

**REAL ESTATE PLAN
MAY BRANCH DRAINAGE CHANNEL PROJECT
FORT SMITH, ARKANSAS**

**Prepared for
US Army Corps of Engineers
Southwestern Division
Little Rock District**

**As of
7 December 2004
Revised: 15 September 2006**

**Prepared by
Ronald Bridges
Real Estate Branch**

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<u>Table of Contents</u>	<u>Page</u>
[1] Purpose of the Real Estate Plan	1
[2] Description of Lands, Easements and Rights-of-Way (LER's)	2
[3] LER owned by Non-Federal Sponsor	2
[4] Non-Standard Estates	2-3
[5] Any Existing Federal Project That Lies Fully or Partially Within the LER Required for the Project	3
[6] Any Federally Owned Land	3
[7] LER that Lies Below the Ordinary High Water Mark	3
[8] Maps Depicting Project Area	4
[9] Any Possible Flooding	4
[10] Real Estate Cost Estimate	4-9
[11] Relocation Assistance Benefits	10
[12] Mineral Activity	10
[13] Assessment of Non-Federal Sponsor	10
[14] Application of Zoning Ordinances	10
[15] Land Acquisition Milestones	10-11
[16] Facility or Utility Relocations	11
[17] Known Contaminants	11
[18] Support or Opposition to the Project	12
[19] Statement that Non-Federal Sponsor Has Been Notified in Writing About the Risks Associated with Acquiring Land	12
[20] Other Real Estate Issues	12

Attachments:

Exhibit A	Project Area Map
Exhibit B	Assessment of Non-Federal Sponsor's Capability
Exhibit C	Federal Emergency Management Agency Letter
Exhibit D	Authorization for Entry for Construction Attorney's Certificate of Authority

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[1] Purpose of the Real Estate Plan

The purpose of this Real Estate Plan is to provide real estate acquisition cost estimates for lands required for the completion of the May Branch Drainage Channel Project. The project is for the construction of an approximate 2.75-mile drainage channel for the City of Fort Smith to alleviate the flooding problem that exists in the western area of the city. Project area maps, attached as Exhibit A, show the location of the project. Approximately 2.25 miles of the channel is situated in Reaches 1 to 4 and will be cost-shared with the City of Fort Smith which is the Non-Federal or Local Sponsor for this proposed project. Real estate costs are estimated for Reaches 1 to 6. Construction of the 0.5 mile portion of the drainage channel is situated within Reaches 5 and 6. Construction of the drainage channel for Reaches 5 and 6 is part of the Locally Preferred Plan. The total costs of Reaches 5 and 6 will be the responsibility of the Non-Federal Sponsor.

The Water Resources Development Act of 1986, (Public Law 99-662) as amended, provides the basis for the sharing of responsibilities between the federal government and the non-federal sponsor in further studies and/or implementation of a flood control project along May Branch in Fort Smith, Arkansas.

[2] Description of Lands, Easements and Rights-of-Way (LER's)

The entire project is situated within the city boundaries of Fort Smith, Arkansas. The proposed project will cover an aggregate area of approximately 47.81 acres. The project properties consist of commercial, industrial, and residential properties. There are approximately 88 ownerships within the drainage channel alignment for the proposed project. The largest single ownership within the project boundary is the Missouri Pacific Railroad right-of-way that extends from Reach 1 to Reach 4. The right-of-way for the Missouri Pacific Railroad covers an approximate 11.87-acre area. The railroad right-of-way also extends into Reaches 5 and 6 and encumbers approximately 3.01 acres. There are approximately 11 ownerships in Reach 1, approximately 40 ownerships in Reach 2 and approximately 23 ownerships in Reach 3. Properties in Reaches 1, 2 and 3 consist primarily of land suitable for industrial, commercial, and single-family uses. There are approximately 14 ownerships in Reach 4. Properties in Reach 4 consist primarily of land suitable for commercial, multi-family and single-family uses. Reaches 5 and 6 have approximately 32 ownerships that would be affected with the construction of the proposed drainage channel project. Reaches 5 and 6 consist primarily of residential properties. However, the acquisitions of the ownerships in Reaches 5 and 6 will be a 100 percent Non-Federal cost. The Non-Federal Sponsor will acquire the necessary real estate interest and will be responsible for all of the project costs in Reaches 5 and 6. All of the project properties are situated in parts of Sections 14, 15, 16, 17, 18, 19, 20, 21, and 22, Township 1 North, Range 12 West and Section 13, Township 1 North, Range 13 West, all in Sebastian County, Arkansas. All of the lands, easement and rights-of-way are within the corporate limits of the City of Fort Smith, Arkansas.

[3] LER owned by the Non-Federal Sponsor

The Non-Federal Sponsor owns eight (8) of the ownerships that cover, in the aggregate, approximately 3.96 acres of land within the proposed project area boundary. The Non-Federal ownerships or properties are situated in Reach Nos. 2 and 3. Two of the parcels are considered residential properties. Three of the parcels are part of the Fort Smith city park. The other three parcels are plottage acreage within a commercial area of the city.

There are an additional 5.76 acres in Reach No. 1 that were acquired by the Non-Federal Sponsor for a past federally funded project. This acreage is proposed to be used as a temporary work area for the May Branch project. Because this acreage was acquired for a past project federally funded project, the Non-Federal Sponsor will not be credited for the acquisition of this acreage.

[4] Non-Standard Estates

There are no non-standard estates for this proposed project. A channel improvement easement estate was considered for the project. Because of the degree of damages that would occur to the properties, it was estimated that the value of a channel improvement easement would be equivalent to the value of fee simple. However, channel improvement and temporary work area easements are the estates for the acquisition of the lands for the project that are yet to be acquired.

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, buildings, 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.

Temporary Work Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) Tract Nos. _____, _____, _____), for period not to exceed _____, beginning with the 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 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.

[5] Any existing federal project that lies fully or partially within the LER required for the project.

Approximately 5.76 acres of land situated in Reach 1 were part of a Federal Emergency Management Agency (FEMA) program in this area of Fort Smith, Arkansas. Approximately 0.60 acre of land was acquired by the Non-Federal Sponsor for the construction of a flood control levee in this area of the city is situated within the project alignment. Though located in the project area and possessed by the Non-Federal Sponsor, acquisition of these acreages will not and cannot be credited to the non-federal sponsor. This acreage is also being considered for use as a temporary work area for this project. There was a concern as to whether construction of the drainage channel would be in compliance with regulations pertaining to these FEMA project properties. It was found that the construction of the drainage channel in Reach 1 would be compliant with the Hazard Mitigation Grant Program (HMGP) policy of the Federal Emergency Management Agency (FEMA). (See Exhibit C).

[6] Any federally owned land

None of the lands are federally owned that lie within this proposed project alignment.

[7] LER that lies below the ordinary high water mark

None of the Land, Easement and Rights-of-Way (LER) for the proposed project lies under the ordinary high-water mark with the exception of the westernmost end of Reach No. 1 that ends at the Arkansas River. At this point of Reach No. 1, the land is encumbered with a permanent and an occasional flowage easement. The permanent flowage easement for this area is up the 392-foot elevation contour. The occasional flowage easement is up to the 395-foot elevation contour. The project's land use is outside of the use authorized for the existing Federal flowage easements.

[8] Maps depicting project area

The maps depicting the location of the proposed project are shown in Exhibit A.

[9] Any possible flooding

No induced flooding will occur as a result of the proposed drainage channel project.

[10] Real Estate Cost Estimate

The real estate cost estimate is based upon a gross appraisal dated August 17, 2002 by Reed and Associates. The 2002 gross appraisal was reviewed and recommended for approval by Ronald Bridges, Review Appraiser, US Army Corps of Engineers, Little Rock District. Nancy J. Boyd, Southwestern Division, U.S. Army Corps of Engineers approved the gross appraisal report. Subsequent real estate cost estimates for this project were made after the initial gross appraisal of Reaches 1 to 6. Land values were analyzed with the original gross appraisal and other available market data were obtained to estimate the estimated current land values for the baseline real cost estimate. The overall real estate values also include a conservative 20% contingency. This contingency is based on past experience involving other acquisition projects for the Little Rock District. Reaches 1 to 2 were valued considering a .01 probability flood protection plan scenario. Reaches 3 and 4 were valued considering a 0.1 probability flood protection plan scenario. Reaches 5 to 6 were valued considering a 0.1 probability flood protection plan scenario.

The estimated real estate acquisition costs are as follows:

Reach No. 1 = \$541,500		
	Non-Federal Sponsor: \$524,400	Federal: \$17,100
Reach No. 2 = \$1,422,000		
	Non-Federal Sponsor: \$1,356,000	Federal: \$66,000
Reach No. 3 = \$363,600		
	Non-Federal Sponsor: \$334,700	Federal: \$28,900
Reach No. 4 = \$951,000		
	Non-Federal Sponsor: \$926,500	Federal: \$24,600

A real estate acquisition cost was also estimated for Reaches 5 and 6 of the Locally Preferred Plan. Reaches 5 and 6 have an estimated real estate acquisition cost of \$1,905,000.00. The real estate cost estimate for Reaches 5 and 6 is premised on the assumption that a grocery business, adjacent to the proposed channel, will not be adversely affected by the construction of the drainage channel in Reach No. 6.

**BASELINE COST ESTIMATE FOR REAL ESTATE
MAY BRANCH DRAINAGE PROJECT, REACH 1 – FORT SMITH
SEBASTIAN COUNTY, ARKANSAS**

01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		
	Planning by Non-Federal Sponsor	\$2,400	20% = \$480
	Corps of Engineers Real Estate Plan	\$1,400	20% = \$280
	Corps Review of Non-Federal Sponsor	\$400	20% = \$80
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Non-Federal Sponsor (includes estimated survey cost)	\$32,000	20% = \$6,400
	Corps Review of Non-Federal Sponsor	\$4,000	20% = \$800
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Non-Federal Sponsor	\$4,000	20% = \$800
	Corps Review of Non-Federal Sponsor	\$800	20% = \$160
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Non-Federal Sponsor	\$16,500	20% = \$3,300
	Corps Review of Non-Federal Sponsor	\$4,000	20% = \$800
01.23.03.06	Real Estate PL 91-646 Asst. Documents		
	PL 91-646 Asst. by Non-Federal Sponsor	\$8,000	20% = \$1,600
	Corps Review of Non-Federal Sponsor	\$800	20% = \$160
01.23.03.15	Real Estate Payment Documents		
	Payments by Non-Federal Sponsor (Land)	\$117,120	
	Payments by Non-Federal Sponsor (Damages)	\$275,400	
	Payments by Non-Federal Sponsor (PL 91- 646 Asst.)	\$51,600	
	Corps Review of Non-Federal Sponsor	\$1,600	20% = \$320
01.23.03.17	Real Estate LERRD Crediting Documents		
	Preparation by Non-Federal Sponsor	\$4,000	20% = \$800
	Corps Review of Non-Federal Sponsor	\$1,200	20% = \$240
	TOTAL ADMIN & PAYMENTS	\$525,220	
	TOTAL CONTINGENCY		\$16,220
			\$541,440
	ESTIMATED TOTAL		(R) \$541,500

**BASELINE COST ESTIMATE FOR REAL ESTATE
MAY BRANCH DRAINAGE PROJECT, REACH 2 – FORT SMITH
SEBASTIAN COUNTY, ARKANSAS**

01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		
	Planning by Non-Federal Sponsor	\$2,400	20% = \$480
	Corps of Engineers Real Estate Plan	\$1,400	20% = \$280
	Corps Review of Non-Federal Sponsor	\$400	20% = \$80
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Non-Federal Sponsor (includes estimated survey cost)	\$124,800	20% = \$24,960
	Corps Review of Non-Federal Sponsor	\$16,000	20% = \$3,200
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Non-Federal Sponsor	\$16,000	20% = \$3,200
	Corps Review of Non-Federal Sponsor	\$1,600	20% = \$320
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Non-Federal Sponsor	\$60,000	20% = \$12,000
	Corps Review of Non-Federal Sponsor	\$15,600	20% = \$3,120
01.23.03.06	Real Estate PL 91-646 Asst. Documents		
	PL 91-646 Asst. by Non-Federal Sponsor	\$44,000	20% = \$8,800
	Corps Review of Non-Federal Sponsor	\$4,000	20% = \$800
01.23.03.15	Real Estate Payment Documents		
	Payments by Non-Federal Sponsor (Land)	\$711,600	
	Payments by Non-Federal Sponsor (Damages)	\$67,200	
	Payments by Non-Federal Sponsor (PL 91- 646 Asst.)	\$270,000	
	Corps Review of Non-Federal Sponsor	\$14,000	20% = \$2,800
01.23.03.17	Real Estate LERRD Crediting Documents		
	Preparation by Non-Federal Sponsor	\$8,200	20% = \$1,640
	Corps Review of Non-Federal Sponsor	\$2,400	20% = \$480
	TOTAL ADMIN & PAYMENTS	\$1,359,600	
	TOTAL CONTINGENCY		\$62,160
			\$1,421,760
	ESTIMATED TOTAL		(R) \$1,422,000

**BASELINE COST ESTIMATE FOR REAL ESTATE
MAY BRANCH DRAINAGE PROJECT, REACH 3 – FORT SMITH
SEBASTIAN COUNTY, ARKANSAS**

01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		
	Planning by Non-Federal Sponsor	\$2,400	20% = \$480
	Corps of Engineers Real Estate Plan	\$1,400	20% = \$280
	Corps Review of Non-Federal Sponsor	\$300	20% = \$60
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Non-Federal Sponsor (includes estimated survey cost)	\$70,400	20% = \$14,080
	Corps Review of Non-Federal Sponsor	\$8,800	20% = \$1,760
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Non-Federal Sponsor	\$11,200	20% = \$2,240
	Corps Review of Non-Federal Sponsor	\$2,400	20% = \$480
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Non-Federal Sponsor	\$34,500	20% = \$6,900
	Corps Review of Non-Federal Sponsor	\$8,800	20% = \$1,760
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)	\$187,680	
	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	0	0
01.23.03.17	Real Estate LERRD Crediting Documents		
	Preparation by Non-Federal Sponsor	\$4,000	20% = \$800
	Corps Review of Non-Federal Sponsor	\$2,400	20% = \$480
	TOTAL ADMIN & PAYMENTS	\$334,280	
	TOTAL CONTINGENCY		\$29,320
	ESTIMATED TOTAL		\$363,600

**BASELINE COST ESTIMATE FOR REAL ESTATE
MAY BRANCH DRAINAGE PROJECT, REACH 4 – FORT SMITH
SEBASTIAN COUNTY, ARKANSAS**

01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		
	Planning by Non-Federal Sponsor	\$2,400	20% = \$480
	Corps of Engineers Real Estate Plan	\$1,400	20% = \$280
	Corps Review of Non-Federal Sponsor	\$300	20% = \$60
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Non-Federal Sponsor (includes estimated survey cost)	\$55,000	20% = \$11,000
	Corps Review of Non-Federal Sponsor	\$5,200	20% = \$1,040
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Non-Federal Sponsor	\$8,000	20% = \$1,600
	Corps Review of Non-Federal Sponsor	\$800	20% = \$160
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Non-Federal Sponsor	\$19,500	20% = \$3,900
	Corps Review of Non-Federal Sponsor	\$5,200	20% = \$1,040
01.23.03.06	Real Estate PL 91-646 Asst. Documents		
	PL 91-646 Asst. by Non-Federal Sponsor	\$24,000	20% = \$4,800
	Corps Review of Non-Federal Sponsor	\$2,400	20% = \$480
01.23.03.15	Real Estate Payment Documents		
	Payments by Non-Federal Sponsor (Land)	\$283,920	
	Payments by Non-Federal Sponsor (Damages)	\$371,760	
	Payments by Non-Federal Sponsor (PL 91- 646 Asst.)	\$135,000	
	Corps Review of Non-Federal Sponsor	\$4,000	20% = \$800
01.23.03.17	Real Estate LERRD Crediting Documents		
	Preparation by Non-Federal Sponsor	\$4,000	20% = \$800
	Corps Review of Non-Federal Sponsor	\$1,200	20% = \$240
	TOTAL ADMIN & PAYMENTS	\$924,080	
	TOTAL CONTINGENCY		\$26,680
			\$950,760
	ESTIMATED TOTAL		(R) \$951,000

**BASELINE COST ESTIMATE FOR REAL ESTATE
MAY BRANCH DRAINAGE PROJECT, REACHES 5 AND 6 – FORT SMITH
SEBASTIAN COUNTY, ARKANSAS**

01	Lands & Damages		
01.23	Construction Contract Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		
	Planning by Non-Federal Sponsor	\$2,400	20% = \$480
	Corps of Engineers Real Estate Plan	\$1,400	20% = \$280
	Corps Review of Non-Federal Sponsor	\$400	20% = \$80
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Non-Federal Sponsor (includes estimated survey cost)	\$98,800	20% = \$19,760
	Corps Review of Non-Federal Sponsor	\$12,400	20% = \$2,480
01.23.03.03	Real Estate Condemnation Documents		
	Condemnations by Non-Federal Sponsor	\$12,400	20% = \$2,480
	Corps Review of Non-Federal Sponsor	\$1,600	20% = \$320
01.23.03.05	Real Estate Appraisal Documents		
	Appraisals by Non-Federal Sponsor	\$46,500	20% = \$9,300
	Corps Review of Non-Federal Sponsor	\$12,400	20% = \$2,480
01.23.03.06	Real Estate PL 91-646 Asst. Documents		
	PL 91-646 Asst. by Non-Federal Sponsor	\$40,000	20% = \$8,000
	Corps Review of Non-Federal Sponsor	\$8,000	20% = \$1,600
01.23.03.15	Real Estate Payment Documents		
	Payments by Non-Federal (Land)	\$781,840	
	Payments by Non-Federal Sponsor (Damages)	\$614,400	
	Payments by Non-Federal Sponsor (PL 91- 646 Asst.)	\$216,000	
	Corps Review of Non-Federal Sponsor	\$6,400	20% = \$1,280
01.23.03.17	Real Estate LERRD Crediting Documents		
	Preparation by Non-Federal Sponsor	\$6,200	20% = \$1,240
	Corps Review of Non-Federal Sponsor	\$2,400	20% = \$480
	TOTAL ADMIN & PAYMENTS	\$1,854,740	
	TOTAL CONTINGENCY		\$50,260
	ESTIMATED TOTAL		(R) \$1,905,000

[11] Relocation Assistance Benefits

Relocation assistance benefits will be available for displaced businesses impacted by this project. Relocation benefits will involve 2 businesses in Reach 1, 5 businesses in Reach 2, and 5 businesses in Reach 4 where the construction of the May Branch drainage channel will result in the removal of the improvements within the alignment of the channel. The estimated relocation costs are included in Section 10. For Reaches 1 - 4, the estimated relocation assistance cost estimate is \$561,800.

[12] Mineral Activity

There are no ongoing or anticipated mineral activities within the project area. The anticipated risk of conflicting mineral production in the project area is very low and is unlikely to require subordination of minerals. The project footprint or alignment and potential surface damages would likely prevent mineral development from impacting the project structures.

[13] Assessment of Non-Federal Sponsor

See Assessment of the Non-Federal Sponsor's Capability (Exhibit B). The Non-Federal Sponsor has been advised of the requirement for documenting expenses for crediting purposes.

[14] Application of Zoning Ordinances

The subject properties for the proposed project are zoned as commercial, industrial, manufacturing, single family, multifamily, and open space.

[15] Land Acquisition Milestones

The Non-Federal Sponsor is already in possession of eight (8) of the 88 ownerships within Reaches 1 to 4. The Non-Federal ownerships in Reaches 1 to 4 total approximately 3.96 acres. Given the nature of adverse impact to landowners, land acquisition is expected to take a minimum of 1 year depending upon available manpower and funding resources for Reaches 1 to 6. 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, curative 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. The Non-Federal Sponsor can "take" possession 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 state court.

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

Right-of-entry: two weeks
 Survey: four weeks/parcel
 Mapping: one week/parcel
 Title: eight weeks/parcel
 Appraisal: nine weeks/parcel
 Acquisition: four weeks/parcel
 Condemnation: 2 years

[16] Facility or Utility Relocations

The project will impact a number of utilities and facilities such street and railroad crossings, sewer lines, electrical lines, water lines and natural gas lines. If project construction requires movement of these utilities and/or facilities, their owners have a compensable interest. The estimated costs associated with these relocations and construction are estimated at \$7,435,600.00, for Reaches 1 to 4 and \$2,421,700.00 for Reaches 5 and 6. These are upfront project costs to the Non-Federal Sponsor. A Preliminary Attorney’s Opinion of Compensability has been prepared for this study to address compensation involving facility and utility relocation issues.

Non-Federal Sponsor Construction Costs

Non-Federal Relocation Cost	Reach 1	Reach 2	Reach 3	Reach 4	Total
Utilities and Structures	\$ 549,300	\$ 845,800	\$ 252,000	\$ 992,000	\$2,639,300
Roads	\$1,118,600	\$ 63,600	\$ 38,700	\$ 40,300	\$1,261,200
Railroads	\$ 334,500	-----	-----	-----	\$ 334,500
Engineering & Design	\$ 193,900	\$ 88,000	\$ 28,100	\$ 99,900	\$ 409,000
Supervision & Administration	<u>\$ 174,500</u>	<u>\$ 79,200</u>	<u>\$ 25,300</u>	<u>\$ 90,000</u>	<u>\$ 369,000</u>
Total, Non-Fed. Reloc. Costs	\$2,370,800	\$1,076,600	\$ 344,100	\$1,222,400	\$5,013,900
Total Non-Federal Relocation Costs				\$ 5,013,900	
Reaches 5 and 6, Construction Costs				\$ 2,421,700	
Total Non-Federal Construction Costs				\$ 7,435,600	
5% Cash Contribution				\$ 1,084,000	
Estimated Land Costs, Reaches 1–4				\$ 3,140,600	
Estimated Land Costs, Reaches 5-6				<u>\$ 1,905,000</u>	
Total Non-Federal First Costs				\$13,566,100	

[17] Known Contaminants

Engineering data indicates that subsurface explorations were performed in the project location to assist in determining channel layout. No significant Hazardous, Toxic, Radiological Waste (HTRW) concerns were identified in the proposed channel location.

[18] Support or opposition to the project

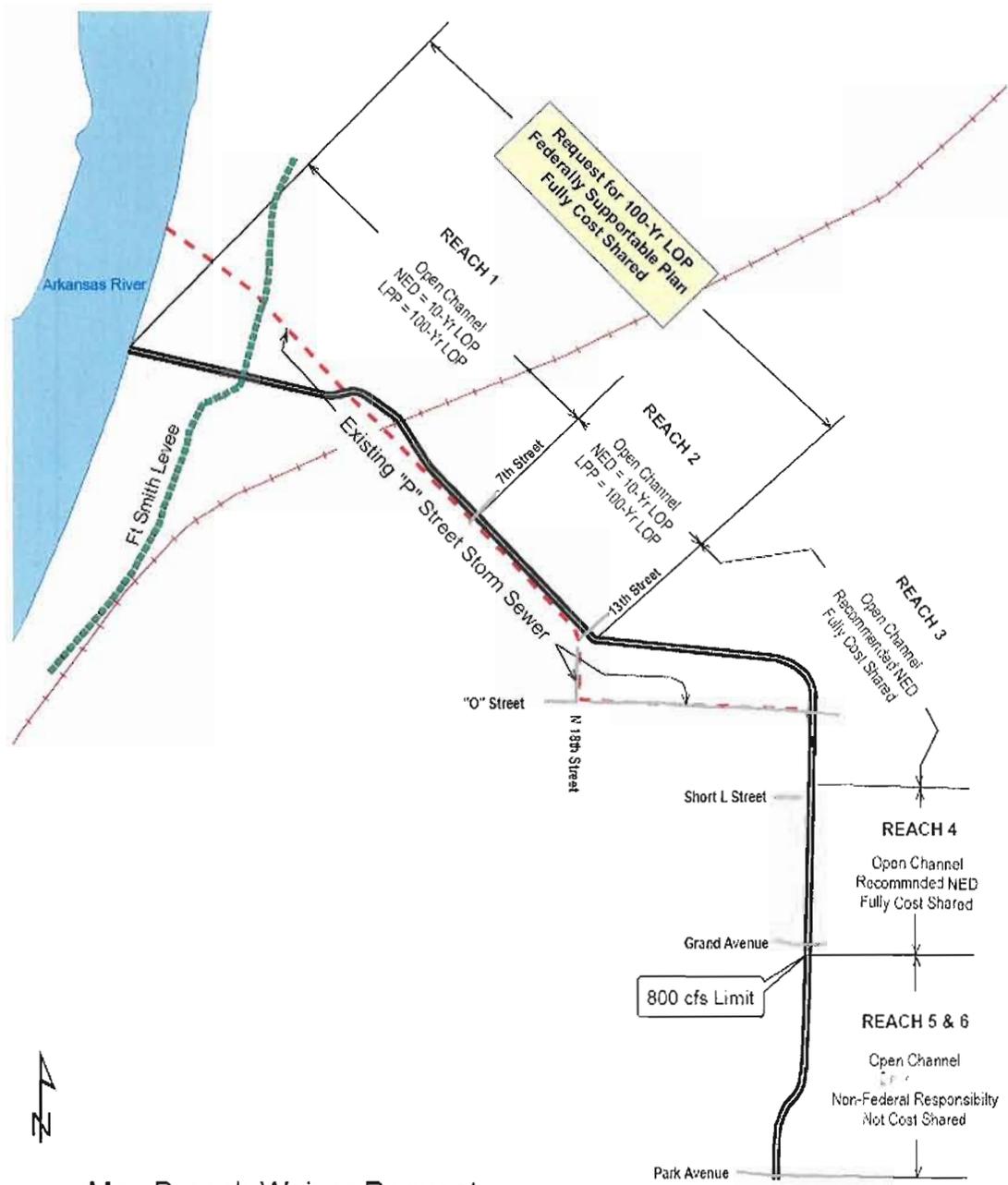
The city of Fort Smith, the Non-Federal sponsor, supports the project. Support for this project includes the Arkansas Natural Resources Commission, the Arkansas Forestry Commission, the Arkansas Game and Fish Commission, and the Natural Resources Conservation Service. Congressional interest includes Arkansas Senators Lincoln and Pryor and Representative Boozman. No unfavorable comments were received during the public review of the draft feasibility report and Environmental Assessment.

[19] Statement that non-federal sponsor has been notified in writing about the risks associated with acquiring land for this proposed project.

The non-federal sponsor has been notified in writing regarding the risks of acquiring land for this project. The non-federal sponsor acknowledges the risk and expressed that there is no intention to acquire any rights-of-way until the project cooperation agreement (PCA) is signed.

[20] Other Real Estate Issues

There are no other issues that need to be considered or addressed relevant to this proposed project.



May Branch Waiver Request
April 2005



Exhibit A, Project Area Map

MAY BRANCH DRAINAGE CHANNEL PROJECT
(CITY OF FORT SMITH, 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? No

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
- (b) If the answer to 2.a is "yes", has a reasonable plan been developed to provide such training? _____
- (c) Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes
- (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? No (If "yes", provide description).

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? Yes
- (b) With regard to this project, the sponsor is anticipated to be: xx Highly capable; _____ Fully capable; _____ Moderately capable; _____ Marginally capable; _____ Insufficiently capable. (If sponsor is believed to be? Insufficiently capable?, provide explanation).

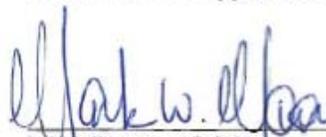
5. COORDINATION:

- (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:

 _____ (Signature)
JENNIFER DALTON
Attorney Advisor

Reviewed and Approved by:

 _____ (Signature)
MARK W. MOORE
Chief, Real Estate Branch



FEMA

October 14, 2004

The Little Rock District
Little Rock District, Corps of Engineers
Mr. Ronald Bridges
P.O. Box 867
Little Rock, AR 72203-0867

Reference: Fort Smith- May Branch – Drainage Channel

Dear Mr. Bridges:

We have received your letter and thank you for the opportunity to comment on the above-proposed project. The concerns of the Federal Emergency Management Agency (FEMA) are directed toward the National Flood Insurance Program (NFIP) and the possible negative impact upon identified flood hazard areas and wetlands within the outlined project boundaries. Our comment is that when any new development or construction is being considered that you consult with the local Floodplain Administrator (FPA).

In your letter you requested guidance and regulations relating to whether or not construction of a drainage channel would be compliant with policy of the Hazard Mitigation Grant Program (HMGP) agreement. This type of project would be considered compliant with the Open Space Agreement.

The Code of Federal regulations regarding this matter are as follows: The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices.

Furthermore after completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any federal entity or source, and no federal entity or source will provide such assistance.

If you have any questions, you may contact me at (940) 898-5279.

Sincerely,

A handwritten signature in cursive script that reads "Linda Delamare".

Linda Delamare
Natural Hazards
Program Specialist

www.fema.gov

Exhibit C

AUTHORITY FOR ENTRY OF CONSTRUCTION

I, _____ (*name of accountable official*), _____, _____ (*title*)
for _____ (*name of non-Federal Sponsor*)
_____ (*name of the non-Federal Sponsor*) has acquired the real property
interests required by the Department of the Army, and otherwise is vested sufficient title and
interest in lands to support construction of (_____ *project name, specifically identified project
features, etc.*) _____. Further, I hereby authorize the Department of the Army, its agents,
employees and contractors, to enter upon _____ (*identify tracts*) _____ to construct
_____ (*project name, specifically identified project features, etc.*) _____ as set forth
in the plans and sections held in the US Army Corps of Engineers
_____ District Office, _____ (*city and state*) _____.

WITNESS my signature as _____ (*title*) _____ for _____ (*name
of non-Federal Sponsor*) _____ this _____ day of _____,
20____.

BY: _____ (*name*)
_____ (*title*) _____

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____ (*name*), _____, _____ (*title of legal
officer*) _____ for _____ (*name of non-Federal
Sponsor*) _____, certify that the _____ (*name of the non-Federal
Sponsor*) _____ has authority to grant Authorization for Entry; that said
Authorization for Entry is executed by the proper duly authorized officer; and that the
Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as _____ (*title*) _____ for _____ (*name
of non-Federal Sponsor*) _____ this _____ day of _____,
20____.

BY: _____ (*name*)
_____ (*title*) _____