



**US Army Corps
of Engineers ®**

Tulsa District

APPENDIX F: Real Estate Plan

Tulsa/West Tulsa Levees Feasibility Study

**SECTION 1202 OF THE WATER INFRASTRUCTURE IMPROVEMENTS FOR THE
NATION ACT (WIIN ACT OF 2016, PUBLIC LAW 114-322)**

BIPARTISAN BUDGET ACT OF 2019 (PUBLIC LAW 115-113)

Prepared by

US Army Corps of Engineers

Real Estate Division

2488 E 81st Street

Tulsa, OK 74137

September 2019

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1 THE REAL ESTATE REPORT

1.1 Statement of Purpose

This Real Estate Plan (REP) will provide an outline of the Federal real estate acquisition requirements for the Tulsa/West Tulsa (TWT) Levee Feasibility Study, Tulsa, Oklahoma. The feasibility study documents the planning process and information used to identify the Recommended Plan in order to improve the resiliency of the existing levee system by reducing risk to life and damages to property during a significantly lower flow than what was originally authorized. The levee protects a population ranging from about 500 to 6,000 people depending on the time of day as well as significant industrial areas. There is potential for life loss as well as industrial damage if there was a breach or overtopping of the levee. The information contained herein is tentative in nature and for planning purposes only.

1.2 Authorization

TWT Levees were originally authorized by the Flood Control Act approved August 18, 1941, Public Law 77-228. The authority for this study was authorized by Section 1202 of the Water Infrastructure Improvements for the Nation Act (WIIN Act of 2016, Public Law 114-322) which states:

“(a) Tulsa and West Tulsa, Arkansas River, Oklahoma.—

(1) In general.--The Secretary shall conduct a study to determine the feasibility of modifying the projects for flood risk management, Tulsa and West Tulsa, Oklahoma, authorized by section 3 of the Act of August 18, 1941 (55 Stat. 645, chapter 377).

(2) Requirements.--In carrying out the study under paragraph (1), the Secretary shall address project deficiencies, uncertainties, and significant data gaps, including material, construction, and subsurface, which render the project at risk of overtopping, breaching, or system failure.”

The study was funded by the Bipartisan Budget of 2019 (Public Law 115-113).

1.3 Project Location

The TWT Levee System is located in northeast Oklahoma within the boundaries of Tulsa County. The TWT Levee system extends from the City of Sand Springs downstream along the Arkansas River into the City of Tulsa. Levees A and B are located on the left bank of the Arkansas River looking downstream and extend from river mile (RM) 531.1 to RM 524.1. Levee C spans from RM 526.7 to RM 521.3 on the right bank.

1.2 Non-Federal Sponsor and It's Responsibilities

Tulsa County Drainage District No. 12 is identified as the Non-Federal Sponsor (NFS) for

the TWT Feasibility Study. The U.S. Army Corps of Engineers (USACE) constructed the TWT Levee system in the mid-1940's as authorized in the 1941 Flood Control Act. Tulsa County Drainage District assumed ownership upon completion and remains the local sponsor of the system responsible for the operation and maintenance of the levees.

Tulsa County Drainage District No. 12 is required to provide all lands, easements, rights-of-ways, relocations, and disposals (LEERD) for construction of the project including those required for access, relocations, and mitigation; to perform or ensure the performance of all relocations; and for the construction of all improvements required on lands, easements, and rights-of-way as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the project.

1.5 Project Description

This REP conceptually describes the proposed project features; provides a general description of LERRD requirements to implement the project; provides a framework for the Federal real estate acquisition requirements; provides an estimated projection of the LERRD acquisition schedule; provides estimated non-Federal LERRD acquisition and administrative costs; and, related Federal LERRD administrative costs.

In order to meet the study objectives of reducing flood risk and flood damages, reducing flood risk to public health, safety and life, and minimizing residual flood risks to the extent justified, 6 alternatives were reviewed, analyzed, and screened by the project delivery team. Based on the analysis, the tentatively selected plan (TSP) is Alternative 1E, Construction of a Filtered Berm with Toe Drains within Levee A and B with other measures and reconstruction of Pump Stations #1-7.

The TSP includes the following structural features:

- 13 miles of a filtered berm with toe drain;
- Approximately 2,000 feet of cut off wall in Levee A at the Superfund site;
- Filtered floodway structure;
- Two detention ponds at Levee B tieback;
- Impervious blanket armoring on landside at overtopping in Levee B; and
- Reconstruction of the pump stations 1 through 7 for system-wide effectiveness and completeness.

Recommendations for addressing residual risk to be performed by the non-Federal sponsor include nonstructural features, such as Comprehensive Flood Warning Emergency Evacuation Planning and Floodplain Management. Specifics of such plans will be included in the language of the Project Partnership Agreement signed after project authorization.

1.3 1.6 Description of Lands, Easements, Rights-of-Ways, Relocations, and Disposal Areas (LERRD)

The majority of the project elements listed above will be constructed within the existing project footprint and easements owned by the NFS; however, temporary work area easements will be required along the lengths of Levees A and B. These easements will allow for the construction of the filtered berm with toe drain along the 13 miles of Levees A and B. The plan is to acquire two year temporary work area easements, approximately 30' in width, along Levees A and B (Standard Estate 15). Based on Real Estate drawings and projected locations, an estimated 129 individual landowners will be impacted by acquisition of the temporary work area easements. All Real Estate estimates were based on this number of landowners and are subject to change depending on final engineering and construction drawings and plans.

In addition, the construction of the two detention ponds, approximately 6.5 acres pond on the north side of HWY 412 and 1.5 acre pond on the south side of HWY 412 near Levee B tieback, will require a permanent flooding flowage easement (Standard Estate 5). Based on Real Estate drawings and projected location of the detention ponds, an estimated 9 individual landowners will be impacted by acquisition of the permanent flooding easement. All Real Estate estimates were based on this number of landowners and are subject to change depending on final engineering and construction drawings and plans.

Ingress and egress for Project construction will occur by existing public and local municipal roads. Acquisition of access easements are not anticipated at this time. Technical reference will come from the U.S. Army Corps of Engineers, December 1998, Real Estate Handbook, ER 405-1-12.

1.4 Estates for Proposed Project

The estates required for this project include Temporary Work Area Easements and Flowage Easement (Permanent Flooding). The Standard Estates anticipated for this project are as follows:

Temporary Work Area Easements (standard estate)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project, together with the right to trim, cut,

fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Flowage Easement (Permanent Flooding).

The perpetual right, power, privilege and easement permanently to overflow, flood and submerge (the land described in Schedule A) Tracts Nos. _____, _____ and _____), (and to maintain mosquito control) in connection with the operation maintenance of the project as authorized by the Act of Congress approved _____, and the continuing right to clear and remove brush, debris and natural obstructions which, in the opinion of the representative of the United States in charge of the project, may be detrimental to the project, together with all right, title and interest in and to the timber, structures and improvements situate on the land (excepting _____, (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)); provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of. landfill; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution.

1.5 LER Owned by the Non-Federal Sponsor

Sponsor-owned lands that lie within the project area are those associated with the current levee easements. The majority of the construction will be performed within these levee easements. It should be noted however, that documents to prove the appropriate interest for the entire levee system have not been located at this time. There are approximately 45 tracts that we cannot locate a valid real estate instrument. In the previous feasibility studies, a letter from the sponsor's attorney stated that for those areas where a document could not be located, that the sponsor owned the required real estate interest by adverse possession or prescription. We have found no proof that these land ownership issues have been settled in court and the non-federal sponsor has been advised to discuss with their Real Estate Attorneys to determine the appropriate steps to remedy this issue. The sponsor has provided their plan, via letter, to cure this outstanding issue which is attached

as Exhibit A.

1.6 Non-Standard Estates

No non-standard estates are required for this project.

1.7 Existing Federal Projects within the LERRD required for the Project

Easements acquired as part of Keystone Lake project are located at the west end of Levee A. No other federal projects are within the required LERRD. There are two other federal projects in the vicinity, Arkansas River Corridor project, which is an ecosystem restoration project along the Arkansas River near the Tulsa/West Tulsa Levee system and the Keystone Dam Safety modification study area, which is located upstream of the TWT Levee system.

1.8 Federally Owned Land Required for the Project

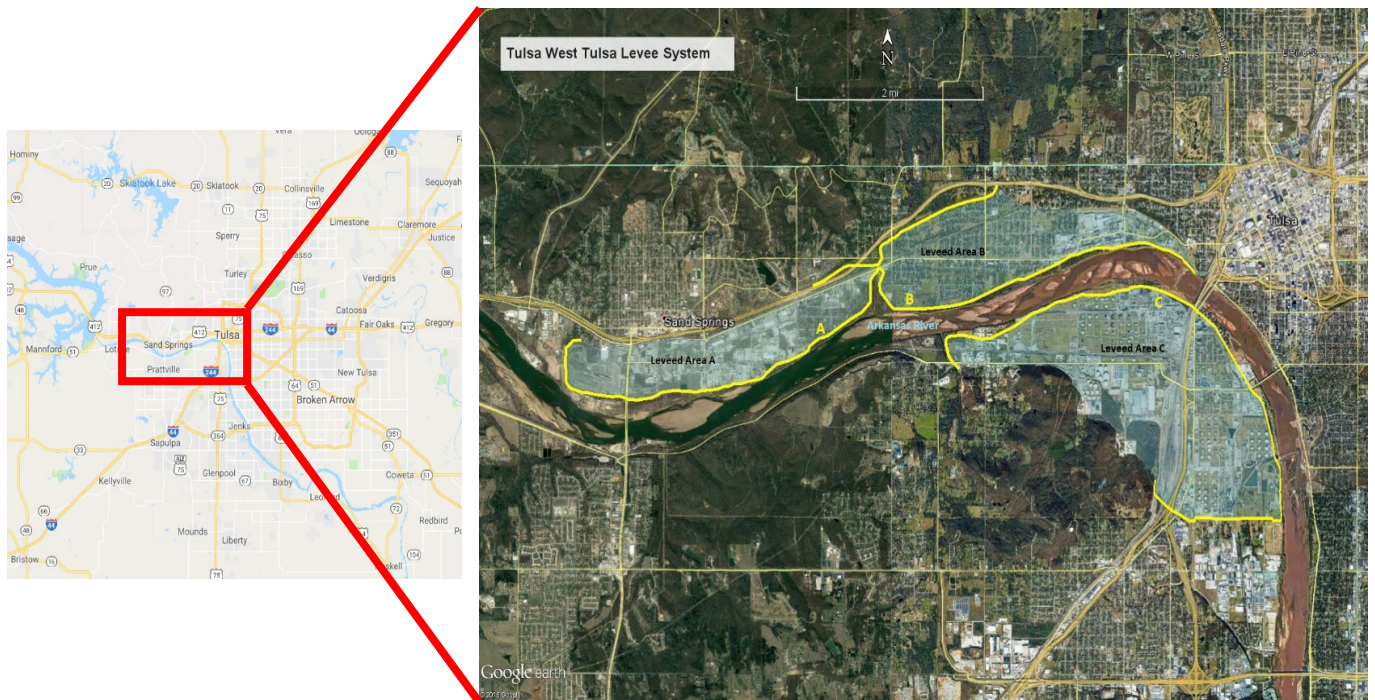
It is not anticipated that the project will required the use of any federally owned land. Within the west end of Levee A are easements associated with the Keystone Lake project; however, these lands will not be impacted by the proposed project.

1.9 Navigation Servitude

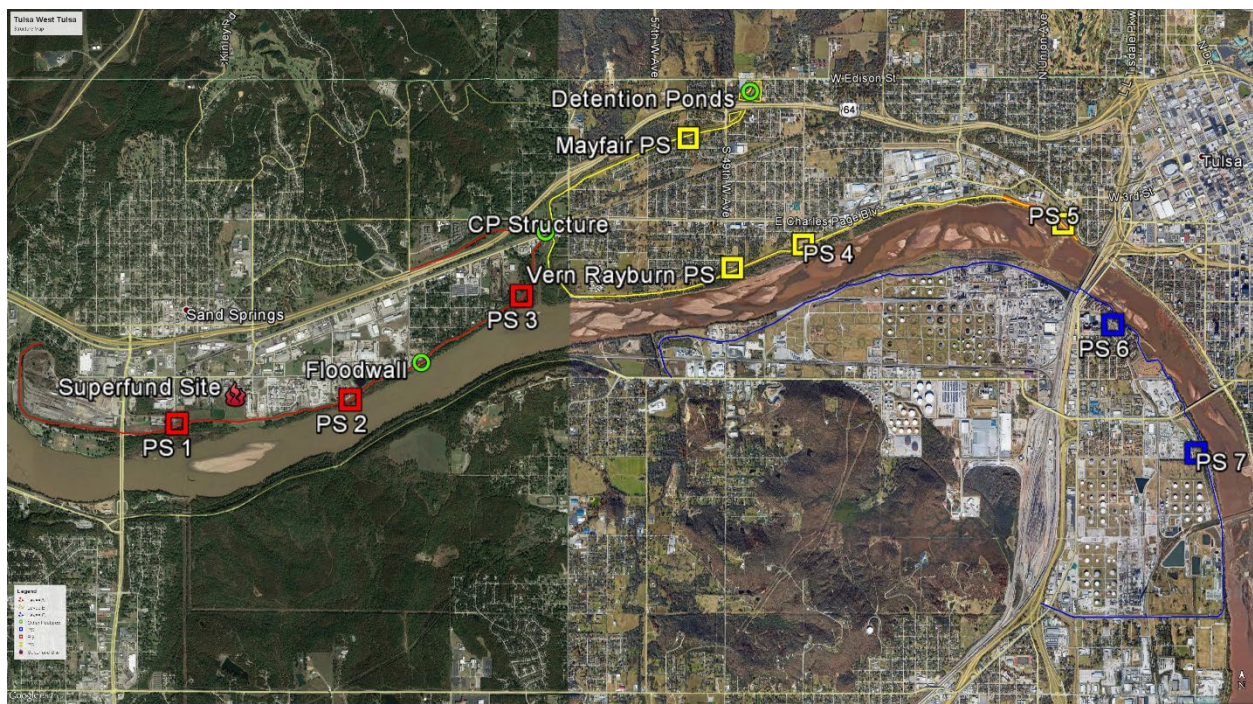
Navigation Servitude does not apply to this project.

1.10 Maps

The general location of the TWT Levee system is depicted in the map below.



In the project map below, Levee A is depicted as the red line, Levee B is the yellow line and Levee C is the blue line. The pump stations are labeled accordingly. It also depicts the Superfund site in Levee A and the Detention Ponds on Levee B tieback.



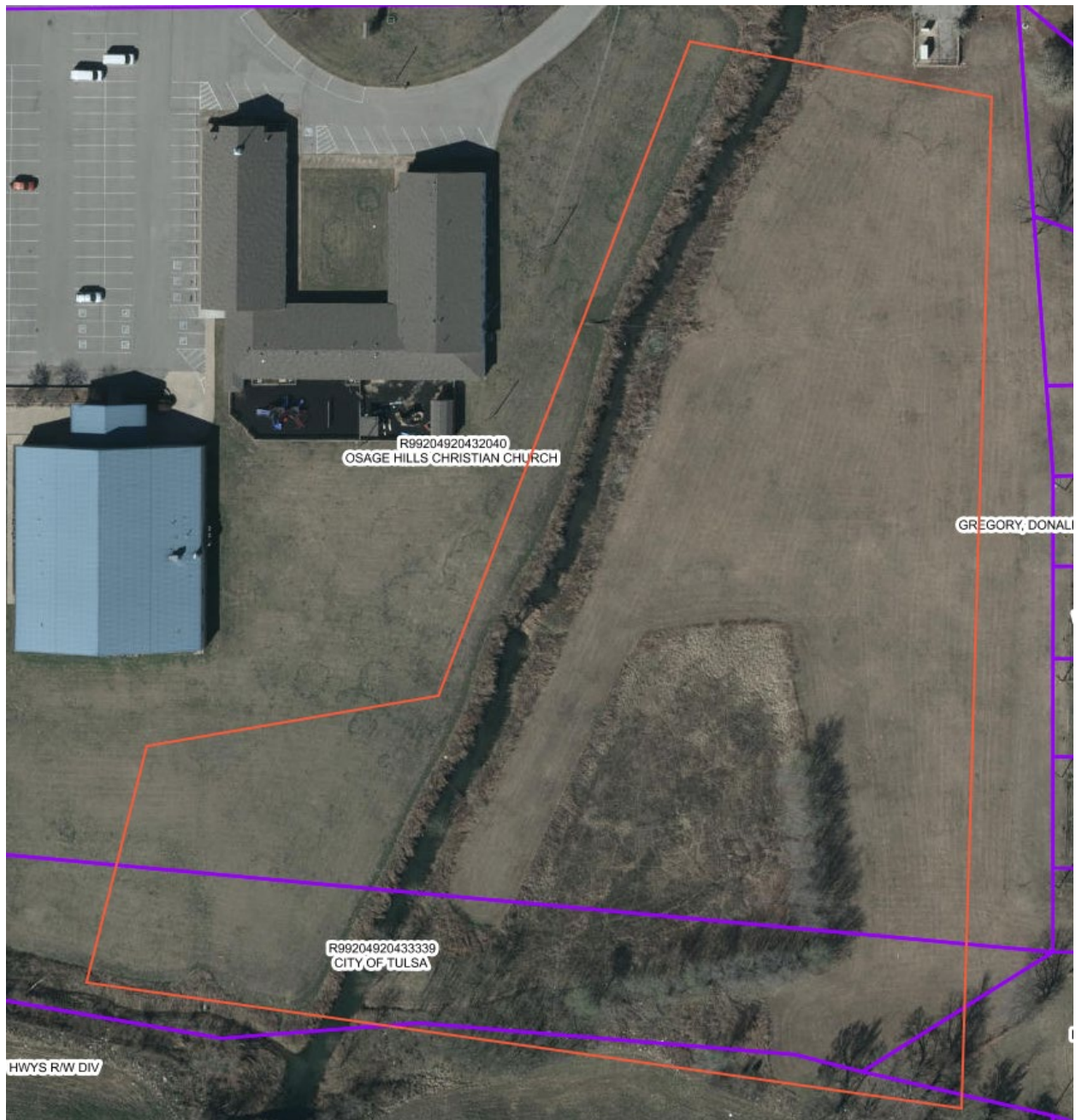
This map shows the portion of the railroad track that will need to be temporarily removed and then put back after construction. This is on the east end of Levee B.



A general map of the proposed detention ponds are shown below. The ponds will be located north and south of State HWY 51 or Sand Springs Expressway.



The next two maps shows the proposed areas of the detention ponds on Levee B tieback with the Tulsa County Assessor's ownership parcel data. The orange lines depict the proposed detention pond areas, the purple lines depict ownership lines.





1.11 Induced Flooding

No induced flooding is anticipated as the purpose of the project is to study the system to ensure the levee is providing the designed level of protection. The selected plan will not transfer risk to communities outside the TWT Levee system.

1.12 Baseline Cost Estimates

The costs listed in the below chart reflect the estimated real estate costs for the proposed feasibility study and are subject to change through final draft. Temporary work area easements and flowage easements will be required and are included in the cost estimate along with incidental costs for NFS. No costs were estimated for relocation assistance. There will be at least the temporary relocation of a railroad track, however, the estimated cost for the relocation is unknown at this time but an estimate for the administrative review of this is included.

				AMOUNT	CONTINGENCY	TOTAL PROJECT
				(ROUNDED)	(ROUNDED)	LERRD COST
		CONTINGENCY	PROJECT COST			
01	LANDS AND DAMAGES			\$2,910,000.00	\$730,000.00	\$3,640,000.00
	STRUCTURAL FEATURES					
	Assumes 129 Landowners					
	FILTERED BERM			\$2,700,000	\$680,000	\$3,380,000
	ACQUISITIONS					
	BY NON-FEDERAL SPONSOR (NFS)	\$1,740,000	\$435,000	\$2,175,000		
	REVIEW OF NFS	\$232,000	\$58,000	\$290,000		
	CONDEMNATIONS					
	BY NFS	\$325,000	\$81,250	\$406,250		
	REVIEW OF NFS	\$65,000	\$16,250	\$81,250		
	APPRAISAL					
	BY NFS	\$516,000	\$129,000	\$645,000		
	REVIEW OF NFS	\$258,000	\$64,500	\$322,500		
	PL 91-646 ASSISTANCE	\$0	\$0	\$0		
	BY NFS					
	REAL ESTATE PAYMENTS					
	LAND PAYMENTS					
	BY NFS	\$120,000	\$30,000	\$150,000		
	Assumes 9 Landowners					
	DETENTION PONDS			\$210,000	\$50,000	\$260,000
	ACQUISITION					
	BY NON-FEDERAL SPONSOR (NFS)	\$135,000	\$27,000	\$162,000		
	REVIEW OF NFS	\$18,000	\$3,800	\$21,800		
	CONDEMNATIONS					
	BY NFS	\$0	\$0	\$0		
	APPRAISAL					
	BY NFS	\$36,000	\$9,000	\$45,000		
	REVIEW OF NFS	\$18,000	\$4,500	\$22,500		
	PL 91-646 ASSISTANCE					
	BY NFS	\$0	\$0	\$0		
	REAL ESTATE PAYMENTS					
	LAND PAYMENTS					
	BY NFS	\$40,000	\$10,000	\$50,000		
02	RELOCATIONS			\$0	\$0	\$0
	Assumes 1 Railroad Facility					
	RELOCATIONS	\$0	\$0	\$0		
	REVIEW OF NFS	\$4,000	\$1,560	\$5,560		
	SUBTOTAL (NON-FED ADMIN COST)	\$3,433,250				
	SUBTOTAL (FED ADMIN COST)	\$737,850				
	TOTAL RE INTEREST (LAND PAYMENTS)	\$200,000				
	TOTAL NFS CREDITABLE LERRD (W/O RELOCATIONS)	\$3,640,000				
	RELOCATIONS	\$0				
	TOTAL NFS CREDITABLE LERRD	\$3,640,000	*Does not include Federal Admin Cost.			

1.13 Public Law 91-646, Relocation Assistance Benefits

Public Law 91-646, as amended, the Uniform Relocation Assistance Act, provides entitlement for various payments associated with Federal participation in acquisition of real property related specifically to displaced persons, businesses and farms. There may be a potential for Relocation Assistance Benefits along the levee system due to the multiple business near the project area that could be affected.

1.14 Mineral Rights

There is no known present or anticipated mineral activity or timber harvesting in the project area that will affect construction, operation or maintenance of the project.

1.15 Project Sponsor Responsibilities and Capabilities

USACE has completed the Assessment of Non-Federal Sponsor's Real Estate Acquisition Capabilities with the sponsor and is attached to as Exhibit C. The sponsor has the capability to acquire by negotiation or condemnation and to hold land titles. The NFS will be responsible for all Project real estate acquisitions subject to the guidance and supervision of the Real Estate Contracting Officer and applicable Federal legal requirements. USACE will verify that the appropriate real estate laws and policies are followed, as well as the appropriate lands and estates are acquired. The sponsor anticipates obtaining contracted services to completed real estate acquisitions and has noted it may need USACE assistance with the acquisitions. USACE Tulsa District Real Estate will do everything possible to help the sponsor during the acquisition process, however due to workload and staffing constraints within Tulsa District Real Estate, the sponsor may have to rely on contracted services to acquire with USACE oversight.

1.16 Zoning Ordinances

No zoning ordinances issues have been identified by Tulsa County Drainage District No. 12 in meetings involved with this Project. If identified in the future, it will be the sponsor's responsibility to resolve them.

1.17 Acquisition Schedule

The estimate time frame for acquisition activities is a minimum of two years. This schedule would be expected to extend up to an additional two years for condemnations and with the temporary railroad relocation due to the potential complexity of the relocation. A detailed acquisition schedule will be developed once final plans and specs have been completed and the Project Partnership Agreement has been executed.

1.18 Utility/Facility Relocation

The term "relocation" shall mean providing a functionally equivalent facility or town when such action is authorized in accordance with applicable legal principles of just compensation or as otherwise provided by Federal statute or any project or House or Senate document referenced therein. Providing a functionally equivalent facility may take the form of adjusting, altering, lowering, rising, or replacement and attendant removal of the affected facility or part thereof. It is important to note that relocation assistance under Public Law 91-646, as amended, will be applicable to any relocations.

Currently, there will need to be a temporary removal of approximately 1000 to 2000 feet of railroad tracks on the east end of Levee B. Limited information is available regarding the existence or location of any other pipelines, utilities or other improvements along the levee system. There is potential for additional utility/facility relocations. Where such structures are identified, the nature of the ownership will require our Office of Counsel to make a determination of compensable interest for the appropriate relocation action required.

1.19 Environmental Impacts

The TSP has potential to impact various natural resources. Environmental staff are coordinating with the appropriate parties to determine the need for compensatory mitigation. Impacts to cultural resources cannot be fully determined during feasibility level designs, so a programmatic agreement among USACE, the Oklahoma SHPO, the Oklahoma Archaeological Survey and appropriate federally recognized tribes will be developed.

1.20 Hazardous, Toxic, and Radioactive Waste (HTRW)

Located behind Levee A is the Sand Springs Superfund (ARCP) Site. The recommended plan will install a cut off wall in order to have minimal disturbance of the site. For measures in the vicinity of the superfund, site, environmental staff are coordinating with EPA staff to ensure proper procedures will be followed. However, it is the responsibility of the non-federal sponsor to provide USACE with contaminant free working areas.

1.21 Attitude of Property Owners

There are no known objections to the project. A public meeting was held February 13th, 2019 to allow for the public to review the information boards and ask questions. The general concern of the owners near the levee is that the system will provide adequate future performance. Additional public meetings may be scheduled since a TSP has been determined to allow the public to review the TSP and ask questions.

1.22 Non-Federal Sponsor Risk Notification (Early Acquisition)

The Sponsor does not intend to acquire any real estate until the final drawings and plan have been approved and the PPA signed. A formal letter of risk assessment has been sent to the Sponsor and is attached hereto and incorporated herein by reference as Exhibit D. The Sponsor may acquire easements to cure the current issues of missing documentation for the current levee system, however, that is something that should be cured and will not be included in the LERD Crediting for this PPA.

1.23 Other Real Estate Issues

With the missing documentation for the current levee system, and the non-federal sponsor stating that they own the levee system by prescription or adverse possession, it may take some time to cure this outstanding real estate issue. As previously stated, this has not been settled in court and resolution through the court system may take a significant amount of time. The NFS has been informed that this matter needs to be settled before construction can begin.

Another concern are the existence of encroachments along the existing levee system. These encroachments range from small residential outbuildings to industrial buildings and materials. The sponsor currently does not have a plan to cure the known encroachments that are affecting the toe of the levee. If not resolved, these encroachments may prove to be a challenge during construction. It was noted in the periodic inspection performed in 2017 on behalf of USACE that the sponsor should develop a long term plan to determine their right of way interest and ensure that they have the right of ways needed for a 15' clear zone from the toe of the levee and then start addressing the encroachments. It was also explained that the NFS should request an approval of variance from the US Army Corps of Engineers for any identified encroachments that would be allowed to remain in place. At this time, it is unclear whether any requests for variance have been approved for any of the existing encroachments.

Prepared By:

Krista Berna

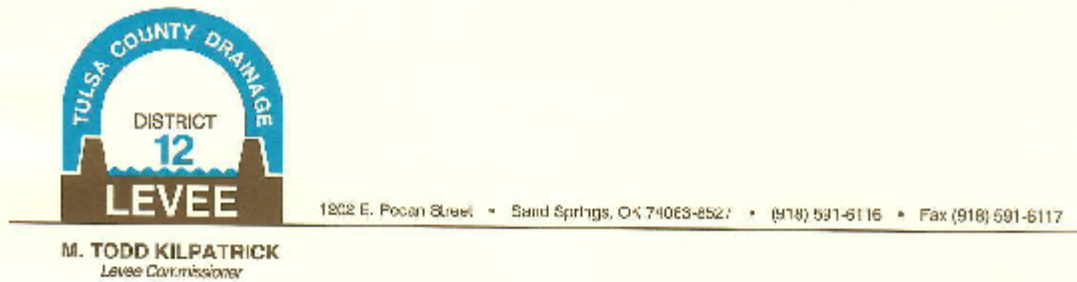
Senior Realty Specialist

Date

Reviewed By:

Terry D. Rupe
Chief, Real Estate

Date



TWI Real Estate Plan

The NFS, Levee District 12, is aware that easement documentation has not been located for several land parcels along the levee alignment. The NFS believes that all of the required easements for levee construction, access and maintenance were secured before the levee was constructed in the early 1940's. A large majority of the easement documents are available now and have been geo-referenced and mapped. The remaining easement documents are being researched and are anticipated to be located and plotted with the assistance of the Tulsa County Clerk's office and other local agencies as needed. The activity is currently ongoing and is anticipated to be complete by the end of October 2019. If easement documentation is still missing after this research, the NFS will employ the services of a Title or Abstract company or legal counsel to further research the remaining easements. Parcels of land that are missing levee easements have already been identified, so it is anticipated that the services of a title/abstract company would take approximately 60 days and would be complete by the end of December 2019.

Since we already know the identity of owners of all of the parcels with missing easement documents, the owners of any remaining absent easement documents will be contacted directly by the NFS or its representatives to obtain the needed easement through a Quit Claim Deed or other instrument to document the easement. A legal description of the levee easement boundary will be prepared by the NFS or its representatives for each parcel without its original easement document located. If any landowner is not willing to grant an easement or agree to the Quit Claim Deed process, then the NFS, having the power of eminent domain, will pursue the acquisition of the needed easement through the condemnation process if necessary. Complete documentation of the existing easements along the levee system impacted by this Feasibility Study will be available or in progress before the end of March 2020.

Regards,

M. Todd Kilpatrick
Commissioner Tulsa County Drainage District 12

1.24 Exhibit A

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

Tulsa West Tulsa Levee System Feasibility Study Tulsa County, Oklahoma

I. Legal Authority

- a. Does the Sponsor have the legal authority to acquire and hold title to real property for project purposes? Yes
- b. Does the Sponsor have the power of eminent domain for this project? Yes
- c. Does the Sponsor have "quick-take" authority for this project? - No quick take provisions in Oklahoma
- d. Are there any of the lands/interests in land required for the project outside the Sponsor's political boundary? No
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the Sponsor cannot condemn? No

II. Human Resource Requirements

- a. Will the Sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including PL 91-646, as amended? No.
- b. If the answer to II.a. is "Yes", has a reasonable plan been developed to provide such training? Not Applicable
- c. Does the Sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? NO need outside council to complete.
- d. Is the Sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? NO need outside council to complete.
- e. Can the Sponsor obtain contractor support, if required, in a timely fashion? Yes. Tulsa Levee District 12 has obtained excellent contractor support for past projects.
- f. Will the sponsor likely request USACE assistance in acquiring real estate? Yes- Levee District has had USACE support in the past

1.25 Exhibit B

III. Other Project Variables

- a. Will the Sponsor's staff be located within reasonable proximity to the project site? Yes
- b. Has the Sponsor approved the project/real estate schedule/milestones?
The Real Estate Scheduled has not been developed yet, once it has been the NFS will have the opportunity to review and concur.


IV. Overall Assessment

- a. Has the Sponsor performed satisfactorily on other USACE projects?
Yes
- b. With regard to this project, the Sponsor is anticipated to be: willing to work with Local USACE district to achieve any short or long term goals needed for future work.

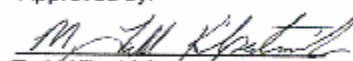
V. Coordination

- a. Has this assessment been coordinated with the Sponsor? Yes
- b. Does the Sponsor concur with this assessment? Yes

Prepared by:


Krista Berna
Realty Specialist

Approved by:


Todd Kilpatrick
Tulsa County Levee District 12
Commissioner



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4293

AUG 06 2019

Real Estate Division
Acquisition and Realty Services

SUBJECT: Tulsa/West Tulsa Feasibility Study

Tulsa County Drainage District #12
Todd Kilpatrick, Levee Commissioner
1202 East Pecan Street
Sand Springs, OK 74063

Dear Commissioner Kilpatrick:

As you are aware, the Tulsa West Tulsa Feasibility Study is currently underway. The report contains preliminary maps and drawings, which may change once the detail design of the project is completed. For this reason, in accordance with Corps of Engineers Regulation 405-1-12, Chapter 12, dated May 1, 1998, we are hereby formally advising you of the risks associated with acquisition of real estate rights prior to the signing of the Project Partnership Agreement (PPA) and receiving a request from our agency for the right-of-entry for construction.

Although advance acquisition of real estate by a Non-Federal Sponsor (NFS) is acceptable, it is my responsibility to advise you of the risks associated with advance acquisition for a proposed federal cost-shared project. The NFS will assume full and sole responsibility for any and all costs, responsibility, or liability arising out of such efforts. The risks associated with advance acquisition include, but may not be limited to the following:

- (1) Congress may not appropriate funds to construct the proposed project;
- (2) The proposed project may otherwise not be funded, or approved for construction;
- (3) A PPA mutually agreeable to the NFS and the Government may not be executed and implemented;
- (4) The NFS may incur liability and expense by virtue of its ownership of contaminated lands, or interest therein, whether such liability should arise out of local, state, or federal laws or regulations including liability arising out of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended.
- (5) The NFS may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;

Exhibit C

-2-

- (6) The NFS may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under Public Law 91-646, as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of LERRD; and
- (7) The NFS may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PPA.

However, should you decide to proceed with acquisition of real estate interests, you are hereby notified that acquisition activities must conform to Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Uniform Act describes the rights of landowners impacted by a Federally-funded project and the responsibilities of government agencies performing acquisition of real estate interests for such projects.

Furthermore, in order to ensure that you receive the maximum possible credit once the project alignment is finalized, we suggest that you keep records of the administrative costs associated with any advance land purchases. For lands or easements purchased within a five-year period preceding the effective date of a PPA, the value of the real property interests will also include the documented incidental costs of acquiring such interests, as determined by the Government to be reasonable. Administrative or incidental costs include, but are not limited to: closing and title costs, appraisal costs, survey costs, attorney's fees, mapping costs and relocation assistance benefit payments.

If you have any questions regarding the acquisition and crediting process, please call Ms. Krista Berna at (918) 669-7255.

Sincerely,



Terry D. Rupe
Chief, Real Estate
Real Estate Contracting Officer