

AMENDMENT NUMBER 1
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE CENTRAL VALLEY FLOOD PROTECTION BOARD
AND
THE SACRAMENTO AREA FLOOD CONTROL AGENCY
FOR
THE AMERICAN RIVER COMMON FEATURES 2016
FLOOD RISK MANAGEMENT PROJECT

THIS AMENDMENT NUMBER 1 is entered into this 28th day of Feb., 2022, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for the Sacramento District, and the Central Valley Flood Protection Board, represented by its Board President, and the Sacramento Area Flood Control Agency, represented by its Executive Director. The Central Valley Flood Protection Board and the Sacramento Area Flood Control Agency, are hereinafter referred to as the "Non-Federal Sponsors".

WITNESSETH, THAT:

WHEREAS, construction of the locally preferred plan for the American River Common Features flood risk management project located within the metropolitan area of Sacramento, California (hereinafter the "Project") was authorized by Section 1401(2)(7) of the Water Resources Development Act of 2016, Public Law 114-322;

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Partnership Agreement on January 29, 2019 (hereinafter the "Agreement") for construction of the Project;

WHEREAS, Section 1020 of the Water Resources Reform and Development Act of 2014, Public Law 113-121, as amended by Section 1166 of the Water Resources Development Act of 2016, Public Law 114-322 (33 U.S.C. 2223), provides that credit for in-kind contributions provided by a non-Federal interest that are in excess of the required non-Federal cost share for a water resources development project may be transferred from that project and applied toward the required non-Federal cost share for a different water resources development project upon submittal of a comprehensive plan by the non-Federal interest and approval of the comprehensive plan by the Government; and

WHEREAS, the Non-Federal Sponsors submitted the Comprehensive Plan dated May 24, 2019 (hereinafter the "Comprehensive Plan"), for the transfer to the Project of excess credit up to the amount of \$101,564,000 (hereinafter "excess credit", as defined in Article I.N. of this Agreement), which Comprehensive Plan was approved by the Assistant Secretary of the Army (Civil Works) on 22 April 22, 2020.

NOW, THEREFORE, the Government and the Non-Federal Sponsors agree to amend Agreement as follows:

1. Insert after the fifth WHEREAS clause the following:

“WHEREAS, Section 1020 of the Water Resources Reform and Development Act of 2014, Public Law 113-121, as amended by Section 1166 of the Water Resources Development Act of 2016, Public Law 114-322 (33 U.S.C. 2223) provides that credit for in-kind contributions provided by a non-Federal interest that are in excess of the required non-Federal cost share for a water resources development project may be transferred from that project and applied toward the required non-Federal cost share for a different water resources development project upon submittal of a comprehensive plan by the non-Federal interest and approval of the comprehensive plan by the Government;

WHEREAS, the Non-Federal Sponsors submitted the Comprehensive Plan dated May 24, 2019 (hereinafter the “Comprehensive Plan”), for the transfer to the Project of excess credit up to the amount of \$101,564,000 (hereinafter “excess credit”, as defined in Article I.N. of this Agreement), which Comprehensive Plan was approved by the Assistant Secretary of the Army (Civil Works) on 22 April 22, 2020;”.

2. Insert at the end of Article I the following:

“N. The term “excess credit” means the value of the in-kind contributions up to the amount of \$101,564,000 in excess of the Non-Federal Sponsors’ required cost share provided by the Non-Federal Sponsors under the Project Partnership Agreement entered into with the Government on August 18, 2016 for construction of the American River Watershed Project, Natomas Basin (hereinafter the “Natomas Agreement”), that may be transferred to the Project and applied toward the required cost share of the Non-Federal Sponsors under this Agreement in accordance with the Comprehensive Plan.”

3. In Article II, renumber paragraphs B.5. and B.6. as paragraphs B.6. and B.7. respectively, and replace paragraph B.4. with the following:

“4. Excess credit in the amount of \$101,564,000 is conditionally transferred to the Project as of the effective date of Amendment Number 1 to this Agreement and applied toward the required cost share of the Non-Federal Sponsors under this Agreement. This amount is subject to reduction upon the Government’s completion of the audit of credit packages submitted by the Non-Federal Sponsors under the Natomas Agreement, and upon the Government’s final accounting in accordance with Article VI.E. of this Agreement. The final amount shall be limited to the lesser of \$101,564,000 or the amount of funds otherwise required from the Non-Federal Sponsors to meet their minimum 35 percent cost share of the NED Plan costs after determining the amount to meet the 5 percent required by paragraph B.1., above, and after determining the amount of credit afforded to the Non-Federal Sponsors pursuant to paragraphs B.2. and B.3., above.

5. After determining the amount to meet the 5 percent required by paragraph B. 1 ., above,

for the then-current fiscal year and after considering the estimated amount of credit that will be afforded to the Non-Federal Sponsors pursuant to paragraphs B.2., B.3. and B.4., above, that are allocated by the Government to the NED Plan costs, the Government shall determine the estimated additional amount of funds required from the Non-Federal Sponsors to meet their minimum 35 percent cost share of the NED Plan costs for the then-current fiscal year. No later than 90 calendar days after receipt of notification from the Government, the Non-Federal Sponsors shall provide the full amount of such required funds to the Government in accordance with Article VI.”

4. Replace Article VI.A.1. with the following:

“A. As of the effective date of Amendment Number 1 to this Agreement, total construction costs for the Project are projected to be \$1,916,052,000, with NED Plan costs projected to be \$1,593,289,000, and LPP incremental costs projected to be \$322,763,000. The Government share of the NED Plan costs are projected to be \$1,035,638,000, and the Non-Federal Sponsors’ share of the NED Plan costs are projected to be \$557,651,000, which includes the 5 percent contribution of funds projected to be \$79,664,000, creditable real property interests, relocations, and placement area improvements projected to be \$186,121,000, creditable in-kind contributions projected to be \$120,348,000, and the additional amount of funds required to meet the minimum 35 percent cost share is projected to be \$69,954,000 after affording to the Non-Federal Sponsors the excess credit in the amount of \$101,564,000. The LPP incremental costs provided by the Non-Federal Sponsors include real property interests, relocations, and placement area improvements projected to be \$66,540,000, design and construction work projected to be \$58,712,000, and a contribution of funds projected to be \$197,511,000. Costs for betterments are projected to be \$0. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsors.”

5. Delete the last sentence of Article VI.E.

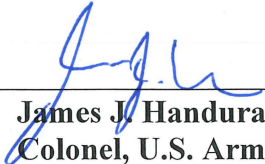
6. All other terms and conditions of this Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

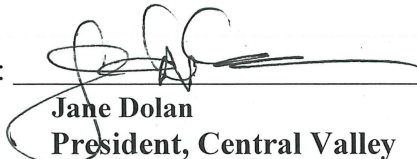
DEPARTMENT OF THE ARMY

CENTRAL VALLEY FLOOD PROTECTION
BOARD

BY: _____


James J. Handura
Colonel, U.S. Army
District Commander

BY: _____


Jane Dolan
President, Central Valley
Flood Protection Board

DATE: _____

2/28/2022

DATE: _____

2/28/2022

SACRAMENTO AREA FLOOD CONTROL
AGENCY

BY: _____


Richard M. Johnson
Executive Director, Sacramento
Area Flood Control Agency



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SACW

11-Feb-2022

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF
ENGINEERS

SUBJECT: Request for approval to execute the Project Partnership Agreement (PPA) Amendments supporting the transfer of excess Non-Federal Sponsor Credit from the American River Common Features (ARCF) - Natomas Basin project to the ARCF - Water Resources Development Act (WRDA) 2016 Project

1. This responds to a memorandum from the Director of Civil Works dated December 3, 2021, requesting approval of two PPA Amendments and delegation of signature authority. The PPA Amendments provide for the transfer of excess credit up to the amount of \$101,564,000 from the donor project, ARCF - Natomas Basin to the receiving project, ARCF - WRDA 2016.
2. I hereby approve the PPA Amendments and delegate signature authority to the District Commander.
3. My point of contact for this action is Andrea Walker at 202-761-0027.

A handwritten signature in black ink, appearing to read "Michael L. Connor", is positioned above the printed name.

MICHAEL L. CONNOR
Assistant Secretary of the Army
(Civil Works)

CF:
DCG-CEO, USACE
DCW, USACE
CECW-P, USACE