RESOLUTION FOR THE MINUTES

A RESOLUTION for the Minutes, authorizing the Executive Director to enter into a Feasibility Cost Sharing Agreement with the United States Army Corps of Engineers, Philadelphia District to fund a scoping study for the F.E. Walter Dam Reevaluation Study.

WHEREAS, the F.E. Walter Reservoir and Dam ("F.E. Walter"), owned by the federal government and operated by the United States Army of Corps of Engineers ("Corps"), Philadelphia District ("District"), was built in 1961 for the single purpose of flood risk management; and

WHEREAS, Congress in 1988 authorized F.E. Walter for the additional purpose of recreation; and historically, the project also has been used to store water during drought periods at the request of the DRBC, consistent with the Commission's Water Code and Comprehensive Plan; and

WHEREAS, since 2005 the Corps has coordinated with the DRBC, Pennsylvania Fish and Boat Commission (PFBC), Pennsylvania Department of Conservation and Natural Resources, and other stakeholders to develop a comprehensive understanding of the issues associated with changes in conditions and water resource priorities that have occurred since F.E. Walter's construction; and

WHEREAS, pursuant to Section 7001 of the Water Resources Reform and Development Act (WRRDA), the DRBC in 2014 submitted a proposal to the Corps for a study to optimize storage in the various federal reservoirs in the Delaware Basin to meet and balance current and future needs, including flow management, low flow augmentation, water supply, flood loss reduction, drought management, salinity control, recreation, and aquatic life support (*see* Attachment A); and

WHEREAS, also in 2014 pursuant to Section 7001 of WRRDA, the Pennsylvania Fish and Boat Commission submitted a proposal requesting that the Corps perform a study of tower modifications and operations plans for F.E. Walter to improve cold water fisheries (*see* Attachment B); and

WHEREAS, the PFBC, Pennsylvania Department of Environmental Protection, New York City Department of Environmental Protection, New York State Department of Environmental Conservation, Delaware Geologic Survey, and New Jersey Department of Environmental Protection all have expressed interest in optimizing the use of water resources associated with the F.E. Walter Reservoir and Dam; and

WHEREAS, an Initial Appraisal Report by the District, approved in 2015 by the Corps' North Atlantic Division, determined that formal investigations are required to examine the feasibility of changing the congressionally authorized purpose of the project and/or modifying the dam to better meet flood control objectives now and in the future and to better satisfy demands for

in-lake and downstream recreational use, as well as for water quality, water supply, and environmental sustainability; and

WHEREAS, the District requested and received a congressional appropriation in the amount of \$1,500,000 for the "F.E. Walter Dam Reevaluation Study, PA" ("Reevaluation Study") in its FY2019 Work Plan (*see* Attachment C); and

WHEREAS, pursuant to Section 3.8, Article 5 and Article 11 of the Delaware River Basin Compact and regulations implementing the Compact, improvements, modifications, expansion, or any other changes or additions to the F.E. Walter Reservoir and Dam that may have a substantial effect on the water resources of the Delaware River Basin require the Commission's review and approval to ensure that these changes do not impair or conflict with the Commission's Comprehensive Plan, and/or to add such changes or additions to the Comprehensive Plan; and

WHEREAS, the Reevaluation Study is to be conducted pursuant to a Feasibility Cost Sharing Agreement ("FCSA"), under which 50 percent of the expense is to be provided in the form of matching funds and/or in-kind services by the non-federal sponsor; and

WHEREAS, the Commission has expressed its willingness to serve as the non-federal sponsor for the Reevaluation Study, subject to Commission approval (*see* Attachment D); and

WHEREAS, the Commission is the most appropriate entity to coordinate with the Corps as the non-federal sponsor, considering the varied nature of the use reevaluation requests and due to the Commission's neutral and central role in the management of the Basin's water resources; and

WHEREAS, an initial contribution of \$25,000 (cash) by the non-federal sponsor is required to develop a project management plan (PMP) for the Reevaluation Study; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

- 1. The Executive Director is authorized and directed to:
 - a. Execute a Feasibility Cost Sharing Agreement ("FCSA") with the Corps as the nonfederal sponsor or co-non-federal sponsor, to provide for development of the scope and PMP (collectively, "PMP") for the Reevaluation Study described above. A model FCSA is provided as Attachment E.
 - b. Commit the sum of no more than \$25,000 from the Commission's Water Supply Storage Facilities Fund as the non-federal share for the development of a PMP for the Reevaluation Study;
 - c. Seek non-federal funding and in-kind support for the PMP and Reevaluation Study from interested parties, including but not limited to the Commission's state members and New York City in its capacity as a party to the 1954 Supreme Court Decree;

- d. Assign DRBC staff to work with the District and others to prepare a PMP for the Reevaluation Study;
- e. Solicit scoping comments from the Commission's member state agencies, including with respect to operational and capital improvements for other Corps reservoirs that the Commission has designated in the Comprehensive Plan and Water Code, including Prompton, Blue Marsh and Beltzville; and
- f. Upon completion of the PMP, prepare a recommendation to the Commission for approval, conditional approval or disapproval of the PMP, and in the event of approval or conditional approval, obtain the Commission's direction by means of a duly adopted Resolution regarding next steps concerning the Reevaluation Study and the FCSA.
- 2. This resolution shall take effect immediately.

ADOPTED: March 13, 2019



Delaware River Basin Commission 25 Cosey Road PO Box 7360 West Trenton, New Jersey 08628-0360 Phone: (609) 883-9500 Fax: (609) 883-9522 Web Site: http://www.drbc.net

ATT. A

Steven J. Tambini, P.E. Executive Director

File contains documents pertaining to DRBC's 2014 Proposal for a Feasibility Study: Optimization of Existing Storage Volumes in Federal Reservoirs in the Delaware River Basin

Transmittal Letter from DRBC DRBC Proposal DE Support Letter NYS Support Letter NYC Support Letter



Steven J. Tambini, P.E. Executive Director

December 3, 2014

U.S. Army Corps of Engineers Attn: CECW-CE (Lisa Kiefel) 441 G Street NW Washington, DC 20314-1000

RE: Federal Register Solicitation for Proposals by Non-Federal Interests in Authorized Water Resources Development Projects: Optimization of Existing Storage Volumes in Federal Reservoirs in the Delaware River Basin

Dear Ms. Kiefel:

The water resources of the Delaware River Basin provide for the needs of over 15 million people for water supply in addition to providing flood mitigation, recreational opportunities and support for the ecological health of the natural environment. The Delaware River Basin Compact created the Delaware River Basin Commission (DRBC), which was formed by the four basin states (DE, NJ, NY, PA) and the United States to protect the water resources of the basin. The DRBC manages the water resources within the basin through the Delaware River Basin Compact and its implementing regulatory programs.

I am writing you today to propose a project for inclusion in the February 2015 Annual Report required by WRRDA 2014, Section 7001. The proposal is for a feasibility study of optimizing storage in, and uses of, the federal reservoirs in the Delaware River Basin. Additional active storage for low flow augmentation along with conjunctive use of all reservoirs has the potential to protect water supplies through improve stream conditions in dry weather, provide for salinity repulsion to protect water withdrawals, support aquatic life and valuable fisheries habitat, maintain flood mitigation functions and improve the basin's resiliency to drought conditions. Enclosed is a brief summary of the proposed feasibility study with the information requested in the Federal Register solicitation.

The DRBC owns storage for low flow augmentation in two federal reservoirs, Beltzville and Blue Marsh, and has permission to store water in a third, F.E. Walter, during drought emergency conditions. The proposed feasibility project is consistent with WRRDA and the missions of the U.S. Army Corps of Engineers and the DRBC. We appreciate your consideration of this proposal, and we look forward another opportunity to work with the Corps and other parties towards our shared commitment to the Delaware River Basin.

Sincerely,

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Steven J. Tambini Executive Director



OPTIMIZATION OF EXSITING STORAGE VOLUMES IN FEDERAL RESERVOIRS IN THE DELAWARE RIVER BASIN

PURPOSE

The proposed project is a feasibility study to optimize use of the existing volumes of three federal reservoirs in the Delaware Basin to meet and balance current and future needs including: flow management, low flow augmentation, water supply, flood loss reduction, drought management, salinity control, recreation and aquatic life support. The three federal reservoirs are Blue Marsh, Beltzville, and F.E. Walter, all of which are located in Pennsylvania. Through optimization of these water resources, the many competing uses of water in the basin can be better managed for multiple beneficial uses. The authorized purposes of some of these reservoirs, as well as the Water Control Manuals (Operations Manuals) may require modification and therefore the need for the study. No new construction or structural modifications are likely to result from the study, only the better utilization of existing storage.

1. Non-Federal Interests

The Delaware River Basin Commission (DRBC) is proposing a Feasibility Study to evaluate and optimize uses of existing storage volumes in three federal reservoirs for the purposes described above. As an inter-basin Compact agency, charged with the protection of the water resources of the Delaware Basin, the DRBC is uniquely positioned to serve as the non-federal sponsor for the study. The Delaware River Basin Compact was formed among the States of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania, and the United States. Potentially, there are several other interested parties in this Feasibility Study, including the cities of New York and Philadelphia, as well as many of the basin's stakeholders which regularly follow DRBC activities as well as participate on the DRBC's Advisory Committees. The DRBC can readily engage these stakeholders to solicit their interests as well as coordinate any monetary and/or match contributions to the study.

2. Feasibility Study

The DRBC and related stakeholders are interested in a Feasibility Study for the optimization of federal reservoirs in the basin to determine if existing storage volumes at F.E. Walter in combination with existing storage volumes in Beltzville and Blue Marsh can be more efficiently and effectively utilized and optimized to meet flow management objectives including management of salinity in the estuary. This will improve conditions in the Lehigh and Delaware Rivers with higher flows and improved water quality during dry periods, while allowing potential uses of other upper basin storage for enhanced flood mitigation, fisheries support and recreation without risks to public water supply.

3. Project Purpose

The purpose of the project would be to evaluate and optimize the use of USACE reservoirs, Beltzville, Blue Marsh, and F.E. Walter, for multiple objectives. Such optimization has the potential to improve aquatic habitats, allow flexibility in basin flow management, repel salinity for the protection of industry and municipal water supplies, and overall improve the basin's resiliency to drought risk. Currently, one reservoir in particular, F.E. Walter, is only authorized for flood control and recreation. There have been some provisions made for drought emergency storage although not explicitly authorized.

4. Estimate of Total Cost of Proposed Study

Although a detailed scope has yet to be developed, it is estimated that the Feasibility Study for optimizing the use of the three federal reservoirs would be \$180,000 including non-federal cost share. This cost estimate and the related scope is subject to further refinement.

5. Anticipated Benefits

The anticipated benefits are described in prior sections and include improved use of the basin's water resources to meet the multiple, and sometimes competing, needs and uses.

6. Local Support

A feasibility study project has the general support of the basin states and the cities of New York and Philadelphia.

7. Non-Federal Financial Support

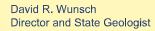
Subject to final approval by commissioners, the DRBC has the financial ability to provide a required cost share as match for the study as well as the collection of funds from other interested parties and stakeholders. The DRBC's proposed cost share would include simulation of alternatives with the flow management model of the Delaware River Basin (DRB-PST) as well as conducting and coordinating any public participation and collection of stakeholder input.

8. Letters of Support from non-Federal Interests

Letters of support will be provided by December 31, 2014.

Delaware Geological Survey

State of Delaware University of Delaware • Delaware Geological Survey Building Newark, Delaware 19716-7501





December 10, 2014

U.S. Army Corps of Engineers Attn: CECW-CE (Lisa Keifel) 441 G Street NW Washington, DC 20314-1000

RE: Federal Register Solicitation for Proposals by Non-Federal Interests in Authorized Water Resources Development Projects: Optimization of Existing Storage Volumes in Federal Reservoirs in the Delaware River.

Dear Ms. Keifel:

I represent the state of Delaware on the Delaware River Advisory Committee to the Delaware River Master. Delaware supports actions that could lead to improved water quality and sustained flows in the river to help mitigate concerns related to water quality, ecological damage, and salt water repulsion in the Delaware Bay.

Therefore, Delaware supports the proposal submitted on December 3, 2014 by the Delaware River Basin Commission to study the feasibility of optimizing the uses of the existing storage volumes in the three federally owned reservoirs within the Delaware River Basin. The proposed study would be of great value to stakeholders and entities that are committed to improving the water resources management within the Delaware River Basin.

Sincerely,

David R. Stunsch

David R. Wunsch State Geologist and Director

New York State Department of Environmental Conservation Division of Water Director's Office, Floor 4 625 Broadway, Albany New York, 12233 Phone: (518) 402 8222 a Ferry (518) 402 8220

Phone: (518) 402-8223 • Fax: (518) 402-8230 Website: <u>www.dec.ny.gov</u>



DEC 0 5 2014

U.S. Army Corps of Engineers Attn: CECW-CE (Lisa Kiefel) 441 G Street NW Washington, DC 20314-1000

RE: Federal Register Solicitation for Proposals by Non-Federal Interests in Authorized Water Resources Development Projects: Optimization of Existing Storage Volumes in Federal Reservoirs in the Delaware River Basin

Dear Ms. Kiefel:

New York State supports the December 3, 2014 proposal submitted by the Delaware River Basin Commission to study the feasibility of optimizing the uses of the existing storage volumes in the three federally owned reservoirs within the Delaware River Basin. The proposed study would be of great value to stakeholders who are attempting to improve the water resource management of the shared Basin waters.

Sincerely,

Mark A. Klotz Director



Emily Lloyd Commissioner

59-17 Junction Blvd. Flushing, NY 11373

Tel. (718) 595-6565 Fax (718) 595-3525 elloyd@dep.nyc.gov U.S. Army Corps of Engineers Attn: CECW-CE (Lisa Kiefel) 441 G Street NW Washington, DC 20314-1000

Federal Register Solicitation for Proposals by Non-Federal Interests in RE: Authorized Water Resources Development Projects: Optimization of Existing Storage Volumes in Federal Reservoirs in the Delaware River Basin

Dear Ms. Kiefel:

The City of New York supports the December 3, 2014 proposal submitted by the Delaware River Basin Commission to study the feasibility of optimizing the uses of the existing storage volumes in the three federally owned reservoirs within the Delaware River Basin (Basin). The proposed study offers the potential for better management of the Basin's water resources that could provide significant stakeholder benefit.

Sincerely,

December 12, 2014



Steven J. Tambini, P.E. Executive Director

File contains documents pertaining to the FE Walter Feasibility Study Proposal WRRDA

Transmittal Letter from PAFBC for 7001 WRRDA 2014 PAFBC Proposal 2015 Support Letter from DRBC 2016 Support Letter from DRBC 2017 Support Letter from DRBC 2016 Support Letter from Parties to the 1954 Supreme Court Decree

Pennsylvania Fish & Boat Commission



EXECUTIVE DIRECTOR P.O. BOX 67000 HARRISBURG, PA 17106-7000 717-705-7801 – 717-705-7802 (FAX) E-MAIL: JARWAY@PA.GOV

December 1, 2014

U.S. Army Corps of Engineers Attn: CECW-CE (Lisa Kiefel) 441 G Street NW Washington, DC 20314-1000

Dear Ms. Kiefel:

On behalf of the Pennsylvania Fish and Boat Commission and Pennsylvania's 1.2 million anglers, more than 3 million recreational boaters, and the businesses and communities that benefit from our thriving outdoor industries, I am pleased to submit the accompanying proposal for a Feasibility Study to evaluate the potential for the Francis E. Walter Dam on the Lehigh River to be a substantially greater asset to the Commonwealth, region, and nation.

As the agency charged with managing aquatic resources, fishing, and boating in Pennsylvania, our agency is confident that the Lehigh River below the dam could be a world class tailwater fishery that would generate tens of millions of dollars a year and be unparalleled in the northeastern United States.

I would welcome the chance to discuss this proposal and the Lehigh River's potential at your convenience.

Thank you for considering this proposal.

Sincerely. ın A. Arway Executive Director

Enclosure

Our Mission:

www.fishandboat.com

To protect, conserve and enhance the Commonwealth's aquatic resources and provide fishing and boating opportunities. Resolution for the Minutes 1. Provide the name of all non-Federal interests planning to act as the sponsor, including any non-Federal interest that has contributed or is expected to contribute toward the non-Federal share of the proposed feasibility study or modification.

To be determined.

2. State if this proposal is for a feasibility study or a modification to an authorized USACE project or feasibility study and, if a modification, specify the authorized project or study.

This proposal is for a Feasibility Study to evaluate modifications to existing facilities of the Francis E. Walter Dam located on the Lehigh River, Pennsylvania.

3. State the project purpose of the proposed study or modification.

Completed in 1961, the Francis E. Walter Dam was authorized as a flood control facility on the Lehigh River in Luzerne and Carbon counties, Pennsylvania. Initial authorizations were for runof-river operations, maintaining a minimal base pool of 80 ac (1,300 ft. NGVD). A recreational authorization, subservient to flood control, was added in 1988 for supporting various activities on United States Army Corps of Engineers (USACE) property that specifically identified whitewater as a targeted recreational activity. Existing tower facilities provide for bottom releases through the main flood gates (1,250 ft.) or two small bypass gates (1,297 ft.) only. Thereby all in-lake hypolimnion (cold water) is evacuated by early summer. This severely limits the size and abundance of the existing modest wild trout fishery, a modest hatchery-dependent "put-and-take" hatchery tailwater fishery, and development of robust in-lake two-story fish populations (i.e., bass, panfishes, walleye, and trout). Currently, Francis E. Walter facilities are managed for enhancing tailwater and in-lake recreational opportunities under temporary annual Francis E. Walter Reservoir Recreation Operations Plans (Plans). These Plans are annually formulated in partnership with USACE, the Pennsylvania Fish and Boat Commission (PFBC), the Pennsylvania Department of Conservation and Natural Resources (DCNR), and public stakeholders. The intent of the Plans is to create temporary summertime recreational storage by encroachment into flood control storage (~15%). Benefits include a larger lake (480 ac (1,370 ft.)), restrictions on springtime in-lake fluctuations, augmenting reservoir releases for whitewater interests (commercial and private paddlers), providing suitable springtime flows for tailwater angling, and limited improvement of habitat for adult wild and hatchery trout. This temporary recreational storage is subservient to flood control operations and can be lost at any time. Of special interest is that a modest increase in summer base releases under this cooperative plan has created a limited but exciting wild trout fishery as far downstream of Francis E. Walter as Walnutport. This fishery is highly dependent on thermal refuges at springs, outflows from Class A wild trout tributaries, and Beltzville Reservoir.

Releases under the annual negotiated Plans provide well-established whitewater recreational opportunities for private paddlers and commercial outfitters. Four commercial outfitters hosted, on average, 69,271 people per year from 2005 through 2012.

The completed Lehigh River Recreational Enhancement Study (Tillman et al. 2009, Tillman and Lewis-Coker 2012), under USACE Section 22, was commissioned in partnership with DCNR and PFBC. This study investigated hypothetical modifications to existing facilities and operations for enhancing recreational opportunities. Three outcomes were identified.

- Status quo: Continue providing recreational opportunities under existing facilities governed by the annual Plans. Very limited opportunities were identified beyond modest improvement for wild trout habitat by increased base flows. This option is least desirable.
- 2) Tower modifications: Requires installation of a multi-port tower and re-authorization of a permanent pool 824 ac (1,392 ft.). Limited improved habitat and ecosystem opportunities were identified. Higher cold-water releases showed some improved adult trout habitat in approximately 26 miles of the tailwater, but all tailwater thermal benefits could be lost in wet years. Little or no opportunity was created for the establishment of permanent in-lake two-story fisheries. Whitewater activities were nominally improved by supporting some additional releases.
- 3) Full reconstruction: Requires installation of a multi-port tower and raising the dam breast (30 ft.) for permanent pool of 1,333 ac (1,428 ft.). This option provides a robust 33-mile or more wild trout tailwater fishery, substantial increase of whitewater releases, and minimal lake draw down allowing potential establishment of two-story in-lake fisheries. It should be emphasized that the most conservative limits and assumptions were set for modeling these options. For example, a no-stress maximum temperature of 20 C was the goal for wild trout. Many excellent wild trout fisheries are sustained at intermittent temperatures above 20 C, so the limits reported in the Phase II report should be viewed as very conservative and obtainable. Other assumptions, such as the assumed lake stratification profile, are highly variable from reservoir to reservoir; and here again, the most conservative assumptions were used in estimating the extent of the non-stressful habitat condition to be obtained and the lake level required to sustain such improved conditions. In other words, the Phase Two Report should be viewed as a

3

very conservative estimate of the ecological and fisheries benefits that might accrue as a result of construction of a multi-level release tower and increased operation pool levels.

The PFBC vision for Francis E. Walter is two-fold. The short-term vision is to manage tailwater and in-lake fisheries by annual negotiated inter-agency Plans using temporary encroachments into flood control for recreational purposes. Enhancement of fishing or whitewater activities is limited to the temporary nature of the Plans subjected to termination pending significant flood control activities. The long-term goal envisions the Lehigh River as a robust blue-ribbon trout fishery maintaining optimal downriver water temperatures to the greatest extent possible while continuing to support the whitewater community, and building stable lake structure sufficient to establish a two-story lake fishery through extensive modifications to existing Frances E. Walter facilities. The PFBC is requesting further study (i.e., Feasibility Study) for implementation of the full reconstruction option identified in the Lehigh River Recreational Enhancement Study.

4. Provide an estimate, to the extent practicable, of the total cost of the proposed study or modification.

\$3 million estimate for the Feasibility Study (cost-shared 50/50 with a non-Federal sponsor).

5. Describe, to the extent practicable, the anticipated monetary and non-monetary benefits of the proposal including benefits to the protection of human life and property; improvement to transportation; the national economy; the environment; or the national security interests of the United States. Implementation of improvements to Francis E. Walter Dam facilities, under the guidance of the configuration identified in the Lehigh River Recreational Enhancement Study, is anticipated to directly benefit water-based recreations, as well as enhance aquatic populations. Permanent recreational storage would allow the generation of at least a 33-mile wild trout tailwater fishery, a two-story in-lake fishery, and a substantial increase in the number of supported whitewater releases. A recent economic study of the economic value (cold water fishing, boating, associated expenditures, and second home real estate) in the nearby Upper Delaware River tailwaters indicated a present value projected over 20 years of \$414 million (\$5.5 million/river mile). The study covered 74 miles of tailwater fishery in the East Branch, West Branch, and upper Delaware River main stem and can be found at

http://www.dcecodev.com/files/3313/9887/6418/fishingStudy.pdf. The economic value of the Lehigh tailwater fishery – expected to extend 33 miles and be associated with less private land available for development – should be evaluated in the proposed Feasibility Study.

The Lehigh River is located in one of the most populous regions of Pennsylvania, and the Lehigh Gorge State Park and other public lands and public access points make this an easily accessible wilderness within easy driving distance of Philadelphia, the Lehigh Valley, and metropolitan areas of New Jersey and New York City. Furthermore, strategic development of tailwater trout fisheries throughout the Commonwealth meets the PFBC's goals to create and provide tailwater trout fishing opportunities within a reasonable distance of all Pennsylvania anglers.

Tailwater trout fisheries provide consistent year-round fishing opportunities. The current fishery is seasonal, with the peak being between April and June and a lesser peak in early fall. During the peak season, suitable fishing days are largely limited due to required flood control water releases and complex management of water release schedules to account for multiple user groups and purposes. A controlled tailwater with regular coldwater releases will allow fishing to occur in all months of the year and provide conditions for wild and hatchery reared trout in tributaries and in the main river. Fishing-related businesses, hotels, restaurants, and other support services make financial commitments when a fishery is predictable, of consistent quality, and available during as much of the year as possible.

Most of the destination wild trout fisheries in the Lower 48 United States are located in socalled tailwater fisheries which provide enormous economic value to the local economy. Recent estimates for famous fisheries include the following: the Big Horn River in Montana (about 13 miles) generates on average about \$50M/year; the Henry's Fork in Idaho generates \$41M/year.; and the Bull Shoals tailwater complex is estimated variously at generating approximately \$232M/year. PFBC thinks that the greatest economic value of such a project would be the creation of a destination wild trout tailwater fishery with a value to the local economy estimated in the 10's of millions of dollars per year that cannot be outsourced. It is highly recommended that a thorough analysis of the economic value of an industry based on such a fishery be made a part of the Feasibility Study.

6. Describe if local support exists for the proposal.

A commercial boating stakeholder group, angler stakeholder group, and individuals representing paddler and angler interests currently provide input for recreational release plans. In support of the annual Francis E. Walter Reservoir Recreation Operations plans, USACE hosts public meetings for reviewing plan performances and gathering comments and recommendations. General sentiment at the meetings has expressed satisfaction with the annual plans; and many have expressed the temporary operations have significantly improved their businesses and contributions to the local economies.

Local angling interest groups such as the Lehigh River Coldwater Alliance, the Lehigh River Stocking Association, and several fishing guide services have all embraced the current river and its fishery and have consistently made their wishes known to the PFBC regarding improvements to flows, temperatures, and the trout fishery in the Lehigh River.

7. State if the non-Federal interest has the financial ability to provide for the required cost share.

To be determined.

8. Submit a letter or statement of support from each associated non-Federal interest.

The Pennsylvania Fish and Boat Commission is actively seeking support from Members of Congress and other stakeholders and has initiated discussions for presentation of the vision for improving Francis E. Walter facilities and potential enhancements to environmental, recreational and local businesses interests.



Steven J. Tambini, P.E. Executive Director

May 15, 2015

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390

Dear Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations, which would ensure that the services provided are fully maximized in accordance with current USACE policy. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

As the regional agency charged with the management of the Delaware River Basin's water resources, the Delaware River Basin Commission (DRBC) is interested in efforts to improve and optimize the use of existing facilities and is well known for its ability to convene stakeholder groups and organize their collaboration. The proposed F.E. Walter Re-evaluation Study will provide valuable information to our study request for *Optimization of Federal Reservoir Storage and Use in the Delaware River Basin for the More Beneficial Use of Water Resources,* submitted to the USACE in December 2014 under the Federal Register Solicitation required by WRRDA 2014, Section 7001. In addition, it will identify possibilities for consideration in the proposed Delaware River Watershed Study, which will develop a comprehensive plan for use of all USACE reservoirs, and possibly others, in the basin. With that in mind, as the Executive Director of the DRBC, I am writing to express our willingness to serve as the non-federal sponsor for the F.E. Walter Re-evaluation Study based upon the description of the project provided to us.

The DRBC understands that the study will not be conducted unless federal funds are appropriated by Congress, they are included in the administration's budget, and there is a nonfederal cost-sharing sponsor. As a sponsor, DRBC may be able to provide match as in-kind services and/or serve as the lead agency coordinating match contributions of funds and in-kind services from multiple stakeholder groups and agencies. As always, participation is contingent upon approval by the Commission's signatory parties, existing work load and resources, as well as agreement between the District and DRBC on scope and the Project Management Plan.

We are confident that we can work together with USACE and various stakeholder interests to evaluate the existing and future uses of F.E. Walter storage and develop plans to optimize and

maximize the beneficial use of this, and other valuable USACE Delaware River Basin resources.

Please let me know how else DRBC can support your request for funding of this project, which will provide important information for other basin-wide planning and resiliency studies.

Sincerely, tur

Steven J. Tambini, P.E. Executive Director

c: Erik Rourke, USACE Heather Jensen, USACE



Delaware River Basin Commission 25 State Police Drive PO Box 7360 West Trenton, New Jersey 08628-0360 Phone: (609) 883-9500 Fax: (609) 883-9522 Web Site: http://www.drbc.net

Steven J. Tambini, P.E. Executive Director

June 13, 2016

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107

Re: F.E. Walter Re-evaluation Study

Dear Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations for future or optimized uses. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

As the regional agency charged with the management of the Delaware River Basin's water resources, the Delaware River Basin Commission (DRBC) is interested in efforts to improve and optimize the use of existing storage facilities and is well known for its ability to convene stakeholder groups and organize their collaboration. The proposed F.E. Walter Re-evaluation Study will provide valuable information to our study request for the *Optimization of Federal Reservoir Storage and Use in the Delaware River Basin for the More Beneficial Use of Water Resources,* submitted to the USACE in December 2014. In addition, it will identify possibilities for consideration in the proposed Delaware River Watershed Study, which will develop a comprehensive plan for use of all USACE reservoirs, and possibly others, in the basin. With that in mind, as the Executive Director of the DRBC, I am writing to express our willingness to serve as the non-Federal Sponsor for the F.E. Walter Re-evaluation Study based upon the brief descriptions of the project provided to us.

The DRBC understands that the study will not be conducted unless federal funds are appropriated and there is a non-federal cost-sharing sponsor. As a sponsor, DRBC may be able to provide inkind services and/or serve as the lead agency coordinating match contributions of funds and inkind services from multiple stakeholder groups and agencies. As always, participation is contingent upon approval by the DRBC Commissioners, existing work load and resources, as well as agreement between the District and DRBC on scope and the Project Management Plan.

We are confident that we can work together with USACE and various stakeholder interests to evaluate the existing and future uses of F.E. Walter storage and we would encourage support for

Lt. Colonel Michael A. Bliss Re: F.E. Walter Re-evaluation Study

June 13, 2016

the development of plans to optimize and maximize the beneficial use of all other valuable USACE Delaware River Basin resources.

Please let me know how else DRBC can support your request for funding of this project, which will provide important information for other basin-wide planning and resiliency studies.

Sincerely,

Steven J. Tambini, P.E. Executive Director



Delaware River Basin Commission 25 State Police Drive PO Box 7360 West Trenton, New Jersey 08628-0360 Phone: (609) 883-9500 Fax: (609) 883-9522 Web Site: http://www.drbc.net

Steven J. Tambini, P.E. Executive Director

April 11, 2017

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107

RE: F. E. Walter Re-evaluation Study

Dear Lieutenant Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations for future or optimized uses. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

As the regional agency charged with the management of the Delaware River Basin's water resources, the Delaware River Basin Commission (DRBC) is interested in efforts to improve and optimize the use of existing storage facilities and is well known for its ability to convene stakeholder groups and organize their collaboration. The proposed F.E. Walter Re-evaluation Study will provide valuable information to our study request for the *Optimization of Federal Reservoir Storage and Use in the Delaware River Basin for the More Beneficial Use of Water Resources,* submitted to the USACE in December 2014. In addition, it will identify possibilities for consideration in the proposed Delaware River Watershed Study, which will develop a comprehensive plan for use of all USACE reservoirs, and possibly others, in the basin. With that in mind, as the Executive Director of the DRBC, I am writing to express our willingness to serve as the non-Federal Sponsor for the F.E. Walter Re-evaluation Study based upon the brief descriptions of the project provided to us.

The DRBC understands that the study will not be conducted unless federal funds are appropriated and there is a non-federal cost-sharing sponsor. As a sponsor, DRBC may be able to provide inkind services and/or serve as the lead agency coordinating match contributions of funds and inkind services from multiple stakeholder groups and agencies. As always, participation is contingent upon approval by the DRBC Commissioners, existing work load and resources, as well as agreement between the District and DRBC on scope and the Project Management Plan.

We are confident that we can work together with USACE and various stakeholder interests to evaluate the existing and future uses of F.E. Walter storage and we would encourage support for

the development of plans to optimize and maximize the beneficial use of all other valuable USACE Delaware River Basin resources.

Please let me know how else DRBC can support your request for funding of this project, which will provide important information for other basin-wide planning and resiliency studies.

Sincerely,

Steven J. Tambini, P.E. Executive Director

January 29, 2016

Jo-Ellen Darcy Assistant Secretary of the Army of Civil Works 108 Army Pentagon Washington, DC 20310-0108

Dear Secretary Darcy:

We, the Parties to the Delaware River Decree (the Parties), are writing to ask for your support and to highlight the importance of our previous request that the U.S. Army Corps of Engineers (USACE) re-open and update earlier investigations of reservoir improvements that consider re-purposing F.E. Walter Dam for an additional primary use for low flow augmentation up to elevation 1392 feet pursuant to authority under the Water Supply Act of 1958, as amended. We ask for your support in expeditiously commencing an F.E. Walter Feasibility Study, utilizing all available resources. This allocation of additional storage capacity, for low flow augmentation during drought, without significant reductions in flood protection and with several other flow management program modifications the Parties are seeking, offers the Delaware River Basin states the opportunity for improved coordination and utilization of all basin resources aimed at long-term salinity repulsion planning and improved drought management.

Water use in the Delaware River Basin is managed by the states of Delaware, New York, New Jersey, Pennsylvania, and the City of New York in accordance with the 1954 Supreme Court Decree, the Water Code of the Delaware River Basin Commission (DRBC), and the USACE. The Parties, in cooperation with DRBC are currently in negotiations to develop a new long-term water management plan intended to address future challenges in the basin. The re-purposing is a critical component in achieving our goals for the new plan that will require optimum use of all the basin and its interconnected resources. The Parties will be facing two key challenges: overall drought management and in particular salinity repulsion. Optimization of storage capacity at the F.E. Walter Dam will greatly contribute to the Parties' efforts to maintain the present-day level of protection against salinity intrusion for the City of Philadelphia and the Delaware River Estuary and to help maintain drought protection and to better support the ecological and other growing needs of the basin in the future.

Historically, the USACE has approved storing water to elevation 1392' at the F.E. Walter Dam for DRBC during drought emergencies. Lower basin reservoirs are used to compliment drought operations for the Montague Flow Objective by prioritizing flow at Trenton. The Trenton Flow Objective is designed to protect the lower basin states' drinking water, industrial manufacturing, and power generation supplies from salt water intrusion during severe drought. The Parties look forward to working with the USACE with the goal of using drought triggered increased storage at F.E. Walter Dam to help support the Trenton Flow Objective during drought conditions, while preserving the dam's flood control and recreation purposes.

We are aware of the USACE requirements that the F.E. Walter Feasibility Study be completed within three years and that total funding be limited to \$3 million with non-Federal funding required for half, which could be achieved through in-kind services. After signing a Feasibility Cost Sharing Agreement, the Parties are prepared to provide the \$25,000 required to support the study scoping effort. Potentially, the study could be done under the USACE's General Investigations Program with the Federal funds provided in the President's 2017 Budget or through the Army Corps work plans for FY16 or FY17.

The potential benefit the F.E. Walter Dam offers here cannot be overstated. The USACE is a critical partner in the basin, and we are asking for its continued support and assistance to continue to build on our shared successes into the future.

Sincerely,

Delaware River Decree Party Principals

Paul V. Rush, P.E. Deputy Commissioner City of New York P.O. Box 358 Grahamsville, NY 12740

V.e.M.

Dan Kennedy Assistant Commissioner State of New Jersey P.O. Box 420 Trenton, NJ 08625

Jim Tierney Assistant Commissioner State of New York 625 Broadway, 4th FL Albany, NY 12233

David R. Stunsch

David Wunsch, Ph.D. State Geologist & Director State of Delaware 257 Academy St. Newark, DE 19716

Killy tean Niffmer

Kelly Heffner Special Deputy Secretary State of Pennsylvania 400 Market Street, 16th FL Harrisburg, PA 217101

APPROPRIATION TITLE: Investigations, Fiscal Year 2019

SURVEYS - New Start Study (Feasibility)

,	Total Estimated Federal Cost	Allocations Prior to FY 2018	Allocation in FY 2018	Budgeted Amount for FY 2019	Additional to Complete After FY 2019
	\$	\$	\$	\$	\$
	1,500,000	0	0	300,000	1,200,000

F.E. Walter Dam Re-evaluation Study, PA - Flood Risk Management

NAP District

This primary issue this study will investigate is flood damage risk reduction for the existing Francis E. Walter Dam and Reservoir federal project and develop recommended plans to ensure that the services provided, such as protection of life and property, are fully maximized in accordance with current USACE policy. Priority will be placed on life safety risks, damage reduction benefits and efficiency of operations to maximize investment of this project with a population at risk of 230,000. Originally constructed as a single purpose (Flood Risk Management) structure, Congress has since authorized the project for recreational purposes. Changed conditions since construction (1961) demonstrate the importance of evaluating modifications to the existing infrastructure to ensure the full potential may be realized in support of stakeholder expressed needs. An Initial Appraisal Report completed by the District and approved by the Division in 2015 determined that there is a need to conduct formal investigations to examine the feasibility of changing the congressionally authorized operation and/or making modifications to the existing dam to better meet present and future flood control objectives, in-lake and downstream recreational use, water quality, water supply, and environmental sustainability demands.

The study area includes the Francis E. Walter Dam and Reservoir and downstream watersheds. The dam, with a current rating of DSAC 4, is located five miles upstream of White Haven, Pennsylvania on the Lehigh River, approximately 77 miles above the confluence with the Delaware River. The reservoir capacity is 108,000 acre-feet for flood management. Since its construction in 1961, F.E. Walter Dam and Reservoir has provided a cumulative flood damage reduction of over \$206 Million. However, in the protected areas, the population growth has increased from 23-54% changing the economic baseline used for the project's original justification. Estimates developed using FEMA's Hazus model predict approximately \$88 million in potential damages from a 1% annual exceedance event.

The following coordination has occurred: the District coordinated with various stakeholders, including the Delaware River Basin Commission (DRBC), to develop a comprehensive understanding of the issues associated with changed conditions since the construction of the project. The DRBC submitted a proposal to USACE Headquarters pursuant to Section 7001 of WRRDA 14 requesting a study to optimize storage in the various federal reservoirs in the Delaware Basin to meet and balance current and future needs including: flow management, low flow augmentation, water supply, flood loss reduction, drought management, salinity control, recreation and aquatic life support. Additionally, the PA DEP, NYC DEP, NYS DEC and City of Philadelphia have expressed interest in optimizing the use of water resources associated with the FE Walter Dam.

The general scope of the study includes a reevaluation the current services provided by F.E. Walter, including past and present operational plans; evaluating the existing demands for services from interested stakeholders, including flood control, water supply, water quality and recreation; evaluating future demands for services; and evaluating existing infrastructure to support the current and future demand for services. The re-evaluation will consider the project's authorized purpose along with the public and environmental resource needs of the lake and Lehigh and

Division: North Atlantic

District: Philadelphia

Delaware River Basin. The effort will result in improved sustainability of our infrastructure system through collaborative planning efforts supporting flood risk management and associated environmental, water supply, and recreation opportunities. Possible solutions may include operational changes and/or proposed structural changes to the dam infrastructure to support the coexistence of the competing demands. FY 19 funds would be used to negotiate the PMP and FCSA and initiate the study. The Delaware River Basin Commission understands the single phase process and signed the Letter of Intent on 11 April 2017.

The study authority is Section 216 of the Flood Control Act of 1970.



Steven J. Tambini, P.E. Executive Director

May 15, 2015

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390

Dear Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations, which would ensure that the services provided are fully maximized in accordance with current USACE policy. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

As the regional agency charged with the management of the Delaware River Basin's water resources, the Delaware River Basin Commission (DRBC) is interested in efforts to improve and optimize the use of existing facilities and is well known for its ability to convene stakeholder groups and organize their collaboration. The proposed F.E. Walter Re-evaluation Study will provide valuable information to our study request for *Optimization of Federal Reservoir Storage and Use in the Delaware River Basin for the More Beneficial Use of Water Resources,* submitted to the USACE in December 2014 under the Federal Register Solicitation required by WRRDA 2014, Section 7001. In addition, it will identify possibilities for consideration in the proposed Delaware River Watershed Study, which will develop a comprehensive plan for use of all USACE reservoirs, and possibly others, in the basin. With that in mind, as the Executive Director of the DRBC, I am writing to express our willingness to serve as the non-federal sponsor for the F.E. Walter Re-evaluation Study based upon the description of the project provided to us.

The DRBC understands that the study will not be conducted unless federal funds are appropriated by Congress, they are included in the administration's budget, and there is a nonfederal cost-sharing sponsor. As a sponsor, DRBC may be able to provide match as in-kind services and/or serve as the lead agency coordinating match contributions of funds and in-kind services from multiple stakeholder groups and agencies. As always, participation is contingent upon approval by the Commission's signatory parties, existing work load and resources, as well as agreement between the District and DRBC on scope and the Project Management Plan.

We are confident that we can work together with USACE and various stakeholder interests to evaluate the existing and future uses of F.E. Walter storage and develop plans to optimize and

maximize the beneficial use of this, and other valuable USACE Delaware River Basin resources.

Please let me know how else DRBC can support your request for funding of this project, which will provide important information for other basin-wide planning and resiliency studies.

Sincerely, tur

Steven J. Tambini, P.E. Executive Director

c: Erik Rourke, USACE Heather Jensen, USACE



Delaware River Basin Commission 25 State Police Drive PO Box 7360 West Trenton, New Jersey 08628-0360 Phone: (609) 883-9500 Fax: (609) 883-9522 Web Site: http://www.drbc.net

Steven J. Tambini, P.E. Executive Director

June 13, 2016

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107

Re: F.E. Walter Re-evaluation Study

Dear Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations for future or optimized uses. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

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Attachment - Page 32

Lt. Colonel Michael A. Bliss Re: F.E. Walter Re-evaluation Study

June 13, 2016

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Sincerely,

Steven J. Tambini, P.E. Executive Director



Delaware River Basin Commission 25 State Police Drive PO Box 7360 West Trenton, New Jersey 08628-0360 Phone: (609) 883-9500 Fax: (609) 883-9522 Web Site: http://www.drbc.net

Steven J. Tambini, P.E. Executive Director

April 11, 2017

Lt. Colonel Michael A. Bliss Philadelphia District Commander U.S. Army Corps of Engineers Wanamaker Building 100 Penn Square East Philadelphia, PA 19107

RE: F. E. Walter Re-evaluation Study

Dear Lieutenant Colonel Bliss:

Our understanding is that USACE is planning to investigate the current authorized purposes of the F.E. Walter Reservoir and to develop recommendations for future or optimized uses. This is the next step following the District's Initial Assessment Report that was prompted by stakeholder interests in additional and alternate uses for F.E. Walter storage.

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Steven J. Tambini, P.E. Executive Director



MODEL AGREEMENT FOR COST SHARED FEASIBILITY STUDIES APRIL 2, 2015 (with updates as of JULY 9, 2018)

APPLICABILITY AND INSTRUCTIONS:

1. The attached model feasibility cost sharing agreement (FCSA) must be used for all cost shared feasibility studies of proposed projects that will require specific authorization from Congress; for cost shared general reevaluation studies; and for cost shared feasibility studies of projects authorized without a completed Corps feasibility study. In addition, it will be used, with Option 4 or Option 5, as applicable, for cost shared feasibility studies under the Tribal Partnership Program for construction of water resources development projects or for the construction of projects for the preservation of cultural and natural resources related to water resources development.

2. The responsibility for review and approval of a FCSA that does not deviate from the approved model, or for an amendment to the approved April 2, 2015 model to include an approved option to the model, has been delegated to the MSC Commander and may be further delegated to the District Commander. Division Counsel concurrence (or District Counsel concurrence if approval authority is further delegated) that the FCSA, or amendment, does not deviate from the subject model, and is appropriate for use for the particular study, is required prior to approval. In addition, the MSC Commander has been delegated authority to approve non-substantive deviations to the model FCSA. Division Counsel review of such deviations, with a recommendation to approve such deviations, is required prior to approval by the MSC Commander.

- 3. The following options, including language for the FCSA, are addressed in the Attachment:
- a. Option 1: Sponsor is a Non-Profit Entity (page A-1).
- b. Option 2: Not An Obligation of Future Appropriations (page A-2).
- c. Option 3: Multiple Sponsors (page A-3).

d. Option 4: Study in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, or Puerto Rico, or involving an Indian Tribe (except a study under the Tribal Partnership Program eligible for the ability to pay adjustment, in which case Option 5 will be used) (page A-4).

- e. Option 5: Study under the Tribal Partnership Program eligible for the ability to pay adjustment (page A-6).
- f. Option 6: Project Management Plan prepared prior to execution of the FCSA (page A-8).
- g. Option 7: Accelerated Funds, following approval by HQUSACE (page A-9).
- h. Option 8: Contributed Funds, following Committee notification (page A-10).

4. Reminder: Make all required insertions, including language associated with an option; remove this cover page; remove the open and close brackets and any instructional text; ensure the spacing and page breaks throughout the FCSA are appropriate; if more than one option is used, ensure the Article and paragraph numbering and references therein are correct; and delete the Attachment.

5. The Certificate of Authority, Certification Regarding Lobbying, and the Non-Federal Sponsor's Self-Certification of Financial Capability should be included as a part of the FCSA package. These certificates can found on the Corps' "Project Partnership Agreements" website under the "Forms" tab.

AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND [INSERT FULL NAME OF NON-FEDERAL SPONSOR] FOR THE [INSERT FULL NAME OF FEASIBILITY STUDY]

THIS AGREEMENT is entered into this ______ day of _____, ____, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for [Insert Name of USACE District, e.g., New Orleans District] (hereinafter the "District Commander") and the [Insert Full Name of Non-Federal Sponsor] (hereinafter the "Non-Federal Sponsor"), represented by the [Insert Title].

WITNESSETH, THAT:

WHEREAS, [Insert cite to authority] authorizes [Insert short description of the study];

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Study" means the activities and tasks required to identify and evaluate alternatives and the preparation of a decision document that, as appropriate, recommends a coordinated and implementable solution for **[Insert project purpose]** at **[Insert location]**.

B. The term "shared study costs" means all costs incurred by the Government and Non-Federal Sponsor after the effective date of this Agreement that are directly related to performance of the Study and cost shared in accordance with the terms of this Agreement. The term includes, but is not necessarily limited to, the Government's costs for preparing the PMP; for plan formulation and evaluation, including costs for economic, engineering, real estate, and environmental analyses; for preparation of a floodplain management plan if undertaken as part of the Study; for preparing and processing the decision document; for supervision and administration; for Agency Technical Review and other review processes required by the Government; and for response to any required Independent External Peer Review; and the Non-Federal Sponsor's creditable costs for in-kind contributions, if any. The term does not include any costs for dispute resolution; participation in the Study Coordination Team; audits; an Independent External Peer Review panel, if required; or negotiating this Agreement.

C. The term "PMP" means the project management plan, and any modifications thereto, developed in consultation with the Non-Federal Sponsor, that specifies the scope, cost, and schedule for Study activities and tasks, including the Non-Federal Sponsor's in-kind contributions, and that guides the performance of the Study.

D. The term "in-kind contributions" means those planning activities (including data collection and other services) that are integral to the Study and would otherwise have been undertaken by the Government for the Study and that are identified in the PMP and performed or provided by the Non-Federal Sponsor after the effective date of this Agreement and in accordance with the PMP.

E. The term "maximum Federal study cost" means the \$1,500,000 Federal cost limit for the Study, unless the Government has approved a higher amount.

F. The term "fiscal year" means one year beginning on October 1st and ending on September 30th of the following year.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall conduct the Study using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor. The Non-Federal Sponsor shall perform or provide any in-kind contributions in accordance with applicable Federal laws, regulations, and policies.

B. The Non-Federal Sponsor shall contribute 50 percent of the shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. No later than 15 calendar days after the effective date of this Agreement, the Non-Federal Sponsor shall provide funds in the amount of \$25,000, for the Government to initiate the Study, including preparation of the PMP. In the event more funds are needed to develop the PMP, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor, and no later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. As soon as practicable after completion of the PMP, and after considering the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor to meet its share of shared study costs for the remainder of the initial fiscal year of the Study. No later than 15

calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

3. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.

C. The Government shall include in shared study costs and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in providing or performing in-kind contributions, including associated supervision and administration. Such costs shall be subject to audit in accordance with Article VI to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

1. As in-kind contributions are completed and no later than 60 calendar day after such completion, the Non-Federal Sponsor shall provide the Government appropriate documentation, including invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees. Failure to provide such documentation in a timely manner may result in denial of credit. The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs less the amount of funds provided pursuant to paragraph B.1. of this Article.

2. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any items provided or performed prior to completion of the PMP; or for costs that exceed the Government's estimate of the cost for such item if it had been performed by the Government.

D. To the extent practicable and in accordance with Federal laws, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on solicitations for contracts prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

E. The Non-Federal Sponsor shall not use Federal Program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Study. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

F. Except as provided in paragraph C. of this Article, the Non-Federal Sponsor shall not be entitled to any credit or reimbursement for costs it incurs in performing its responsibilities under this Agreement.

G. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

H. If Independent External Peer Review (IEPR) is required for the Study, the Government shall conduct such review in accordance with Federal laws, regulations, and policies. The Government's costs for an IEPR panel shall not be included in shared study costs or the maximum Federal study cost.

I. In addition to the ongoing, regular discussions of the parties in the delivery of the Study, the Government and the Non-Federal Sponsor may establish a Study Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Study Coordination Team shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost. The Non-Federal Sponsor's costs for participation on the Study Coordination Team shall not be included in shared study costs and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE III - PAYMENT OF FUNDS

A. As of the effective date of this Agreement, shared study costs are projected to be \$______, with the Government's share of such costs projected to be \$_______ and the Non-Federal Sponsor's share of such costs projected to be \$_______. 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.

B. The Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; and the estimated remaining cost of the Study.

C. The Non-Federal Sponsor shall provide to the Government required funds by delivering a check payable to "FAO, USAED, **[Insert District and EROC code, e.g., New Orleans (B2)]**" to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by

providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of shared study costs as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of shared study costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

E. Upon completion of the Study and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of shared study costs, including contract claims or any other liability that may become known after the final accounting.

ARTICLE IV - TERMINATION OR SUSPENSION

A. Upon 30 calendar days written notice to the other party, either party may elect at any time, without penalty, to suspend or terminate future performance of the Study. Furthermore, unless an extension is approved by the Assistant Secretary of the Army (Civil Works), the Study may be terminated if a Report of the Chief of Engineers, or, if applicable, a Report of the Director of Civil Works, is not signed for the Study within 3 years after the effective date of this Agreement.

B. In the event of termination, the parties shall conclude their activities relating to the Study. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of contract claims, and resolution of contract modifications.

C. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Study. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Study shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE VII - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE VIII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor: [Insert Title and Address of Sponsor representative to receive notices]

If to the Government: [Insert Title and Address of Government representative to receive notices]

B. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this Article.

ARTICLE IX - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE X - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

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

[INSERT FULL NAME OF SPONSOR]

BY:_____ [INSERT TYPED NAME] [Insert Colonel, U.S. Army or Lieutenant Colonel, U.S. Army, as applicable] District Commander

BY:_____

[INSERT TYPED NAME] [Insert Full Title]

DATE: _____

DATE:

Option 1: Sponsor is a Non-Profit Entity that has the consent of the Local

Government. In accordance with ASA(CW) Memorandum, dated April 5, 2012, Subject: Implementation Guidance for Section 2003(b) of the Water Resources Development Act of 2007 – Definition of Non-Federal Interest, confirm eligibility of the non-profit entity to serve as the Non-Federal Sponsor and whether a legally constituted public body must also be a Non-Federal Sponsor on the Agreement. This memorandum can be found on the Corps' "Project Partnership Agreements" website under the "Guidance" tab.

Use the Certificate of Authority for a Non-Profit Entity as provided on the Corps' PPA website under the "Forms" tab.

Insert the following two WHEREAS clauses after the first WHEREAS clause in the FCSA:

"WHEREAS, the [FULL NAME OF NON-PROFIT ENTITY] is an organization that is incorporated under the applicable laws of the [Insert State of [Name of State] or Commonwealth of [Name of Commonwealth]] as a non-profit organization, exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501);

WHEREAS, by letter dated [Month Day, Year], the [FULL NAME OF AFFECTED LOCAL GOVERNMENT], the affected local government has consented to the [FULL NAME OF NON-PROFIT ENTITY], serving as a Non-Federal Sponsor for the Study;"

Option 2: Not An Obligation of Future Appropriations. Section 221(a) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), provides that an agreement may reflect that it does not obligate future appropriations when doing so is inconsistent with constitutional or statutory limitations of a State or political subdivision thereof. However, section 221(a) does NOT provide that the Non-Federal Sponsor's performance and payments are subject to appropriations of funds. The Government retains the right to exercise any legal rights it has to protect the Government's interests. If applicable and requested by the Non-Federal Sponsor, insert into the FCSA as the last Article the following:

"ARTICLE XI - OBLIGATIONS OF FUTURE APPROPRIATIONS

The Non-Federal Sponsor intends to fulfill fully its obligations under this Agreement. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the **[Insert name of the legislative body that makes the appropriations, e.g., legislature of the State of New York or the New York City Council]**, where creating such an obligation would be inconsistent with **[Insert the specific citation to the constitutional or statutory limitation on committing future appropriations]**."

Option 3: Multiple Non-Federal Sponsors. It is strongly preferred that there is one party only as the Non-Federal Sponsor for the FCSA. Nonetheless, it is permissible to have more than one Non-Federal Sponsor if the Non-Federal Sponsors are jointly and severally responsible for all non-Federal obligations and responsibilities under the FCSA. (Any proposal to allow for a division of responsibilities will require Headquarters approval and should be coordinated with the full vertical team in advance of submission of the draft FCSA for review and approval.) The FCSA should be modified to use the term "Non-Federal Sponsors" throughout along with the necessary modifications to change, as appropriate, verbs and pronouns from singular to plural. In addition, insert into the FCSA as the last Article the following:

"ARTICLE XI – JOINT AND SEVERAL RESPONSIBILITY OF THE NON-FEDERAL SPONSORS

The obligations and responsibilities of the Non-Federal Sponsors shall be joint and several, such that each Non-Federal Sponsor shall be liable for the whole performance of the obligations and responsibilities of the Non-Federal Sponsors under the terms and provisions of this Agreement. The Government may demand the whole performance of said obligations and responsibilities from any of the entities designated herein as one of the Non-Federal Sponsors."

Option 4: Study in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, or Puerto Rico, or involving an Indian Tribe (as defined in section 102 of the Federal Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130). This option will be used for a study under the Tribal Partnership Program, Section 203 of the Water Resources Development Act of 2000, Public Law 106-541, as amended (33 U.S.C. 2269), unless the study is eligible for the ability to pay adjustment provided by 33 U.S.C. 2269(d)(1), in which case Option 5 will be used. In accordance with Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), up to \$455,000 in non-Federal cost sharing is waived for these studies. The following changes to the FCSA should be made:

1. Replace the last sentence in Article I.B. with the following:

"The term does not include any costs for dispute resolution; participation in the Study Coordination Team; audits; an Independent External Peer Review panel, if required; or for negotiating this Agreement. It also does not include any costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J."

2. Replace Article II.B. in its entirety with the following:

"B. The Non-Federal Sponsor shall contribute 50 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. As soon as practicable after completion of the PMP, and after considering the cost sharing waiver in accordance with Article II.J. and the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government."

3. Replace the last sentence in Article II.C.1. with the following:

"The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs."

4. Add a new paragraph J. to Article II as follows:

"J. Pursuant to Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), the Government shall waive up to \$455,000 in non-Federal cost sharing of the Study. The amount of the waiver shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost."

5. Replace Article III.B. its entirety with the following:

"B. The Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.; and the estimated remaining cost of the Study."

Option 5: Study under the Tribal Partnership Program that is eligible for the ability to pay adjustment under Section 203(d)(1) of the Water Resources Development Act of 2000, Public Law 106-541, as amended (33 U.S.C. 2269(d)(1)). In accordance with 33 U.S.C. 2269(d)(1) an ability to pay adjustment is applied for certain Tribes after application of the waiver provided by Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310). The ability to pay adjustment is described in the Tribal Partnership Program Implementation Guidance dated February 16, 2018. The following changes to the FCSA should be made:

1. Substitute the following three WHEREAS clauses for the first two WHEREAS clauses in the FCSA:

"WHEREAS, Section 203 of the Water Resources Development Act of 2000, Public Law 106-541, as amended (33 U,S.C. 2269) establishes the Tribal Partnership Program and authorizes the Secretary to carry out studies for construction of water resources development projects and projects for the preservation of cultural and natural resources related to water resources development;

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)) specifies the cost-sharing requirements;

WHEREAS, Section 203(d)(1) of the Water Resources Development Act of 2000, Public Law 106-541, as amended (33 U,S.C. 2269(d)(1)) requires that cost share agreements under the Tribal Partnership Program shall be subject to the ability of the non-Federal interest to pay in accordance with procedures established by the Secretary, and the Non-Federal Sponsor has met the applicable criteria for the ability to pay adjustment consisting of the application of a 25 percent factor to the otherwise applicable 50 percent non-Federal share, resulting in a non-Federal share of 12.5 percent of study costs; and"

2. Replace the last sentence in Article I.B. with the following:

"The term does not include any costs for dispute resolution; participation in the Study Coordination Team; audits; an Independent External Peer Review panel, if required; or for negotiating this Agreement. It also does not include any costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J."

3. Replace Article II.B. in its entirety with the following:

"B. The Non-Federal Sponsor shall contribute 12.5 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. As soon as practicable after completion of the PMP, and after considering the cost sharing waiver in accordance with Article II.J. and the estimated

amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government."

4. Replace the last sentence in Article II.C.1. with the following:

"The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs."

5. Add a new paragraph J. to Article II as follows:

"J. Pursuant to Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2310), the Government shall waive up to \$455,000 in non-Federal cost sharing of the Study. The amount of the waiver shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost."

6. Replace Article III.B. its entirety with the following:

"B. The Government shall provide the Non-Federal Sponsor with quarterly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.J.; and the estimated remaining cost of the Study."

Option 6: Project Management Plan prepared prior to execution of the FCSA. The following changes to the FCSA should be made:

1. In Article I.B., replace "preparing the PMP" with "updating the PMP".

2. Replace Article II.B. in its entirety with the following:

"B. The Non-Federal Sponsor shall contribute 50 percent of shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. After considering the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government."

3. Replace the last sentence in Article II.C.1. with the following:

"The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs."

Option 7: Accelerated Funds. Following written approval by HQUSACE to allow the acceptance of accelerated funds, the FCSA may include the following changes:

1. Insert the following WHEREAS clause before the next to last WHEREAS clause in the FCSA:

"WHEREAS, the Non-Federal Sponsor proposes to accelerate its provision of funds (hereinafter "accelerated funds") for the immediate use by the Government for the Study;"

2. Add a new paragraph G. to Article I as follows:

"G. The term "accelerated funds" means non-Federal funds out of proportion with Federal funds but within the ultimate non-Federal cash contribution."

3. Add new paragraph J. to Article II as follows.

"J. In addition to providing the funds required by paragraph B. of this Article, the Non-Federal Sponsor may provide accelerated funds for immediate use of the Government. The Non-Federal Sponsor understands that use of accelerated funds shall not constitute any commitment by the Government to budget, or the Congress to appropriate, funds for this Study or to match any accelerated funds provided by the Non-Federal Sponsor; that any accelerated funds will be credited toward the Non-Federal Sponsor's cost share only to the extent matching Federal funds are provided; and that the Non-Federal Sponsor is not entitled to any repayment for any accelerated funds obligated by the Government even if the Study ultimately is not completed."

Option 8: Contributed Funds, following Committee notification. The cost of work funded with Contributed Funds is included in shared study costs subject to cost sharing. Contributed Funds are applied toward the Federal cost share.

Guidance on Contributed Funds is provided in CECW-P Memorandum, dated February 11, 2015, Subject: Implementation Guidance for Sections 1015 and 1023 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), Contributed Funds. This memorandum can be found on the Corps' "Project Partnership Agreements" website under the "Guidance" tab.

Following completion of the Committee notification process, the FCSA may include the following changes:

1. Insert the following WHEREAS clause before the next to last WHEREAS clause in the FCSA:

"WHEREAS, in addition to providing the required non-Federal cost share, the Non-Federal Sponsor considers it to be in its own interest to contribute funds voluntarily (hereinafter the "Contributed Funds") to be used by the Government for the Study, as authorized pursuant to 33 U.S.C. 701h;"

2. Add as the third sentence in Article I.B. the following:

"The term also includes the cost of work funded with Contributed Funds."

3. Add a new paragraph G. to Article I as follows:

"G. The term "Contributed Funds" means those funds above any statutorily required non-Federal cost share that are provided voluntarily by the Non-Federal Sponsor for funding the Study, with no credit or repayment authorized for such funds."

4. Add a new paragraph J. to Article II as follows:

"J. In addition to providing the funds required pursuant to paragraph B. of this Article, the Non-Federal Sponsor will be providing Contributed Funds currently estimated at \$_______, for the Study. The Non-Federal Sponsor shall make the full amount of such funds available to the Government by delivering a check payable to "FAO, USAED, [Insert District and EROC code, e.g., New Orleans (B2)]" to the District Commander, or by providing an Electronic Funds Transfer of such funds in accordance with procedures established by the Government. No credit or repayment is authorized, nor shall be provided, for any Contributed Funds provided by the Non-Federal Sponsor that are obligated by the Government. In addition, acceptance and use of Contributed Funds shall not constitute, represent, or imply any commitment to budget or appropriate funds for the Study in the future."