

REAL ESTATE PLAN

**SECTION 205 – PRAIRIE CREEK AND TRIBUTARIES (RUSSELLVILLE, ARKANSAS)
FLOOD DAMAGE REDUCTION STUDY
POPE COUNTY, ARKANSAS**

17 JUNE 2015

**PREPARED BY
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LITTLE ROCK DISTRICT**

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Attachments:

Exhibit A	Project Location
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Prepared by: Brian Raley
Real Estate Division

REAL ESTATE PLAN

SECTION 205 – PRAIRIE CREEK AND TRIBUTARIES (RUSSELLVILLE, ARKANSAS) FLOOD DAMAGE REDUCTION STUDY POPE COUNTY, ARKANSAS

1. Purpose of the Real Estate Plan

The purpose of this Real Estate Plan (REP) is to outline the real estate acquisition requirements necessary for the completion of the Section 205, Prairie Creek Flood Damage Reduction Study.

The study was initiated at the request of the mayor of Russellville, Arkansas, in a letter dated July 12, 2010. The authority for this study is Section 205 of the Flood Control Act of 1948 (Public Law 80-858), as amended, which permits the Corps of Engineers to undertake the investigation, design, and construction of flood control projects having a total Federal cost of less than \$10 million without specific congressional action.

2. Description of Lands, Easements and Rights-of-Ways (LERRD's)

The study area is located within the Arkansas River Basin, extending along main the stem of Prairie Creek, including the tributary of Engineers Ditch. The City of Russellville (population 27,920 by 2010 estimate) is located approximately 80 miles west of Little Rock, Arkansas, in the southwest corner of Pope County. The project area is generally centered in the City of Russellville, the non-federal sponsor. This study area encompasses an approximate six-mile reach of Prairie Creek, passing through the city as well as four and a half miles of tributaries including Engineers Ditch. The Engineer's Ditch project area includes land owned by the Union Pacific Railroad, which will require additional coordination prior to construction. However, no railroad relocation is expected. Current design plans indicate work being completed will not affect the existing railroad structure or rail line and no interruption of service is expected. The determination of no relocation has been made without consultation with Union Pacific Railroad. Design changes or non-concurrence from the railroad company could force relocation benefits, which will be approached at that time.

The non-federal sponsor has not completely determined the exact number of ownerships/parcels that border the Prairie Creek project area. The best estimate is approximately 100 parcels for Alternative 4, the chosen alternative out of 5 proposed.

This project is divided between Prairie Creek, which is composed of two reaches (3 and 4 & 5) and Engineers Ditch. Alternative 4 consists of both reaches on Prairie Creek, five (5) lay down areas on Prairie Creek, Engineers Ditch, two (2) lay down areas on Engineer's Ditch, 3,120 (not including an unspecified amount of fiber optic cable) linear feet of utility relocations, and an access road on Engineers Ditch. There will be modifications to the Commerce Street and West Parkway covered channels. The total area to be acquired for both areas of the project is approximately 33.21 acres of Temporary Work Area Easement, 14.65 acres for of Channel Improvement Easement, 0.82 acres of Perpetual Road Easement and 1,320 linear feet of Utility and/or Pipeline Easement (relocation).

3. Description of LERRD's Owned by Non-Federal Sponsors

The City of Russellville, Arkansas, as the non-federal sponsor, owns a single parcel of land in the acquisition area.

4. Non-Standard Estates

There are no non-standard estates for this project.

5. Any existing federal projects

In 1964, the protective dike and Prairie Creek Pumping Station construction were completed. The Corps purchased perpetual flowage easements covering 730 acres to elevation 334 along the downstream end of Prairie Creek from individual land owners. The dike, pumping station, and easements are necessary for the flood protection of the City of Russellville. Without the dike, pumping station, and flowage easement sump area, portions of Russellville, including Arkansas Tech University, would flood as a result of the raising of Lake Dardanelle as a part of the McClellan-Kerr Arkansas River System (MKARNS).

6. Any federally owned land

None.

7. LERRD that lies below the ordinary high water mark

Prairie Creek is not a navigable water way.

8. Maps

A map depicting an overview of Alternative 4 is exhibit "A."

9. Any possible flooding

Induced flooding is not anticipated by the construction or operation and maintenance of the project.

10. Cost Estimate

The following estimate is based on a Real Property Cost Estimate dated 11 August 2014 (Alternative 4), prepared by Ronald Bridges, Little Rock District, US Army Corps of Engineers and reports generated by the cost engineer.

The indicated real estate cost estimate is \$4,284,641.00 for the Section 205, Prairie Creek Flood Damage Reduction Study.

BASELINE COST ESTIMATE FOR REAL ESTATE PRAIRIE CREEK (RUSSELLVILLE, ARKANSAS) FLOOD DAMAGE REDUCTION STUDY

1	Lands & Damages			
1.23	Construction Contract Documents	Federal	Non-Federal	20% Contingency
01.23.03	Real Estate Analysis Documents			
	Planning by Non-Federal Sponsor		\$340,000	\$68,000
	Corps of Engineers Real Estate Plan	\$1,500		\$300
	Corps Review of Non-Federal Sponsor	\$50,000		\$10,000
01.23.03.02	Real Estate Acquisition Documents			
	Acquisitions by Non-Federal Sponsor		\$100,000	\$20,000
	Corps Review of Non-Federal Sponsor	\$50,000		\$10,000
01.23.03	Real Estate Condemnation Documents			
	Condemnations by Non-Federal Sponsor		\$72,000	\$14,400
	Corps Review of Non-Federal Sponsor	\$50,000		\$10,000
01.23.03.05	Real Estate Appraisal Documents			
	Appraisals by Non-Federal Sponsor		\$260,000	\$52,000
	Corps Review of Non-Federal Sponsor	\$100,000		\$20,000
01.23.03.06	Real Estate PL 91-646 Asst. Documents			
	PL 91-646 Asst. by Non-Federal Sponsor		\$36,000	\$7,200
	Corps Review of Non-Federal Sponsor	\$1,800		\$360
01.23.03.15	Real Estate Payment Documents			
	Payments by Non-Federal Sponsor (Land)		\$1,734,600	\$0
	Payments by Non-Federal Sponsor (Damages)		\$0	\$0
	Payments by Non-Federal Sponsor (PL 91-646 Asst.)		\$739,434	\$147,887
	Corps Review of Non-Federal Sponsor	\$18,000		\$3,600
01.23.03.17	Real Estate LERRD Crediting Documents			
	Preparation of Non-Federal Sponsor		\$18,000	\$3,600
	Corps Review of Non-Federal Sponsor	\$18,000		\$3,600
	TOTAL FEDERAL ADMIN & PAYMENTS	\$289,300		
	TOTAL NON-FEDERAL ADMIN & PAYMENTS		\$3,300,034	
	TOTAL CONTINGENCY			\$370,947
	ESTIMATED TOTAL			\$3,960,281

BASELINE COST ESTIMATE FOR REAL ESTATE ENGINEERS DITCH (RUSSELLVILLE, ARKANSAS) FLOOD DAMAGE REDUCTION STUDY

1	Lands & Damages			
1.23	Construction Contract Documents	Federal	Non-Federal	20% Contingency
01.23.03	Real Estate Analysis Documents			
	Planning by Non-Federal Sponsor		\$34,000	\$6,800
	Corps of Engineers Real Estate Plan	\$1,500		\$300
	Corps Review of Non-Federal Sponsor	\$5,000		\$1,000
01.23.03.02	Real Estate Acquisition Documents			
	Acquisitions by Non-Federal Sponsor		\$10,000	\$2,000
	Corps Review of Non-Federal Sponsor	\$5,000		\$1,000
01.23.03	Real Estate Condemnation Documents			
	Condemnations by Non-Federal Sponsor		\$7,200	\$1,440
	Corps Review of Non-Federal Sponsor	\$5,000		\$1,000
01.23.03.05	Real Estate Appraisal Documents			
	Appraisals by Non-Federal Sponsor		\$35,000	\$7,000
	Corps Review of Non-Federal Sponsor	\$10,000		\$2,000
01.23.03.06	Real Estate PL 91-646 Asst. Documents			
	PL 91-646 Asst. by Non-Federal Sponsor		\$0	\$0
	Corps Review of Non-Federal Sponsor	\$0		\$0
01.23.03.15	Real Estate Payment Documents			
	Payments by Non-Federal Sponsor (Land)		\$182,640	\$0
	Payments by Non-Federal Sponsor (Damages)		\$0	\$0
	Payments by Non-Federal Sponsor (PL 91-646 Asst.)		\$0	\$0
	Corps Review of Non-Federal Sponsor	\$1,800		\$360
01.23.03.17	Real Estate LERRD Crediting Documents			
	Preparation of Non-Federal Sponsor		\$1,800	\$360
	Corps Review of Non-Federal Sponsor	\$1,800		\$360
	TOTAL FEDERAL ADMIN & PAYMENTS	\$30,100		
	TOTAL NON-FEDERAL ADMIN & PAYMENTS		\$270,640	
	TOTAL CONTINGENCY			\$23,620
	ESTIMATED TOTAL			\$324,360

BASELINE COST ESTIMATE FOR REAL ESTATE PRAIRIE CREEK (RUSSELLVILLE, ARKANSAS) FLOOD DAMAGE REDUCTION STUDY				
1	Lands & Damages			
1.23	Construction Contract Documents	Federal	Non-Federal	20% Contingency
01.23.03	Real Estate Analysis Documents			
	Planning by Non-Federal Sponsor		\$374,000	\$74,800
	Corps of Engineers Real Estate Plan	\$3,000		\$600
	Corps Review of Non-Federal Sponsor	\$55,000		\$11,000
01.23.03.02	Real Estate Acquisition Documents			
	Acquisitions by Non-Federal Sponsor		\$110,000	\$22,000
	Corps Review of Non-Federal Sponsor	\$55,000		\$11,000
01.23.03	Real Estate Condemnation Documents			
	Condemnations by Non-Federal Sponsor		\$79,200	\$15,840
	Corps Review of Non-Federal Sponsor	\$55,000		\$11,000
01.23.03.05	Real Estate Appraisal Documents			
	Appraisals by Non-Federal Sponsor		\$295,000	\$59,000
	Corps Review of Non-Federal Sponsor	\$110,000		\$22,000
01.23.03.06	Real Estate PL 91-646 Asst. Documents			
	PL 91-646 Asst. by Non-Federal Sponsor		\$36,000	\$7,200
	Corps Review of Non-Federal Sponsor	\$1,800		\$360
01.23.03.15	Real Estate Payment Documents			
	Payments by Non-Federal Sponsor (Land)		\$1,917,240	\$0
	Payments by Non-Federal Sponsor (Damages)		\$0	\$0
	Payments by Non-Federal Sponsor (PL 91-646 Asst.)		\$739,434	\$147,887
	Corps Review of Non-Federal Sponsor	\$19,800		\$3,960
01.23.03.17	Real Estate LERRD Crediting Documents			
	Preparation of Non-Federal Sponsor		\$19,800	\$3,960
	Corps Review of Non-Federal Sponsor	\$19,800		\$3,960
	TOTAL FEDERAL ADMIN & PAYMENTS	\$319,400		
	TOTAL NON-FEDERAL ADMIN & PAYMENTS		\$3,570,674	
	TOTAL CONTINGENCY			\$394,567
	ESTIMATED TOTAL			\$4,284,641

The total Real Estate Cost Estimate for alternative 4 of the Prairie Creek Construction Project is \$4,284,641, not including utility or facility relocation costs.

11. Relocation Benefits (01 Code of Accounts)

There is one business identified requiring 91-646 relocation benefits. The estimated cost of moving the business to include providing adequate replacement of building to be demolished is \$739,434. Of this cost, up to \$86,000 is considered in-kind and \$5,000 is estimated for relocation benefits (economic costs). \$648,434 (financial costs) is estimated above in-kind if the rebuilding of a new facility is required due to no suitable facility being available for relocation.

There will likely be more 91-646 relocation benefits identified and required for this project. When plans are further defined and surveys complete, identifying specific work areas, more accurate cost estimates will be available. A 20 percent contingency is currently added to 01 account relocation costs.

12. Mineral activity

There is no known mineral activity in the vicinity of the project.

13. Assessment of Non-Federal Sponsors

The City of Russellville has determined they will perform all the acquisitions and the Corps will provide required review for crediting purposes.

14. Application of zoning ordinances

The properties of the Non-Federal Sponsor are not subject any zoning ordinances.

15. Land Acquisition Milestones

General elements contributing to acquisition timelines are landowner attitude, funding, manpower resources, and title issues. Some title defects can require significant time and efforts to cure. In some cases, curatives efforts may require forced probate or condemnation to identify and provide legal notice to all owners. Where condemnation is required, an additional 2 years would be required after all negotiation efforts fail. Nevertheless, the Non-Federal Sponsor (City of Russellville) can “take” immediate position of the properties needed for the project through eminent domain proceedings. If the properties were condemned, just compensation to the landowners would be decided in court.

The estimate schedule for real estate acquisition for this project is as follows:

Right-of-Entry: two weeks/per parcel
Survey: four weeks/per parcel
Mapping: one week/per parcel
Title: eight weeks/per parcel
Appraisal: ten weeks/per parcel
Acquisition: four weeks/per parcel
Condemnation: two years

Each item is listed with estimated completion schedule by individual action. These actions will overlap in schedule. The total acquisition schedule is estimated at 18 months without condemnation. With condemnation, the total acquisition schedule is estimated at 3.5 years.

16. Facility or utility relocations (02 Code of Accounts)

Real Estate Policy Guidance Letter No. 31 (PGL 31) was applied to all facility/utility relocations currently identified in this plan. According to this guidance, no attorney's opinions of compensability are required due to project facility/utility relocation costs being only 4 percent of total project costs. An assessment of each relocation is as follows:

Reach three of the Prairie Creek phase of the project will require an estimated \$326,261 of utility relocation and \$278,636 in facility relocation. Facility relocation for reach three represents costs of rebuilding road surfaces for the West Parkway and Commerce Street covered channels.

Real Estate Policy Guidance Letter No. 31 (PGL 31) was applied to relocations of road surfaces for covered channels in reach three of this project. No attorney's opinion of compensability is required. The assessment of compensability of these covered channels as described in PGL 31 is as follows. Based on this assessment, no substitute facility cost is listed in this plan.

1. Is the identified facility generally of the type eligible for compensation under the substitute facilities doctrine? **No. The covered channel relocations in question represent road surfaces with marked and adequate detour routes already identified due to consistent flooding. No substitute structure is recommended.**
2. Does the district have some valid data or evidence that demonstrates that it has identified an owner with a compensable interest in the property? **No. It is assumed the City of Russellville has either fee ownership or road easement right of way in the areas of these covered channels. However, no ownership verification has been produced.**

Utility relocations currently identified for reach three represent relocations for water lines, sewage lines and natural gas lines.

Real Estate Policy Guidance Letter No. 31 (PGL 31) was applied to utility relocations in reach three of this project. No attorney's opinion of compensability is required. The assessment of compensability of these utilities as described in PGL 31 is as follows. Based on this assessment, no substitute facility cost is listed in this plan.

1. Is the identified facility generally of the type eligible for compensation under the substitute facilities doctrine? **Yes, it is assumed the described utilities are public utilities and are compensable under the substitute facilities doctrine.**
2. Does the district have some valid data or evidence that demonstrates that it has identified an owner with a compensable interest in the property? **No, ownership verification has not been produced.**

Reaches 4 and 5 require an estimated \$357,743 in utility relocation. Utility relocations currently identified for reaches 4 and 5 represent relocations for water lines, sewage lines and electric utility lines.

Real Estate Policy Guidance Letter No. 31 (PGL 31) was applied to utility relocations in reaches 4 and 5 of this project. No attorney's opinion of compensability is required. The assessment of compensability of these utilities as described in PGL 31 is as follows. Based on this assessment, no substitute facility cost is listed in this plan.

1. Is the identified facility generally of the type eligible for compensation under the substitute facilities doctrine? **Yes, it is assumed the described utilities are public utilities and are compensable under the substitute facilities doctrine.**
2. Does the district have some valid data or evidence that demonstrates that it has identified an owner with a compensable interest in the property? **No, ownership verification has not been produced.**

The non-federal sponsor will be advised this compensability assessment is for budgeting purposes only and does not constitute a preliminary or final determination of compensability by the agency regardless of whether the cost of substitute facilities are reflected in the feasibility study documents. Using a real estate assessment does not eliminate the need to obtain a final attorney's opinion of compensability prior to execution of the PPA.

Total facility/utility relocation estimated cost is \$962,640.

There will likely be more facility/utility relocation benefits identified and required for this project. When plans are further defined and surveys complete, identifying specific work areas, more accurate cost estimates will be available. 32% contingency is currently added to 02 account relocation costs.

17. Known contaminants

There are no known or potential Hazardous, Toxic, and Radioactive Waste (HTRW) lands involved for either alternative that have been proposed for this project. There is also no visible contaminants noted on or adjacent to the LERRD's required for the proposed project.

18. Support or opposition to the project

There has been no known opposition to this project. It was advertised in the August 23, 2013, issue of the local newspaper (The Courier) but public meetings have not been conducted as of yet.

19. Statement that Non-Federal Sponsor has been notified in writing about the risks associated with acquiring land

The non-federal sponsor will be notified by the Real Estate Division about risks with acquiring the land needed for the project.





20. Other real estate issues

There are no other real estate issues that need to be addressed relevant to this project.



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

LEGEND

-  PERPETUAL CHANNEL IMPROVEMENT EASEMENTS
-  TEMPORARY WORK AREA EASEMENTS
-  Prairie Creek (PC) Known Ownerships (CAO 4 Aug 2014)
-  Engineer's Ditch (ED) Known Ownerships (Alternate 4)

1 inch = 700 feet

**Prairie Creek Land Acquisition
 Russellville, Arkansas
 Feasibility Study
 August 2014
 FN: Prairie_Creek_Alt_4.PDF**

Estates

Channel Improvement Easement

A perpetual and assignable right and easement to construct operate and maintain channel improvement works on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the purposes as authorized by the Act of Congress approved _____) including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, building, improvements and/or other obstructions therefrom; to excavate, dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, 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.

Road Easement

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A)(Tracts Nos. _____, _____ and _____) for the location, construction, . operation, maintenance, alteration replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); 5/ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

UTILITY AND/OR PIPELINE EASEMENT.

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____, and _____) for the location, construction, operation, maintenance, alteration; repair and patrol of (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the land- owners, 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.

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 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.

EXHIBIT B, CONTINUED

SECTION 205
CITY OF RUSSELLVILLE, ARKANSAS
PRAIRIE CREEK FLOOD DAMAGE REDUCTION STUDY
(CITY OF RUSSELLVILLE, ARKANSAS – NON-FEDERAL SPONSOR)

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

1. 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
- (c) Does the sponsor have “quick-take” authority for this project? Yes
- (d) Are any of the lands/interests in land required for the project located outside of the sponsor’s political boundary? No
- (e) Any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? Yes-Arkansas Tech University (would require Corps to Condemn)

2. 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, Trey Smith, City Atty.
- (b) If the answer to 2.a is “yes”, has a reasonable plan been developed to provide such training? In progress-Will require an 8 hour site visit by Corps Employees to provide Training. Training will be conducted when both parties are available.
- (c) Does the sponsor’s in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes-Do lack Federal Relocation experience
- (d) Is the sponsor’s projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? Yes
- (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 (If “yes”, provide description). If condemnation is required for Arkansas Tech University ownership.

3. 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

4. OVERALL ASSESSMENT:

- (a) Has the sponsor performed satisfactorily on other USACE projects? N/A
- (b) With regard to this project, the sponsor is anticipated to be: Highly capable
 Fully capable X Moderately capable Marginally capable
 Insufficiently capable (If sponsor is believed to be insufficiently capable, provide explanation).

The Real Estate Division feels the Non-Federal Sponsor is moderately capable to fulfill the roles and responsibilities in the agreed upon Project Partnership Agreement. This assessment took into consideration the recent departure of a key individual (Former Director of Public Works/City Engineer) and an election in January that lead to a new Mayor in Office.

5. COORDINATION:

- (a) Has this assessment been coordinated with the sponsor? Yes
- (b) Does the sponsor concur with this assessment? Yes (If "No", provide explanation).

Prepared by:

Ralph H. Allen (Signature)
RAPLPH H. ALLEN
Attorney, Office of Counsel

Reviewed and Approved by:

Donald L. Balch (Signature)
DONALD L. BALCH
Chief, Real Estate Division