

U.S. Army Corps of Engineers
River Des Peres – General Reevaluation
Report with Integrated
Environmental Assessment

August 22, 2022

Appendix E
Real Estate Plan

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1. PURPOSE

This Real Estate Plan (REP) has been prepared to present the real estate requirements and support the University City, River Des Peres, Missouri - General Reevaluation Report (GRR), authorized by Section 107(b) of WRDA 1992, Public Law 102-580. This REP updates and supersedes the previous real estate appendices included in the 1988 USACE River Des Peres, Missouri Feasibility Report, Environmental Assessment and Finding of No Significant Impact (FONSI) and 2007 GRR study. Although the latter study produced a draft report and Integrated EA, it was suspended in 2009 prior to its approval due to a lack of funding from the Sponsor. This report is tentative in nature and is to be used for planning purposes only. This REP identifies Lands, Easements, and Rights-of-Way (LER) necessary to complete the project. The non-Federal Sponsor (NFS) for this project is the City of University City, Missouri.

The study area is located within the upper River Des Peres watershed and encompasses approximately 5,930 acres. The upper River Des Peres watershed is in the eastern section of Missouri just west of Saint Louis City, in University City. The study area has had a long history of flooding events dating back until at least the mid-1980s and has continued to the present day. These previous events have led to loss of life, substantial damage and economic loss, and flood risk to homes, businesses, recreation sites, and public facilities. According to the 2010 census the population in the study area was 36,847. The study area is generally zoned single-family residential with a few multi-family residential structures, apartment complexes, commercial structures, and industrial enterprises. Contained within the watershed, the River Des Peres is characterized as a narrow river and stream bed that is surrounded by a flat, and completely developed watershed.

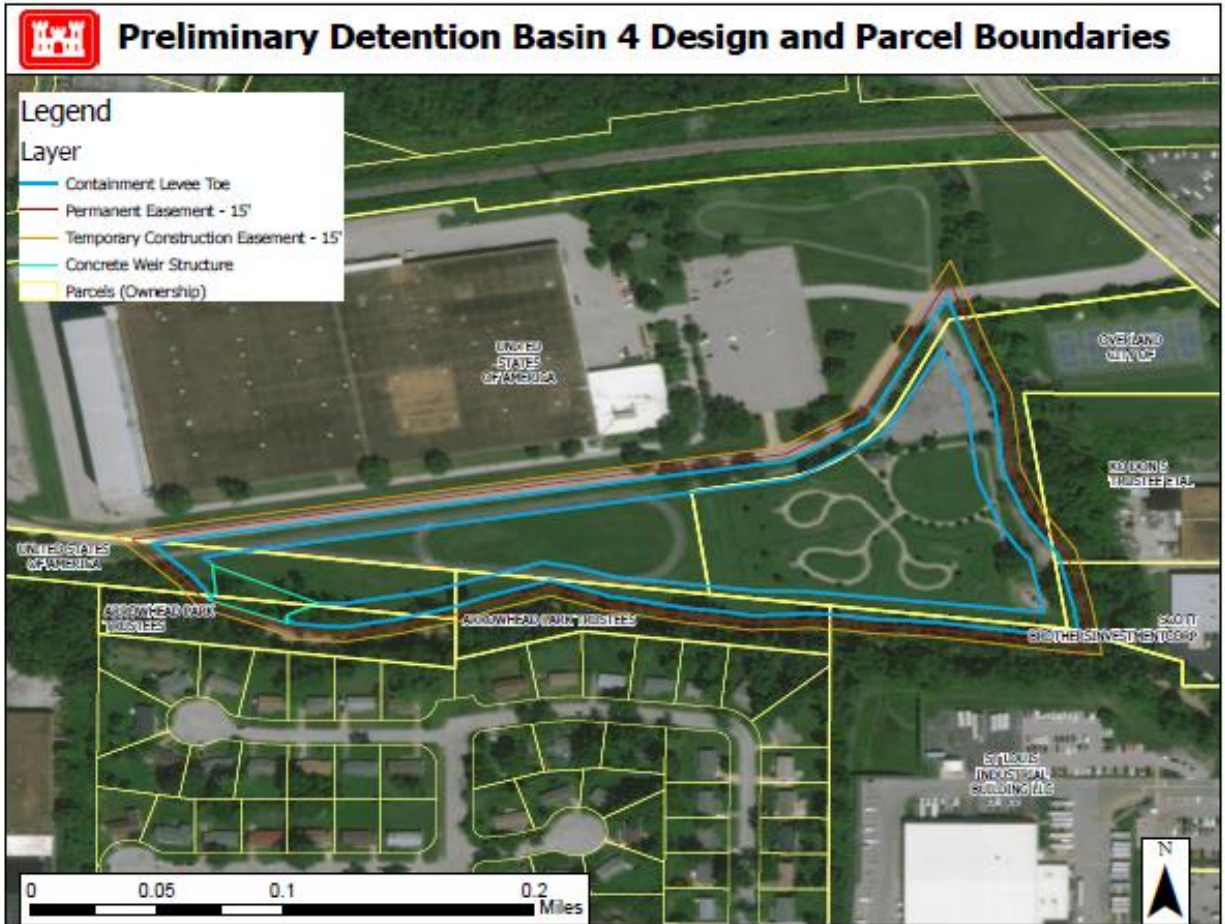
As part of the U.S. Army Corps of Engineers (USACE) planning process, the following objectives were identified for the study:

1. Reduce life safety risk due to flooding, including inundation of structures & public infrastructure, in University City over the period of analysis.
2. Reduce economic damage due to flooding in University City over the period of analysis.

This Real Estate Plan documents the recommended plan. The recommended plan (Figure 1) is a detention basin sited at Woodson Road Park within the City of Overland, outside the political boundary of the City of University City. This detention basin is known as Detention Basin 4 (DB4). DB4 would reduce flood stages both upstream in Overland and downstream in University City, and it would reduce the number of structures flooded and the extent of the flooding. DB4 was selected by the Sponsor as the Locally Preferred Plan (LPP).

DB4 as currently designed (less than 35% level of design) would replace the dog park, restrooms, gazebo, picnic areas, and parking lot at Woodson Road Park. However, the design may be modified to lessen the impact on existing facilities. Any change to the current design would occur after study completion, in the Pre-Construction Engineering and Design (PED) phase.

FIGURE 1. Recommended plan – DB4 Only



2. LANDS, EASEMENTS, AND RIGHTS-OF-WAY (LER)

The current recommended plan provides for the construction of a detention basin to reduce the nature and extent of flooding within the study area.

Total LER required for the Recommended Plan:

Structural Features

Standard Estate:

FEE SIMPLE:

The fee simple title to (the land described in _____ Schedule A) (Tracts Nos. _____, _____ and _____), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY WORK AREA EASEMENT:

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.

Ownership Information	Estate	Acres	Estate	Acres
United States of America	Fee Simple	4.54	Easement	0.64
City of Overland, Missouri	Fee Simple	4.72	Easement	0.14
Ko Don S Trustee Etal	Fee Simple	0.02	Easement	0.03
Scott Brothers Investment Corp	Fee Simple	0.09	Easement	0.05
Arrowhead Park Trustees	Fee Simple	0.91	Easement	0.36
St. Louis Industrial Building	Fee Simple	0.09	Easement	0.15

DB4 would be constructed by utilizing on-site excavation to form berms around the perimeter, which will eliminate the need for the acquisition of borrow areas.

A copy of the standard estates proposed for this project are included as Exhibit E. Current reverter clause on the Woodson Road Park will need to be eliminated, and land

owned by the United States of America, managed by the GSA will need to be declared excess by GSA region 6, for the NFS to acquire necessary LER. The following are recommended courses of action:

1a. USA land: The USA land can be acquired through a Department of Health and Human Services (HHS) land grant, in accordance with 40 United States Code, 2011 Edition Title 40 - PUBLIC BUILDINGS, PROPERTY, AND WORKS SUBTITLE I - FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES CHAPTER 5 - PROPERTY MANAGEMENT SUBCHAPTER III - DISPOSING OF PROPERTY Sec. 550 - Disposal of real property for certain purposes. The City of University City is coordinating with the General Services Administration (GSA) to gather the necessary information and steps to declare the property as excess. At this time the City of University City can apply to the HHS to acquire the property. The USA owned land would transfer to the NFS via Quit Claim Deed with rights of reverter, for maintaining the land granted for public health purposes.

1b. Alternatively, the City of University City can purchase the USA owned property in Fee Simple from the GSA. Coordination with the GSA is ongoing, to facilitate and ensure that the subject property is declared excess, so the federal land can be disposed of at fair market price to the City of University City without any reservations.

2a. City of Overland land: In coordination with the National Park Service (NPS), Department of Interior (DOI), the City of Overland can release the right of reverter, placed on the Woodson Road Park deed by the DOI (part of a federal grants program administered by the National Park Service, titled Federal Lands to Park Program), by paying fair market price for the subject lands. This will allow the City of University City to acquire the property directly from the City of Overland through a Quitclaim Deed at fair market price.

2b. Alternatively, in coordination with the NPS, DOI, the City of Overland can “declare” to the NPS the City’s intent of being non-compliant with the current right of reverter, found on the Woodson Road Park deed. This would initiate the process of “reintroducing” these lands back into the excess Federal lands pool of the NPS, DOI. In coordination with the NPS, GSA and HHS, NPS can reassign, with the GSA concurrence, the Deed to HHS. Once the NFS application for the federal lands grant is approved by the HHS, HHS can grant the property to the City of University City via Quitclaim Deed with rights of reverter.

3. The private lands would be acquired directly by NFS.

3. SPONSOR-OWNED LER

The Sponsor does not currently own any LERs at the DB4 site. The western portion of the DB4 site is owned by the United States of America and is managed by the General Services Administration (GSA), which also manages the U.S. Army Publication Center building directly to the north of the site. The eastern portion of the DB4 site is part of Woodson Road Park, which is owned and managed by the City of Overland. The city acquired the property through a federal lands grant program administered by the Department of Interior (DOI). The DOI Quit Claim Deed the property, to the City of Overland in 1972 with reservations. Current reverter clause prevents the park to be removed for the purpose of a detention basin, without its elimination.

4. NON-STANDARD ESTATES

No non-standard estates are required for implementation of this project.

5. EXISTING FEDERAL PROJECTS

The River Des Peres Project is not located near any existing Federal projects and will not adversely affect any existing Federal projects.

6. FEDERALLY OWNED LANDS

DB4 proposed site is located on 4.54 acres of land owned by the United States of America and managed by the GSA. The site is identified as the Sammy L. Davis Federal Building with its only tenant being the U.S. Army Publications Distribution Center. Coordination with the GSA regarding this project and the development of courses of action to acquire the real estate has been established and referenced above in section 2. DB4 proposed site is also situated on 4.72 acres identified as Woodson Road Park, which is owned by the City of Overland. The city acquired the property through a federal lands grant program administered by the National Park Service, Department of Interior (DOI). The DOI Quit Claim Deed the property, to the City of Overland in 1972 with reservations. Current reverter clause prevents the park to be removed for the purpose of a detention basin, without its elimination. Noncompliance of reverter clause would cause the lands to revert to the United States of America.

7. NAVIGATION SERVITUDE

This project does not serve a purpose which is in the aid of navigation. In addition, the proposed project features are not located in navigable waters of the United States but are located on fastlands above the ordinary high-water mark. Therefore, the use of navigation servitude is not available for the project.

8. MAPPING

A map of the site location is included as Exhibit A.

9. INDUCED FLOODING

According to Appendix A , Section 2.2 (page 40) of the main report, the recommended plan will not cause induced flooding.

10. BASELINE COST ESTIMATE

The total estimated real estate costs, including land and improvements, federal administration costs, relocation of dog park and contingencies, for the required LER All estimates were reviewed and approved by the PDT and a Corps staff review appraiser as applicable.

Alternative: Detention Basin 4	
<u>01: Lands and Damages</u>	Cost
Fee Simple Acquisitions	1,986,736.57
Temporary Construction Easements	70,604.66
NFS Admin Cost	120,000.00
Federal Admin Cost	91,440.00
Total L&D	\$2,268,781.23
<u>02: Relocations</u>	
Dog Park Improvements	490,500.00
Total Relocations	\$490,500.00
DB4 Estimated TC	\$2,759,281.23

11. RELOCATION ASSISTANCE BENEFITS

The recommended plan does not require the project to provide temporary or permanent relocation benefits to residential, farm or business entities.

12. MINERAL ACTIVITY

There are no known mineral rights or activities affecting the study area.

13. SPONSOR ASSESSMENT

Typically, acquisition of lands, easements, rights-of-way, relocations, and disposal lands (LERRDs) are the responsibility of the NFS. The NFS has the legal authority and power to enter into the Project Partnership Agreement (PPA). DB4 is located outside the political boundary of the NFS, the City of University City. The City of University City and the City of Overland are in close coordination and must follow the laws established by the State of Missouri governing acquisition of the lands for this project. According to the State of Missouri (Missouri Revisor of Statutes) and the Charters of the local cities, cities have the authority to condemn private lands within and without city limits of adjoining cities. There is no mention in State law if this authority extends over lands held in public trust. The only reference in Missouri statutes concerning lands held in public trust is trustees, or body corporate, of said city, town or village, is given full power and authority to pass any laws, bylaws, ordinance or other necessary provisions regulating and effecting the sale of said commons, or to perform, or cause to be performed, all acts that are, or may become, necessary to carry into full effect the sale of said commons by said city, town or village.

14. ZONING

No known zoning ordinances are proposed.

15. SCHEDULE OF LAND ACQUISITION MILESTONES

Following approval of the River Des Peres GRR, and execution of the Project Partnership Agreement (PPA), the NFS will proceed with acquisition of the lands at the DB4 site after a notice to proceed is issued. A more detailed schedule will be developed once final right-of-way (ROW) has been determined. Typically, a period of one year is allowed to complete all land acquisition activities for a project.

REAL PROPERTY ACQUISITION MAJOR MILESTONES	
<u>TASK</u>	<u>DURATION (Days)</u>
ROE S&E/ Survey and Mapping	60
Tract Appraisal	60
Secure Title Commitment(s)	30
Preliminary Title Opinion	30
Negotiations/Signed OTS	270
Final Title Opinion	30
Closing/ Conveyance of Title	90
Right of Way Certification	570

16. FACILITY OR UTILITY RELOCATIONS

The dog park and other recreation features in the portion of Woodson Road Park that lies within the DB4 footprint will require relocation. The Park is located on land specifically designated for recreational use. According to the land agreement with the NPS, the City of Overland may create a new park with the acreage of land removed from recreation use and potentially the same amenities, resulting in a net zero change in recreation.

One possible location for the relocated dog park is Legion Park, at 2830 W Milton Avenue in Overland, Missouri. Legion Park already contains a multipurpose facility and walking trail; the dog park could potentially be sited to the south of the walking trail and utilize some of the existing parking lot. The acreage appears to be slightly smaller than the existing dog park. The Overland City Council has preliminarily reviewed this location as appropriate for the relocated dog park.

At the current level of design, no additional facility or utility relocations are anticipated. However, as the design for the project is more fully developed, relocation needs will be more closely analyzed. A Preliminary Opinion of Compensability has been completed and attached as exhibit E.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN HIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE

NON- FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY’S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

17. HTRW

This Feasibility Report includes an Integrated Environmental Assessment. As stated in section 2.8 of the main report, and required for this stage in the project, a review of the 2005 Phase I was conducted. The review concluded that the River Des Peres corridor contains no known contamination or environmental sites of interest. Therefore, no impacts on the real estate acquisition process related to HTRW are anticipated.

18. LANDOWNER ATTITUDE

There is no known landowner opposition to this project. The project has drawn support and positive attention from the NFS, the City of Overland, and local constituents. USACE will continue to engage with the NFS, Overland, and the local community to stay abreast of changing sentiments and provide coordination as necessary.

19. NOTIFICATION TO THE SPONSOR REGARDING THE RISKS ASSOCIATED WITH LAND ACQUISITION BEFORE EXECUTION OF THE PROJECT PARTNERSHIP AGREEMENT (PPA)

Typically, acquisition of lands, easements, rights-of-way, relocations, and disposal lands (LERRDs) is the responsibility of the NFS. The NFS has the legal authority and power to enter into the PPA and to provide the necessary real estate interests. The NFS has been notified, in writing, of the risks associated with acquiring land before execution of the PPA.

20. OTHER RELEVANT REAL ESTATE ISSUES

All relevant real estate issues have been discussed.

Prepared by:

Reviewed by:

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Saint Louis District
Mississippi Valley Division
U.S. Army Corps of Engineers

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Chief Real Estate Division
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EXHIBIT A – PROJECT STUDY AREA

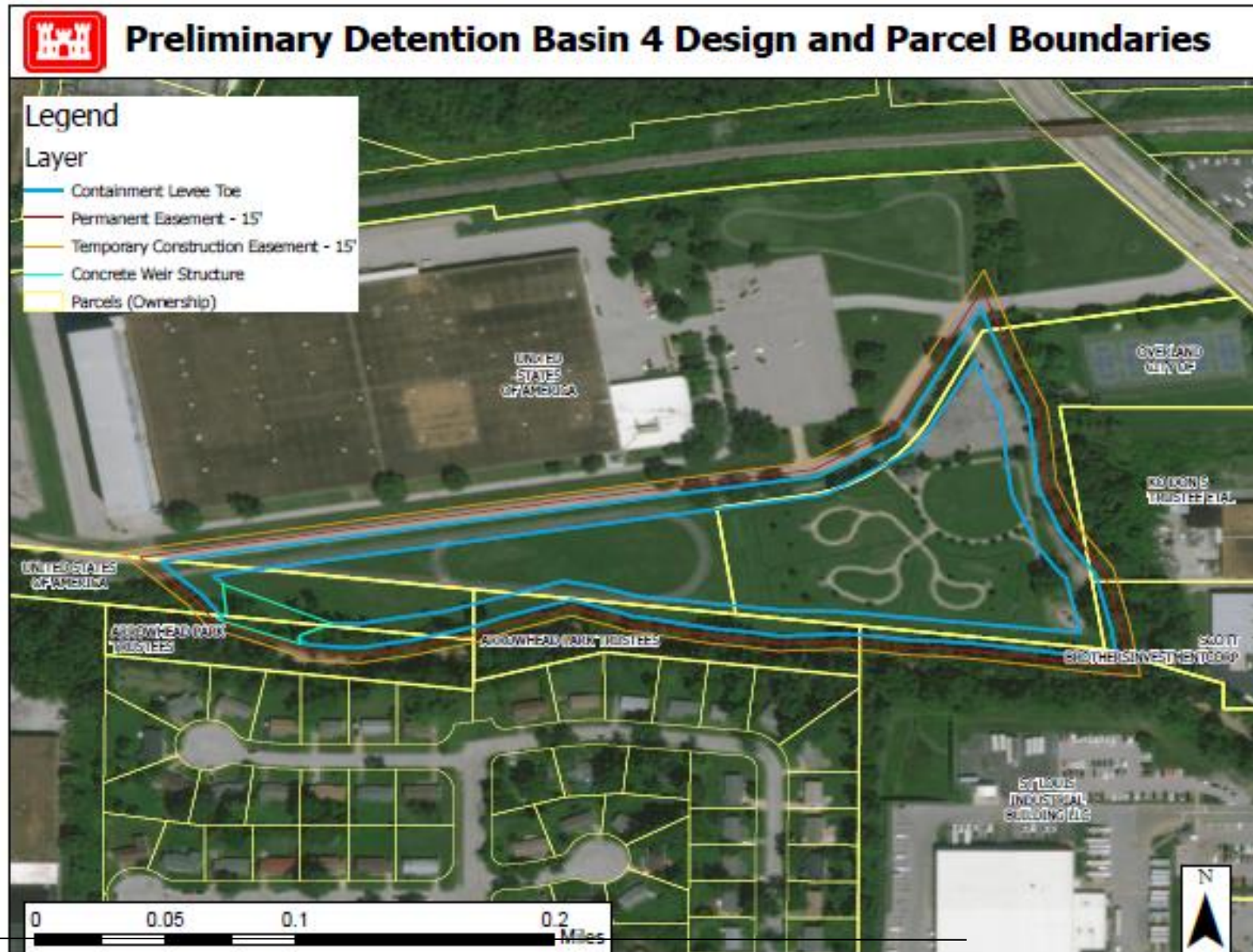


EXHIBIT B – Assessment of Non-Federal Sponsor’s Real Estate Capability

I. Legal Authority:

- a) Does the sponsor have 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 for lands held by private citizens. Land held in public trust will have to be acquired via mutual agreements**
- c) Does the sponsor have “quick-take” authority for this project? **YES for lands held by private citizens**
- d) Are any of the lands/interests in land required for the project located outside the sponsor’s political boundary? **YES. City of Overland, Missouri, and City of Olivette, Missouri**
- e) Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **YES. Lands owed in public trust, by the United States of America and City of Overland Dog park.**

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 P.L. 91-646, as amended? **YES**
- b) If the answer to II.a. is “yes,” has a reasonable plan been developed to provide such training? **NO**
- c) Does the sponsor’s in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **NO**
- d) Is the sponsor’s projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? **NO**
- e) Can the sponsor obtain contractor support, if required in a timely fashion? **YES**
- f) Will the sponsor likely request USACE assistance in acquiring real estate? **YES**

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? **YES**

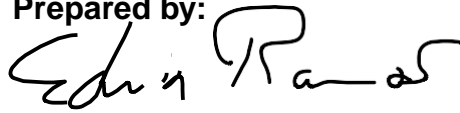
IV. Overall Assessment:

- a) Has the sponsor performed satisfactorily on other USACE projects? **YES**
- b) With regard to this project, the sponsor is anticipated to be: **Marginally capable. The NFS's capability is assessed as marginal because of their uncertainty and lack of knowledge on State and local laws concerning the real estate acquisition process of obtaining property outside their political boundary**
- c)

V. Coordination:

- a) Has this assessment been coordinated with the sponsor? **YES**
- b) Does the sponsor concur with this assessment? **YES**

Prepared by:



Edwin Ramos
Chief, Planning & Acquisition
Real Estate Division
St. Louis District,
US Army Corps of Engineers

EXHIBIT C – RISK NOTIFICATION LETTER



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103

September 30, 2021

Real Estate Division
Acquisition and Planning Branch

SUBJECT: River Des Peres General Reevaluation Report (GRR) with Integrated Environmental Assessment (EA)– Notification of Real Estate Acquisition Risk

Mr. Terry Claw, Mayor
City of University City
6801 Delmar Boulevard
University City, MO 63130

Dear Mr. Claw:

The purpose of this letter is to inform the non-federal partner, the city of University City (herein referred to as the "Sponsor"), about the real estate requirements and the risks involved in acquiring real estate before the Project Partnership Agreement (PPA) is signed by the Sponsor.

This project will require the acquisition of various real estate interests to support the design features. The procedures for acquiring real estate right-of-way in conjunction with Federal Programs are outlined in the Uniform Real Property Acquisition and Relocation Assistance Act, Public Law 91-646, as amended. The requirements for acquisition under this law have been discussed with the Sponsor during the Feasibility Phase of the project. Detailed discussions will be held with the Sponsor when final right-of-way requirements for the project are identified by the U. S. Army, Corps of Engineers, St. Louis District, Real Estate Division.

The St. Louis District is advising the Sponsor of the potential risks associated with starting an acquisition program before execution of the PPA. Generally, these risks include but are not 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 non-Federal partner and the Government may not be executed and implemented.
4. The non-Federal Partner may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability

EXHIBIT C – RISK NOTIFICATION LETTER CONT.

should arise out of local, state, or Federal laws or regulations including liability arising out of the Comprehensive Environmental Response, Compensation, and Liability ACT of 1980, as amended (CERCLA).

5. The non-Federal Partner may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project.
6. The non-Federal Partner may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 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 the Lands, Easements, Rights-of-Way, Relocations and Disposals (LERRDS).
7. The non-Federal Partner may incur costs or expenses in connection with its decision to acquire or perform LERRDS 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.

We look forward to working closely with you on this important project. If you have questions regarding this information, please contact Terrence Ollis at 314-331-8159.

Sincerely,

Melissa Lynn Hoerner

Melissa Lynn Hoerner
Real Estate Contracting Officer
Division St. Louis District - MVS

EXHIBIT D – ESTATES

FEE.

The fee simple title to (the land described in _____ Schedule A) (Tracts Nos. _____, _____ and _____), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. ¹

TEMPORARY WORK AREA EASEMENT:

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.