

AMENDMENT NUMBER 1
TO THE
PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE STATE OF CALIFORNIA
CENTRAL VALLEY FLOOD PROTECTION BOARD
AND
THE SACRAMENTO AREA FLOOD CONTROL AGENCY
FOR
CONSTRUCTION OF
THE AMERICAN RIVER WATERSHED PROJECT
NATOMAS BASIN

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 State of California 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 American River Watershed Project, Natomas Basin for flood risk management (hereinafter the "*Project*") at the Natomas levees in Sacramento and Sutter Counties, California was authorized by Congress in Section 7002 of the Water Resources Reform and Development Act of 2014, Public Law 113-121;

WHEREAS, the Government and the Non-Federal Sponsors entered into a Project Partnership Agreement on August 18, 2016 (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 ninth 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; and

WHEREAS, the Non-Federal Sponsors submitted the Comprehensive Plan dated May 24, 2019 (hereinafter the “Comprehensive Plan”), for the transfer from 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 this Agreement that may be transferred from the *Project* and applied toward the required cost share of the Non-Federal Sponsors for the American River Common Features 2016 Flood Risk Management Project under the Project Partnership Agreement entered into with the Government on January 29, 2019, as amended, in accordance with the Comprehensive Plan.”

3. In Article II, delete paragraph B.6.c. and replace paragraph B.6.b. with the following:

“b. Secondly, should any unafforded portion of the credit amount remain after credit was afforded pursuant to paragraph B.6.a. of this Article, such credit shall be deemed *excess credit* upon audit of such portion of the credit amount by the Government in accordance with paragraph B.5.b. of this Article.”

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

“1. As of the effective date of Amendment Number 1 to this Agreement, *total project costs* for the *Project* are projected to be \$1,461,068,000 the value included in *total project costs* for lands, easements, rights-of-way, *relocations*, and improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material determined in accordance

with Article IV of this Agreement projected to be \$317,674,000 ; the value of the Non-Federal Sponsors' contributions under Article XIII.A. of this Agreement is projected to be \$0; the Non-Federal Sponsors' contribution of funds required by Article II.B.1. and Article II.B.3. of this Agreement is projected to be \$73,053,400; the costs included in *total project costs* for the *Section 104 work* determined in accordance with Article II.B.5. of this Agreement are projected to be \$324,696,000; the amount of *excess credit* to be transferred from the *Project* is projected to be \$101,564,000, and the Government's total financial obligations for the additional work to be incurred and the Non-Federal Sponsors' contributions of funds for such costs required by Article II.G. of this Agreement are projected to be \$0. These amounts are estimates only that are subject to adjustment by the Government, after consultation with the Non-Federal Sponsors, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsors."

5. 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