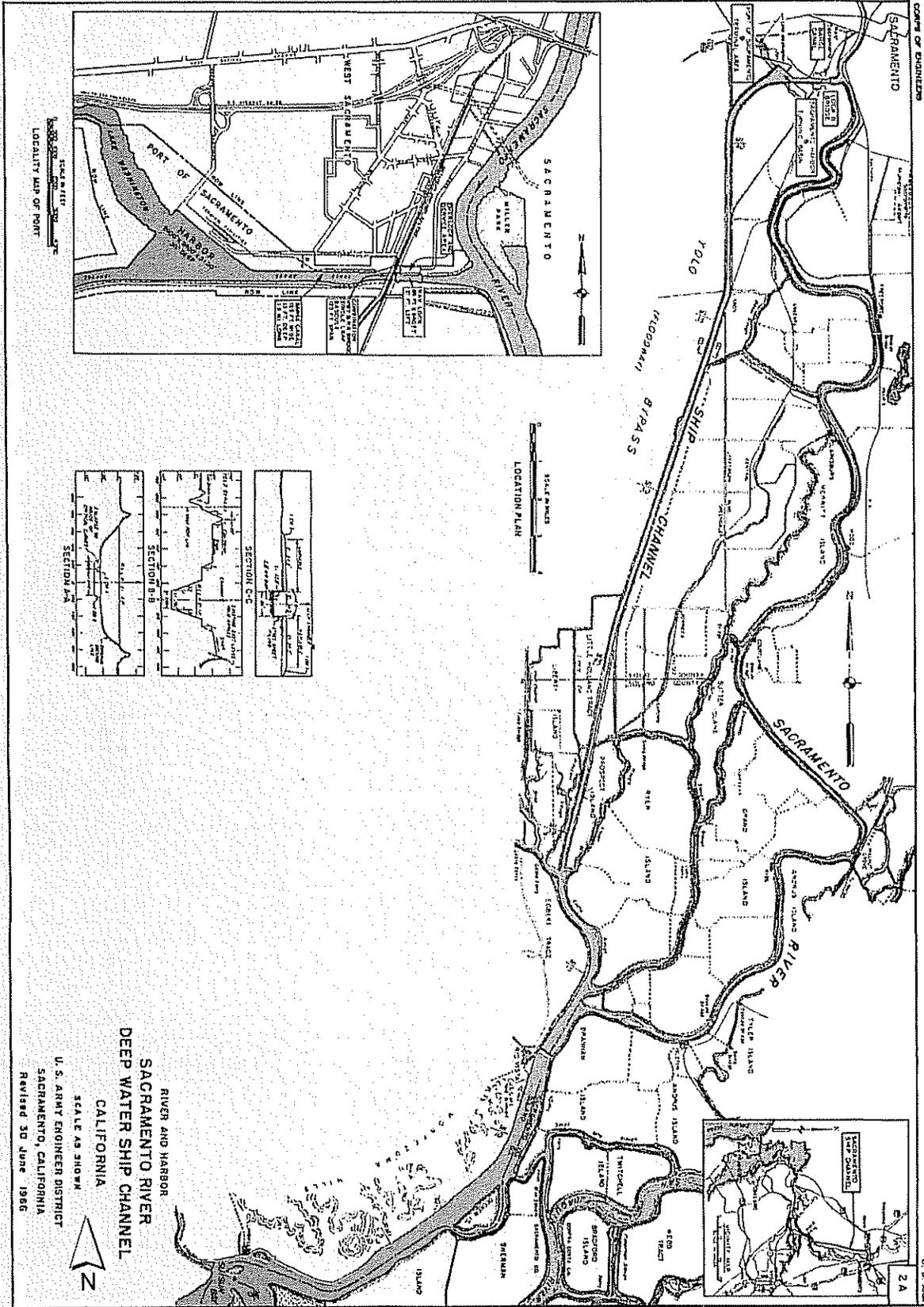


Exhibit C
North Terminal

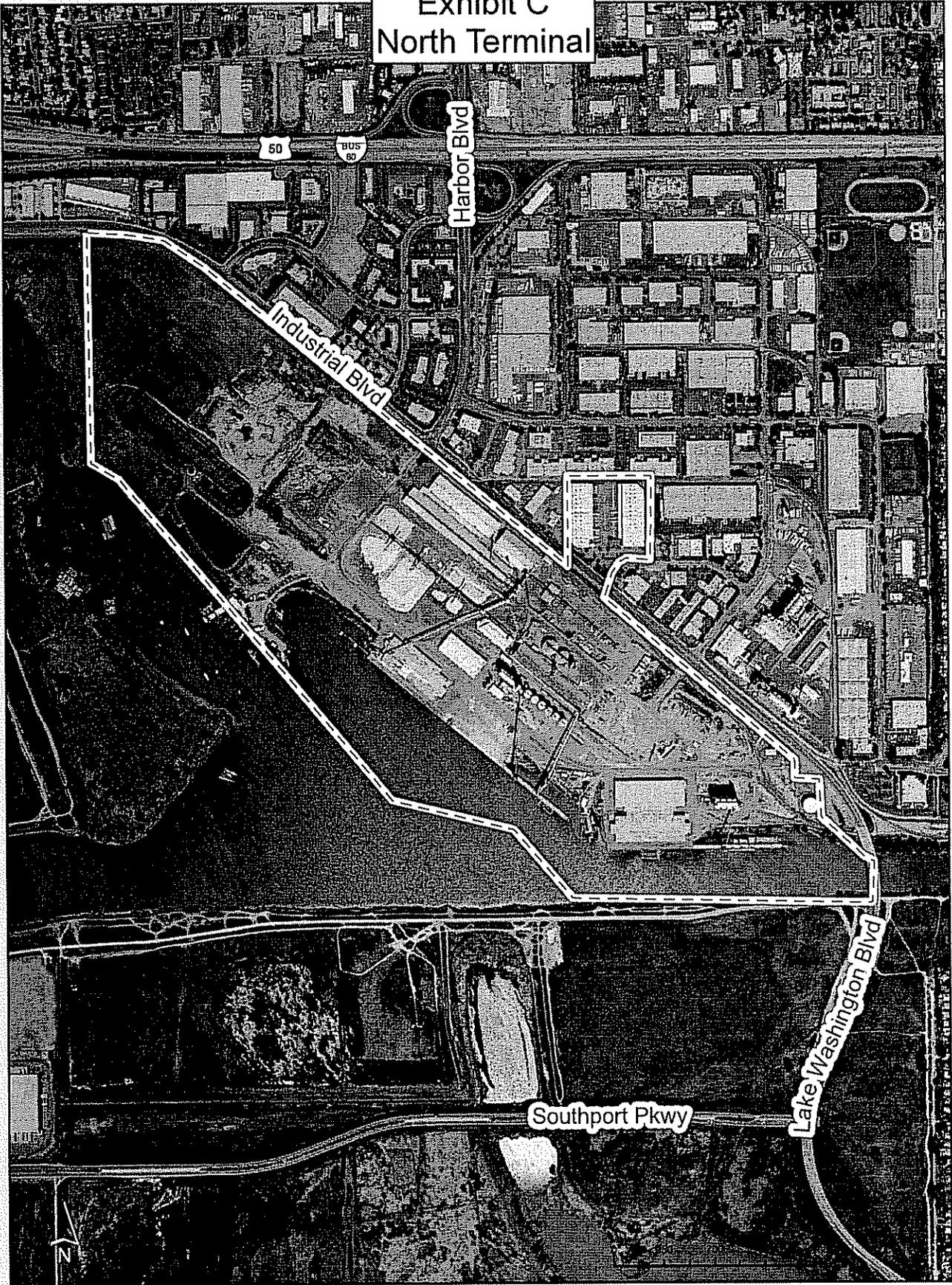
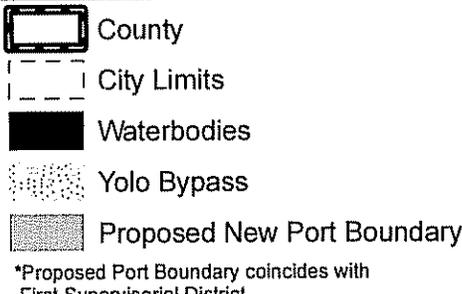


Exhibit D
Proposed New Port District Boundary
First Supervisorial District Yolo County

 County
City Limits
Waterbodies
Yolo Bypass
Proposed New Port Boundary*

*Proposed Port Boundary coincides with First Supervisorial District

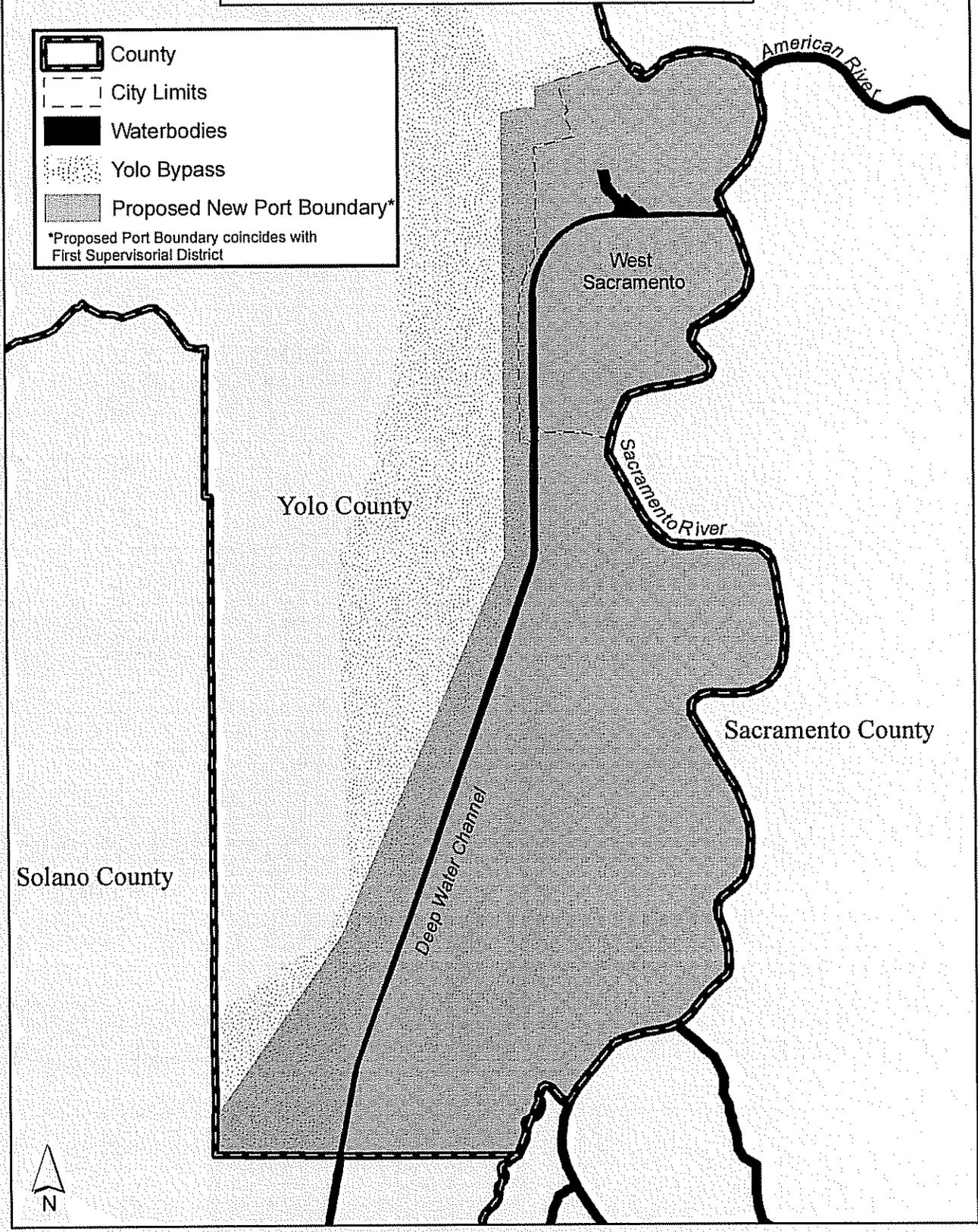


Exhibit E
Port of Sacramento Seaway Property

