



**MODEL AGREEMENT
FOR
COST SHARED FEASIBILITY STUDIES
FOR CONTINUING AUTHORITIES PROGRAM PROJECTS
FEBRUARY 5, 2016
(with updates as of SEPTEMBER 5, 2019)**

1. The attached model feasibility cost sharing agreement (FCSA) must be used for all cost shared feasibility studies for Continuing Authorities Program (CAP) projects. In addition, the model FCSA, using Option 7, must be used for non-CAP programmatic authorities that do not require additional authorization to implement a project, such as Section 544 of the Water Resources Development Act (WRDA) of 2000 (Puget Sound and Adjacent Waters) and Section 519 of WRDA 2000 (Illinois River Basin Restoration).

2. The responsibility for review and approval of a FCSA that does not deviate from the approved model, or for an amendment to the February 5, 2016 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 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 concurrence that a deviation is non-substantive and a recommendation that the deviation be approved is required prior to approval by the MSC Commander. A FCSA with substantive deviations, including deviations involving policy issues, unique circumstances, or controversial matters, must be forwarded for MSC review and then transmitted to the appropriate HQUSACE RIT, with MSC Division Commander recommendations, for review and approval by the Director of Civil Works.

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 or tribal organization (page A-4).~~

~~e. Option 5: Section 206 or 1135 Studies Initiated Prior to 2006 Without an Executed FCSA and Not Completed by September 30, 2013 (page A-6).~~

~~f. Option 6: Converting a feasibility study funded under the Investigations Program to the Continuing Authorities Program (page A-7).~~

~~g. Option 7: Use of the CAP FCSA for non-CAP Programmatic Authorities (page A-9).~~

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 page numbers, 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 be found on the Corps' "Project Partnership Agreements" website under the "Forms" Tab.

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AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND

~~[INSERT FULL NAME OF NON-FEDERAL SPONSOR]~~ BLAINE COUNTY, IDAHO
FOR THE
~~[INSERT FULL NAME OF FEASIBILITY STUDY]~~ BIG WOOD RIVER AQUATIC
ECOSYSTEM RESTORATION

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 Distric~~ Walla Walla District (hereinafter the "District Commander") and ~~the [Insert Full Name of Non-Federal Sponsor]~~ Blaine County, Idaho (hereinafter the "Non-Federal Sponsor"), represented by the ~~[Insert Title]~~ Chair of the Board of County Commissioners.

WITNESSETH, THAT:

WHEREAS, ~~[Insert cite to authority]~~ Section 206 of the Water Resources Development Act of 1996 (P.L. 104-303), as amended, authorizes the Secretary to implement restoration of degraded aquatic or riparian habitat projects not specifically authorized by Congress ~~[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]~~ aquatic and riparian ecosystem restoration at in [Insert location] Blaine County, Idaho.

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 by the Government and Non-Federal Sponsor in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or negotiating this Agreement. The term also does not include the first \$100,000 of costs for the Study incurred by the Government, whether before or after execution of 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, and includes the first \$100,000 of costs for the Study incurred by the Government.

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. 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.

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 and the first \$100,000 of the costs incurred by the Government that are excluded from shared costs, 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.

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.

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, after the effective date of this Agreement. 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.

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. 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.

H. 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 the 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 ~~\$535,000~~, with the Government's share of such costs projected to be ~~\$267,500~~ and the Non-Federal Sponsor's share of such costs projected to be ~~\$~~ ~~-\$267,500~~. 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.

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B. The Government shall provide the Non-Federal Sponsor with monthly 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); Walla Walla (G4)~~" 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 ~~Insert type of decision document involved, e.g., Detailed Project Report~~ Feasibility Report is not completed 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]~~County Clerk
[Address]

If to the Government:

~~[Insert Title and Address of Government representative to receive notices]~~Project Manager

201 North Third Street
Walla Walla, WA 99362

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] Blaine County, Idaho

BY: _____ BY: _____
[INSERT TYPED NAME] Christian N. Dietz [INSERT TYPED

NAME] [Insert Rank] Lieutenant Colonel, U.S. Army _____ [Insert Full Title]
District Commander

DATE: _____ DATE: _____

Attachment

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 NON-PROFIT ENTITY]**, serving as a Non-Federal Sponsor for the Study;”

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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]**. If the Non-Federal Sponsor is unable to, or does not, fulfill its obligations under this Agreement, the Government may exercise any legal rights it has to protect the Government's interests.”

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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. **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.”

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Option 4: Study in American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, or Puerto Rico, or involving an Indian Tribe or tribal organization (as defined in Section 4 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 5304).

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 \$484,000 in non-Federal cost sharing is waived. The following changes to the FCSA should be made:

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

“The term also does not include the first \$100,000 of costs for the Study incurred by the Government, whether before or after execution of this Agreement, and costs funded at full Federal expense based on the waiver of non-Federal cost sharing in accordance with Article II.I.”

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 first \$100,000 of the costs incurred by the Government that are excluded from shared costs, and the cost sharing waiver in accordance with Article II.I., 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.

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. Add a new paragraph I. to Article II as follows:

“I. 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 \$484,000 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.”

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

“B. The Government shall provide the Non-Federal Sponsor with monthly 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-

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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.I.; and the estimated remaining cost of the Study.”

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Option 5: Section 206 or 1135 studies initiated prior to 2006 without an executed FCSA and not completed by September 30, 2013. In accordance with the Director of Civil Works memorandum, dated August 27, 2013, these studies may not proceed until a FCSA providing for cost sharing of costs is executed. In addition, in the event the Study findings are favorable and a Project Partnership Agreement (PPA) for design and construction of a project is executed, the PPA will include a provision requiring the Non-Federal Sponsor to pay the Government the non-Federal share of Study costs incurred prior to execution of the FCSA in four equal payments over a two-year period.

1. Delete the “and” at the end of the second WHEREAS clause and insert, after the second WHEREAS clause, the following WHEREAS clauses in the FCSA:

“WHEREAS, in [INSERT YEAR], the Government, financing both the Federal and Non-Federal share of costs, initiated this study, which was not completed by September 30, 2013;

WHEREAS, this study is subject to the Director of Civil Works Memorandum, dated August 27, 2013, which provides that feasibility phase costs incurred after September 30, 2013 will be cost shared pursuant to a feasibility cost sharing agreement, and the non-Federal share of costs, currently estimated at \$_____, that were incurred before September 30, 2013 will be recovered under the project partnership agreement, once executed, for the project; and”

2. In Article I.B., delete the last sentence in its entirety.

3. Replace Article I.E. in its entirety with the following:

“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, and includes the costs for the Federal share of the Study incurred by the Government prior to the effective date of this Agreement.”

4. In Article II.B.1., replace the first sentence with the following:

“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 to meet its share of shared study costs for the remainder of the initial fiscal year of the Study.”

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Option 6: Converting a feasibility study funded under the Investigations Program to the Continuing Authorities Program (CAP). When the FCSA for a feasibility study funded under the Investigations Program is terminated and the feasibility study is continued under a new FCSA funded under CAP, insert the following changes into the CAP FCSA:

1. Delete the “and” at the end of the second WHEREAS clause and insert, after the second WHEREAS clause, the following WHEREAS clauses in the FCSA:

“WHEREAS, the Government and Non-Federal Sponsor have decided to terminate the study initiated under a feasibility cost sharing agreement, executed [MONTH DAY, YEAR] and funded under the Investigations Program, and to execute a new feasibility cost sharing agreement and initiate a new Study funded under the Continuing Authorities Program (hereinafter the “Agreement”); and”

2. Replace Articles I.A. in its entirety with the following:

“A. The term “Study” means the activities and tasks after the effective date of this Agreement that are 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].”

3. Replace Articles I.B. in its entirety with the following:

“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 updating 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 by the Government and Non-Federal Sponsor in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or negotiating this Agreement.”

4. Replace Articles I.E. in its entirety with the following:

“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.”

5. Replace Articles II.B.1. in its entirety with the following:

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“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 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.”

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Option 7: Use of the CAP FCSA for non-CAP Programmatic Authorities. When the CAP FCSA is used for non-CAP programmatic authorities that do not require additional authorization to implement a project, such as Section 544 of the Water Resources Development Act (WRDA) of 2000 (Puget Sound and Adjacent Waters), Section 519 of WRDA 2000 (Illinois River Basin Restoration), etc., make the following changes to the CAP FCSA:

1. Delete the last sentence in Article I.B.
2. Replace Articles I.E. in its entirety with the following:

“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.”

3. Replace the first sentence in Article II.B.1. with the following:

“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.”