DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

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CECW-PB

MEMORANDUM FOR COMMANDER, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 5044 of the Water Resources Development Act of 2007 (WRDA 2007) – East San Joaquin County, California

1. Section 5044 of WRDA 2007 modifies Section 219(f)(22) of WRDA 1992 to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project. In addition, the non-Federal interest may provide any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials. A copy of Section 5044 and Section 219(f)(22), as amended, is enclosed.

2. The project for groundwater recharge infrastructure, Stockton East Water District, East San Joaquin County, California, was originally authorized by Section 502 of Water Resources and Development Act 1999, which amended Section 219 of WRDA 1992 to add Section 219(f), including paragraph (22) related to East San Joaquin County, California. A letter report was approved by the South Pacific Division Commander on 10 June 2002. Subsequently a Project Cooperation Agreement (PCA) for the design and construction of the Farmington Groundwater Recharge Program, Stockton, California, was executed on 26 February 2003.

3. In order to afford credit for work accomplished by the non-Federal sponsor prior to execution of the PCA on 26 February 2003, or to afford credit for work to be accomplished under the PCA subsequent to its amendment, such work must be determined to be integral to the East San Joaquin County infrastructure project. The integral determination must be made prior to approval of the amendment to the PCA. The procedures and guidance contained in paragraph 6 and Appendix D of EC 1165-2-208 will be used in preparation of and review of the document supporting the integral determination. The integral determination shall be provided to the SPD-RIT for coordination and processing to obtain approval from the ASA(CW).

4. Upon ASA(CW) approval of the integral determination, provided that all or a portion of the work is determined to be integral, the District shall prepare an amendment to the PCA and include the estimated value of any work determined to be integral that was accomplished by the non-Federal sponsor prior to execution of the PCA. In addition, the amendment to the PCA may include appropriate language to provide that any work accomplished after execution of the amendment, and determined to be integral to the project, may be eligible for credit. The amendment will require approval by the ASA(CW). Close coordination with the Vertical Team should be maintained in developing this non-standard agreement. Any credit afforded for work

accomplished by the non-Federal sponsor prior to execution of the PCA combined with any credit afforded for work to be accomplished by the non-Federal sponsor after execution of the amendment will not exceed the non-Federal cash requirement for the project. The actual value of the eligible in-kind contributions will be determined in accordance with the terms and conditions of the PCA, as amended. Reimbursement for in-kind contributions that exceed the non-Federal sponsor's cash requirement for the project is not authorized.

FOR THE COMMANDER:

Encl

STEVEN L. STOCKTON, P.E.
Director of Civil Works

WRDA 2007 AUTHORIZING LANGUAGE

SEC. 5044. EAST SAN JOAQUIN COUNTY, CALIFORNIA.

Section 219(f)(22) of the Water Resources Development Act of 1992 (113 Stat. 336) is amended—
(1) by striking ''$25,000,000'' and inserting the following:

''(A) IN GENERAL.—$25,000,000'';

(2) by adding at the end the following:

''(B) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

''(C) IN-KIND CONTRIBUTIONS.—The non-Federal interest may provide any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials.''; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

Per the changes in Section 5044, Section 219(f)(22) now reads as follows:

(f) ADDITIONAL ASSISTANCE- The Secretary may provide assistance under subsection (a) and assistance for construction for the following:

(22) EAST SAN JOAQUIN COUNTY, CALIFORNIA.—

(A) IN GENERAL.—$25,000,000 for ground water recharge and conjunctive use projects in Stockton East Water District, California.

(B) CREDIT.— The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project.

(C) IN-KIND CONTRIBUTIONS.—The non-Federal interest may provide any portion of the non-Federal share of the cost of the project in the form of in-kind services and materials.