

AMENDMENT NUMBER 1
TO THE
PROJECT PARTNERSHIP
AGREEMENT BETWEEN
THE DEPARTMENT OF THE ARMY
AND
RECLAMATION DISTRICT 2140
FOR
CONSTRUCTION
OF THE
HAMILTON CITY FLOOD DAMAGE REDUCTION AND ECOSYSTEM
RESTORATION PROJECT, GLENN COUNTY, CALIFORNIA

This Amendment Number 1 is entered into this 10th day of January, 2025, ~~2024~~, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Corps of Engineers Sacramento District Engineer, and Reclamation District 2140 (hereinafter the "Non-Federal Sponsor"), represented by its President.

WITNESSETH, THAT:

WHEREAS on July 21, 2014, the Parties entered into a Project Partnership Agreement (hereinafter the "PPA") for construction of the Hamilton City Flood Damage Reduction and Ecosystem Restoration Project, Glenn County, California (hereinafter the "*Project*", as defined in Article I.A. of the PPA);

WHEREAS the Parties desire to amend the PPA to allow the Non-Federal Sponsor to seek In-Kind Credit for performing remaining flood risk management and ecosystem restoration activities for the Project;

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the PPA as follows:

1. Amend the first WHEREAS clause by adding the following phrase to the end: ", as modified by Section 1320 of the Water Resources Development Act of 2016 (Public Law 114-322);"

2. Delete the language of Article I, Paragraph D and replace with the following: "The term "*Total Project Costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to construction of the Project. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government's share of Preconstruction Engineering and Design costs pursuant to the terms of the Design Agreement executed on December 13, 2005; the value of the contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement; the Government's engineering and design costs during construction; the Non-Federal Sponsor's and the Government's costs of investigations to

identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; the Government's costs of historic preservation activities in accordance with Article XVII.A. and Article XVII.B. 1. of this Agreement; the Government's actual construction costs, including the costs of alteration, lowering, raising, or replacement and attendant removal of existing railroad bridges and approaches thereto required for construction of the *flood risk management features*; the Government's supervision and administration costs; the Non-Federal Sponsor's and the Government's costs of participation in the Project Coordination Team in accordance with Article V of this Agreement; the Government's costs of contract dispute settlements or awards; the non-Federal Sponsor's creditable costs for providing 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 for which the Government affords credit in accordance with Article IV of this Agreement or for which reimbursement by the Government is required pursuant to Article II.C.4. or Article II.D.3. of this Agreement; the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article X.B. and Article X.C. of this Agreement; the Non-Federal Sponsor's costs for providing in-kind contributions, if any, in accordance with Article IV. H. of this Agreement. The term does not include any costs for operation, maintenance, repair, rehabilitation, or replacement of the *Project*; any costs of *betterments* under Article II.I.2. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities associated with historic preservation in accordance with Article XVII.B.2. and Article XVII.B.3. of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement."

3. At the end of Article I, add the following as Article I.Q.: "Q. The term "*in-kind contributions*" means those materials or services provided by Non-Federal Sponsor that are identified as being integral to the *Project* by the Division Commander for South Pacific Division. To be integral to the *Project*, the material or service must be part of the work that the Government would otherwise have undertaken for design and construction of the *Project*. The *in-kind contributions* also include any investigations performed by the Non-Federal Sponsor to identify the existence and extent of any hazardous substances that may exist in, on, or under real property interests required for the *Project*."

4. Amend Article II.A.4. by deleting the number "81,262,307" and substituting the number "\$80,233,000."

5. Renumber Articles II.C.3. and II.C.4., as Articles II.C.4 and Article II.C.5 respectively. Add the following as Article II.C.3: "3. If providing *in-kind contributions* as a part of its cost share, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government within 30 calendar days and provide the Government with a copy of as-built drawings for the work."

6. Amend the newly renumbered Article II.C.4., as follows: delete the language of Article II.C.4 and replace it with the following: "4. The Non-Federal Sponsor shall provide additional funds in accordance with Article VI.B. of this Agreement in the amount necessary

to meet the Non-Federal Sponsor's required minimum share of 35 percent of *total flood risk management costs* if the Government projects at any time that the collective value of the following contributions that are determined by the Government to be attributable to the *flood risk management features* will be less than such required minimum share: (a) the value of the Non-Federal Sponsor's contributions under paragraph C.1. of this Article; (b) the value of the cash contribution provided by a non-Federal interest pursuant to the terms of the Design Agreement that exceeds the 5 percent amount required by paragraph C.1. of this Article and the value of the non-cash contributions provided by a non-Federal interest pursuant to the terms of the Design Agreement; (c) the value of the Non-Federal Sponsor's contributions under paragraphs C.2. and C.3. of this Article, as determined in accordance with Article IV of this Agreement; and (d) the value of the Non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement."

7. Renumber Articles II.D.2. and II.D.3, as Articles II.D.3. and II.D.4. respectively. Add the following as Article II.D.2.: "2. If providing *in-kind contributions* as a part of its cost share, the Non-Federal Sponsor shall obtain all applicable licenses and permits necessary for such work. As functional portions of the work are completed, the Non-Federal Sponsor shall begin operation and maintenance of such work. Upon completion of the work, the Non-Federal Sponsor shall so notify the Government within 30 calendar days and provide the Government with a copy of as-built drawings for the work."

8. In the renumbered Article II.D.3. (b), delete the following terms "under paragraph D.1." and replace it with the following "under paragraphs D.1. and D.2."

9. In the renumbered Article II.D.4.(c), delete the terms "paragraph D.1." and replace it with the following "paragraphs D.1. and D.2."

10. Delete the Title for Article IV and replace it with the following: "ARTICLE IV - CREDIT FOR VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, DISPOSAL AREA IMPROVEMENTS, AND IN-KIND CONTRIBUTIONS."

11. Amend Article IV.A., by adding at the end of the first sentence after "*flood risk management features*," the following; "and the costs of *in-kind contributions* determined by the Government to be required for the *Project*." Amend Article IV.A., by adding, at the end of the second sentence, after the term "*ecosystem restoration features*," the following: "and the costs of *in-kind contributions* determined by the Government to be required for the *Project*."

12. Amend Article IV.F. by adding, in the first sentence, after the term "*excavated material*," the following: "or for *in-kind contributions*,".

13. At the end of Article IV., add the following as H: "H. The Government shall include in construction costs and credit towards the Non-Federal Sponsor's share of such costs, the value of *in-kind contributions* that are integral to the *Project*."

1. The value shall be equivalent to the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurred to provide the *in-kind contributions*, which may include engineering and design; construction; and supervision and administration, but shall not include any costs associated with *betterments*, as determined by the Government. Appropriate documentation includes invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees.

2. No credit shall be afforded for the following: interest charges, or any adjustment to reflect changes in price levels between the time the *in-kind contributions* are completed and credit is afforded; the value of *in-kind contributions* obtained at no cost to the Non-Federal Sponsor; any *in-kind contributions* performed prior to the effective date of this Agreement; or costs that exceed the Government's estimate of the cost for such *in-kind contributions*."

14. Amend Article VI.A.1. by deleting the language of this section and replacing it with the following: "1. As of the effective date of the Amendment, *total project costs* are projected to be \$123,436,000, with the Government's share of such costs projected to be \$80,233,000 and the Non-Federal Sponsor's share of such costs projected to be \$43,203,000. Construction costs allocated to *flood risk management features* are projected to be \$68,760,000, with the Government's share of such costs projected to be \$44,694,000 and the Non-Federal Sponsor's share of such costs projected to be \$24,066,000, which includes the 5 percent contribution of funds projected to be \$3,438,000, creditable real property interests, *relocations*, and placement area improvements projected to be \$3,345,000, and creditable *in-kind contributions* projected to be 0. Construction costs allocated to *ecosystem restoration features*, excluding cost shared monitoring and adaptive management, are projected to be \$54,676,000 with the Government's share of such costs projected to be \$35,539,000 and the Non-Federal Sponsor's share of such costs projected to be \$19,137,000 which includes creditable real property interests and *relocations* projected to be \$30,100,000, and creditable *in-kind contributions* projected to be \$4,213,000. Construction costs for cost shared monitoring and adaptive management are projected to be \$0, with the Government's share of such costs projected to be \$0 and the Non-Federal Sponsor's share of such costs projected to be \$0. Average annual costs for operation, maintenance, repair, replacement, and rehabilitation of the Project are projected to be \$80,000. 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 Sponsor."

15. Amend Article VI.A.2. as follows: delete the term "Article II.C.3." and replace it with the term "Article II.C.4."; delete the term "Article II.D.2." and replace it with the term "Article II.D.3." After the term "the value of the non-Federal Sponsor's contributions under Article V, Article X, and Article XIV.A. of this Agreement;" add the following: "the estimated amount of any creditable *in-kind contributions*;"

16. Amend Article VI.B. as follows: delete the term "Article II.C.3." and replace it with the term "Article II.C.4."; delete the term "Article II.D.2." and replace it with the term "Article II.D.3.".

17. Amend Article VI.B.1. as follows: delete the term "Article II.C.3." and replace it with the term "Article II.C.4.". Delete the term "Article II.D.2." and replace it with the term "Article II.D.3.".

18. Amend Article XIII.D. as follows: delete the term "Article II.C.3." and replace it with the term "Article II.C.4."; delete the term "Article II.D.2." and replace it with the term "Article II.D.3.".

19. Amend Article XX of the Agreement as follows: delete the number "\$75,730,000" and replace it with the number "\$123,436,000." Delete the date "October 1, 2014" and replace it with the date "October 1, 2022."

All other provisions of the Project Partnership Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment Number I to the Project Partnership Agreement, which shall become effective upon the date it is signed by the District Engineer.

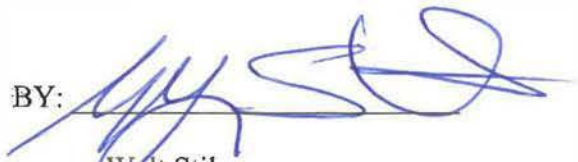
DEPARTMENT OF THE ARMY

RECLAMATION DISTRICT 2140

DATE: 01/10/2025

DATE: 12/5/2024

BY: 

BY: 
Walt Stile
President, Reclamation District
2140

Chad W. Caldwell, P.E.
Colonel, District Engineer
Sacramento District