APPENDIX D
REAL ESTATE
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LAKE OKEECHOBEE WATERSHED RESTORATION PROJECT
Glades, Highlands, Okeechobee, St. Lucie and Martin Counties

Revised Project Implementation Report and Environmental Impact Statement

REAL ESTATE PLAN

D  STATEMENT OF PURPOSE

The purpose of this Real Estate Plan is to identify and describe the real estate to support Lake Okeechobee Watershed Restoration Project (LOWRP). The LOWRP is included in the Comprehensive Everglades Restoration Plan (CERP). The CERP, as documented in the 1999 Central and Southern Florida (C&SF) Project Comprehensive Review Study Final Integrated Feasibility Report and Programmatic Environmental Impact Statement (Yellow Book), consists of 68 different components. The purpose of the CERP is to modify structural and operational components of the C&SF Project to achieve restoration of the Everglades and the south Florida ecosystem, while providing for other water related needs such as urban and agricultural water supply and flood protection. The LOWRP contains three of the 68 total CERP components.

The purpose of the LOWRP is to increase water storage capacity in the watershed to better manage Lake Okeechobee water levels for lake ecosystem health and water supply; improve the quantity and timing of fresh water flows to the St. Lucie and Caloosahatchee estuaries (collectively referred to as the “Northern Estuaries”) that adversely affect salinity and estuarine biota; restore degraded hydrologic habitat for fish and wildlife throughout the study area; and increase the spatial extent and functionality of wetlands throughout the study area.

The Real Estate Plan is tentative in nature. It is for planning purposes only and both the final real property lines and real estate cost estimates provided are subject to change even after approval of the LOWRP PIR.

D.1  Project and Study Authorization

The Water Resources Development Act of 2000 (WRDA 2000) (Public Law 106-541), Title VI, Section 601 provides for and guides modifications to the C&SF project and describes authorizations specific to the CERP. Section 601(b)(A) of the Act, “Comprehensive Everglades Restoration Plan Approval,” provides authority for CERP. Section 601(d) “Authorization of Future Projects” provides the authority for the preparation of Project Implementation Reports (PIRs). The Water Resources Reform and Development Act of 2014 (WRRDA 2014) (Public Law 113-121), Section 1001 provides that to the extent practicable, U.S. Army Corps of Engineers (USACE) final feasibility reports will be completed in a maximum of three years for a federal cost of $3 million.
D.2 Project Location and Study Area

D.2.1 Location

The project is generally located in South Florida within the vicinity of Glades, Highlands, Okeechobee, St. Lucie, and Martin Counties. See Figure D-1.

![Project Location](image)

Figure D-1. Project Location.

D.2.2 Project Area

The project area covers a portion of the Lake Okeechobee Watershed in Florida. It includes four major drainage basins: Fisheating Creek, Indian Prairie, Taylor Creek/Nubbin Slough, and portions of the Lower Kissimmee (S-65D and S-65E) totaling approximately 920,000 acres. The project area includes portions of Glades, Highlands, Okeechobee, St. Lucie, and Martin Counties, along with the Seminole Tribe of Florida (STOF) Brighton Reservation (Figure D-2.). The majority of the LOWRP features are located in the Indian Prairie sub-basin, although there are proposed Aquifer Storage and Recovery (ASR) wells located throughout the project area. The study area includes the project area, along with Lake Okeechobee and the Northern Estuaries, totaling approximately 1,450,000 acres.
D.3 Project Description

The Revised Recommended Plan is organized into three study area regions: Lake Okeechobee Watershed, Lake Okeechobee, and the Northern Estuaries. The Revised Recommended Plan includes 55 ASR wells, Paradise Run, and Kissimmee River-Center wetland restoration sites. See Figure D-3.

D.3.1 Aquifer Storage and Recovery Wells

Fifty-five ASR wells are proposed in clusters in various locations throughout the watershed. The well clusters will utilize the Upper Floridian Aquifer and the Avon Park Permeable Zone for storage and recovery. Proposed ASR cluster locations (Figure D-3) are based upon the findings of the 2015 CERP ASR Regional Study; however, these locations are conceptual and may be adjusted based on the results of exploratory testing. Final siting will be determined during preconstruction engineering and design (PED).

- **Watershed ASR wells**: The 55 ASR wells are located throughout the watershed in several clusters.
  - One cluster located adjacent to the C-44 canal in Port Mayaca which will flow out of the C-44 into Lake Okeechobee or to the St. Lucie River Estuary.
  - Three cluster areas, including refurbishments of existing wells, located in the S-191 sub-watershed adjacent to the L-63N, L-63S, and C-59 canals that can flow to Lake Okeechobee.
  - Two clusters, including refurbishments of existing wells, located adjacent to the C-38 canal downstream of S-65E that flow back into the C-38 canal.
  - One cluster located along Taylor Creek, downstream of S-192 and upstream of the S-133 pump station, which flows to Lake Okeechobee.
  - One well cluster along the C-40 canal downstream of S-72 that can flow to Lake Okeechobee.
- One well cluster along the C-41 canal downstream of S-71 that can flow to Lake Okeechobee.
- One well cluster along the C-43 canal in Moore Haven that can flow to Lake Okeechobee or the Caloosahatchee River.

### D.3.2 Wetland Restoration Sites

Wetland restoration includes the Paradise Run and Kissimmee River–Center features. The Paradise Run site is approximately 4,700 acres containing historic Kissimmee River channel and floodplain. The site is located downstream of S-65E on the west bank of the C-38 canal, between the C-41A canal and the Buckhead Ridge community. A pump station on the C-41A canal downstream of S-84 serves as the water source to restore natural flow to the river and hydroperiod to the floodplain wetlands. The pump station will draw water into the historic Kissimmee River channel running through the Paradise Run site. Approximately 24,500 linear feet of channel excavation will be performed. Water will release back into the C-38 canal by way of culverts through the Herbert Hoover Dike on the southeast corner of the site. The Kissimmee River–Center site is approximately 1,200 acres and is located on the west bank of the C-38 canal about halfway between S-65D and S-65E. A pump station will be placed in the C-38 canal at the north end of the site to divert water to the west into a created river channel mimicking the historic Kissimmee River. About 21,500 feet of channel excavation will be performed to create riverine habitat and new floodplain wetlands.

![Figure D-3. Alt ASR (2021) Project Footprint.](image-url)
D.4  Real Estate Requirements

The following real estate interests and lands identified below are required for the construction, operation and maintenance of the LOWRP.

D.4.1  Aquifer Storage and Recovery (ASR) Wells

Fifty-five ASR wells are anticipated to be located throughout the watershed impacting approximately 400 acres. It is presumed that the non-federal sponsor’s land will be used for most of the wells except for one private parcel.

D.4.2  Wetland Restoration Sites

Approximately 54 parcels, which encompass approximately 5,900 acres, are required in fee. Approximately 13 landowners will be impacted. The non-federal sponsor owns 21 parcels, which encompass approximately 2,600 acres. The State of Florida owns two parcels, which encompass 50 acres. Approximately 31 parcels are owned by private landowners, which encompass approximately 3,200 acres.

D.4.3  Additional Lands

The project features impact several parcels that reflect no acquisition requirement and/or partial acquisition requirement leaving a remainder parcel with a high degree of certainty for producing damages to the remainder lands. Damages can occur for reasons such as diminished access and the shape of the remainder lands. To account for the impacted parcels, 15% was added to the Real Estate Incremental cost.

D.4.4  Staging and Access

Staging areas will be within the project footprint and identified during Planning, Engineering and Design (PED) phase of this project. Access to this project area is primarily from SR78 on the south and Larson Dairy Road to the north. Additional access areas will be by public roads and non-federal sponsor owned lands situated within the project area. Other access areas will be identified during PED for this project. A temporary work area easement will be required for areas identified for access outside the project area.

D.5  Non-Federally Owned Lands

The non-federal sponsor owns approximately 2,600 acres within the project footprint in fee. These lands were acquired using either South Florida Water Management District (SFWMD) or State of Florida funds, not Federal funds. Land use for those lands include mostly pasture and some small areas of wetlands. Some parcels are leased with a six-month termination clause.

D.6  Standard Estates

The following estates are required:

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.
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 project sponsor, 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.

D.7 Non-Standard Estates

Currently, it is anticipated that the non-federal sponsor will acquire the standard fee estate required for ecosystem restoration. However, all pertinent information will be reviewed prior to the final PIR and during acquisition negotiations to determine if a lesser estate might be warranted. If a lesser estate is determined to be preferable for a specific location and scenario, the Jacksonville District will coordinate the review and approval of the estate with the South Atlantic Division and USACE Headquarters as soon as appropriate information/design/Sponsor feedback/etc. is available to assess the proposed lesser estate thoroughly.

D.8 Existing Federal Projects

The Central and Southern Florida Flood Control Levee 59 (L-59) Project will be partially impacted by the Lands, Easements, and Right-of-Way (LER) required for the project. The L-59 was constructed as part of the Central and South Florida Flood Control Project. The impact to the L-59 where the project overlaps will be closed and/or diverted during construction of the LOWRP. The lands for the L-59 were certified to the Federal Government granting formal permission and authority to enter upon lands in perpetuity. The SFWMD is the owner of the lands that were certified. Lands are sufficient and available for the LOWRP. The non-federal sponsor will not receive credit for the value of LER, including incidental costs for lands acquired and credited as part of other projects.

D.9 Federally Owned Lands

There are no known federally owned lands within the project area.

D.10 Navigation Servitude

The navigation servitude is not applicable to this project.

D.11 Real Estate Maps

The real estate planning map depicts the project area. See Exhibit A.
D.12 Induced Flooding

Preliminary analysis indicate there will be no induced flooding during the construction or the operation and maintenance of the project. During PED if it is determined that induced flooding is anticipated a Takings Analysis will be prepared to determine if the expected induced flooding would rise to the level of a taking that would require additional real estate for the project. During PED if it is determined that additional real estate is required; the additional lands impacted by induced flooding will be authorized to be acquired as part of this real estate plan for the LOWRP.

D.13 Mitigation

Cultural Resources:

The LOWRP will potentially have adverse effects to cultural resources, some of which are unavoidable and long term, and/or cannot be assessed until the detailed design phase of the project. Avoidance of adverse effects to cultural resources is the USACE preference; therefore, throughout the planning process for the LOWRP, the project archaeologist, engineers, and plan formulators have worked closely to determine alternatives and features of alternatives that reduce or eliminate impacts to cultural resources. Pursuant to 36 CFR § 800.1, where possible, the project design will be modified to avoid impacting significant historic properties and culturally significant sites. Where avoidance is not possible, minimization and/or mitigation measures will be considered. As consulted on throughout the LOWRP, mitigation measures will be developed during the PED phase in consultation with the State Historic Preservation Office (SHPO), tribal groups and other interested parties as established in implementing regulations for Section 106 of the National Historic Preservation Act (NHPA) (see Appendix C).

D.14 Relocation Assistance (Public Law 91-646)

It is estimated that four farms will qualify for relocation assistance benefits. Relocation costs are estimated to be approximately $200,000 per farm or $800,000 total cost.

D.15 Minerals

Preliminary assessment indicates no known present or anticipated mineral or sub-surface mineral extraction activities within the vicinity of the proposed area which may affect construction, operation, or maintenance of the project.

D.16 Non-Federal Sponsor’s Authority to Participate in Project

The SFWMD is the non-federal sponsor for this project. The SFWMD is empowered and authorized to acquire the Lands, Easements, Right-of-Way, Relocations, and Disposal (LERRD) for the construction, operation, and maintenance of the project. The capability assessment of SFWMD’s real estate acquisition capability is attached as Exhibit B of this real estate plan. The SFWMD is familiar with P.L. 91-646 requirements and the requirements for documenting expenses for credit purposes.

D.17 USACE’s Acquisition on Behalf of the Non-Federal Sponsor

If SFWMD encounters landowners unwilling to convey their lands to the SFWMD, then it can request USACE to acquire the lands or interest in lands pursuant to Article II.H. of the MASTER AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR
COOPERATION IN CONSTRUCTING AND OPERATING, MAINTAINING, REPAIRING, REPLACING, AND REHABILITATING PROJECTS AUTHORIZED TO BE UNDERTAKEN PURSUANT TO THE COMPREHENSIVE EVERGLADES RESTORATION PLAN dated August 13, 2009.

Article II.H reads as follows:

H. The Non-Federal Sponsor may request the Government to provide lands, easements, rights-of-way; or to perform relocations on behalf of the Non-Federal Sponsor. Such requests shall be in writing and shall describe the services requested to be performed. If in its sole discretion the Government elects to perform the requested services or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with the PPA for the authorized CERP Project. In the event of conflict between such a writing and the PPA for the authorized CERP Project, the PPA shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the requested services and shall pay all such costs in accordance with Article VII.D. of this Master Agreement. Notwithstanding the provision of lands, easements, rights-of-way, or performance of relocations by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response in accordance with Article XV.C. of this Master Agreement.

D.18 Zoning Ordinances

Preliminary investigations indicate that no enactments of zoning ordinances are proposed in lieu of, or to facilitate, acquisition in connection with the project.

D.19 Real Estate Acquisition Schedule

The SFWMD is responsible for certifying that lands are available for project advertisement and construction. For scheduling purposes, 18 to 24 months has been established to accomplish real estate certification, once final plans and specs have been completed, funds have been provided, and the Project Partnership Agreement (PPA) has been executed. The Project Sponsor, Project Manager, and Real Estate Technical Manager will formulate the milestone schedule upon project approval to meet the date for advertisement and award of the construction contract. The SFWMD was advised by letter of the risks associated with land acquisition prior to the execution of the PPA or prior to the Federal Government’s formal notice to proceed with the acquisition. A copy of the Risk Letter is attached as Exhibit C of this real estate plan.

D.20 Relocations, Alterations, Vacations, and Abandonments (Utilities, Structures and Facilities, Cemeteries, and Towns).

There are expected to be service lines for occupied structures in the project area. Since these areas are to be acquired, no facility or utility relocations are expected. No facility or utility relocations are expected for ASR sites, although some sites, when selected, may have minor relocations. See Appendix A – Engineering for detailed information regarding facility or utility relocations.

A preliminary Attorney’s Opinion of Compensability was not prepared; the Federal Government will make a final determination. If survey during PED identifies that utilities are required to be relocated, a Final Attorney’s Opinion of Compensability will be prepared in writing for each proposed utility relocation.
"ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS 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."

D.21 Hazardous, Toxic, and Radioactive Waste

Currently there are no impacts to the real estate acquisition process and LER value estimate due to Hazardous, Toxic, and Radioactive Waste (HTRW) contaminants within the project area. The environmental site assessment process will identify and provide resolution of any HTRW sites prior to certification of LER for project construction. Should remediation of HTRW contamination be required; it will be the responsibility of the SFWMD, the non-federal sponsor at their sole expense, per the EC 1165-2-132. In the event that HTRW contaminants are identified and are under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended; for crediting purposes shall follow policy per ER 405-1-12, 12-37. Special Considerations, c.(3)g. A discussion of available environmental site assessment information and other HTRW reports are provided in Appendix C.

D.22 Attitude of Landowners

There is anticipated opposition to the project by private landowners in the project area.

D.23 Real Estate Acquisition/Incidental Costs.

A Rough Order of Magnitude (ROM) Acquisition Cost Estimate was prepared in place of a gross appraisal because the anticipated cost for the real estate is expected to be less than 15% of the total project cost, as per Policy Guidance Letter No. 31 – Real Estate Support to Civil Works Planning. The ROM estimate for the ASR wells is approximately $2,767,000. The ROM estimate for the Wetland Restoration sites is approximately $31,193,000. A 40% incremental cost factor is added to ROM real estate estimate of lands for the project. Combining the estimated $800,000 relocation assistance cost and its 40% contingency with the ROM real estate cost estimate of lands required for the construction, operation, and maintenance to include the contingency is approximately $48,664,000.

The estimate of the federal real estate incidental acquisition cost including a contingency is $2,485,000. This cost includes project real estate planning, mapping, review, oversight, monitoring, administrative costs, crediting review costs, certification of lands required for project purposes, real estate analysis or other requirements that may be necessary during PED. The estimate of the non-federal sponsor incidental costs associated with the acquisition, including a contingency, is $2,877,000.

The total real estate cost estimate, including contingencies and relocation assistance, to implement this project is approximately $54,027,000. The non-federal sponsor will receive credit toward its share of real estate project costs incurred for certification of lands, including incidental costs, as long as lands were not credited as part of another project.

D.24 Summary of Project Real Estate Costs

The following cost figures (Table D-1 A, Table D-1 B, and Table D-1 C) are subject to change prior to construction.
Table D-1 A. Baseline Cost Estimate for Real Estate: Lands.

<table>
<thead>
<tr>
<th>Lands and Damages</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lands</td>
<td>$33,960,000</td>
</tr>
<tr>
<td>Relocation Assistance</td>
<td>$800,000</td>
</tr>
<tr>
<td>Lands and Damages</td>
<td>$34,760,000</td>
</tr>
<tr>
<td>CONTINGENCY (40%)</td>
<td>$13,904,000</td>
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<tr>
<td>Total Lands and Damages</td>
<td>$48,664,000</td>
</tr>
</tbody>
</table>

Note: The Contingency amount incorporates the ROM cost estimate’s Real Estate Incremental Cost Factor of 40% for the Lands and a contingency factor of 40% for the Relocation Assistance.

Table D-1 B. Baseline Cost Estimate for Real Estate: Administrative Costs.

<table>
<thead>
<tr>
<th>Administrative Costs for Federal and Non-Federal Sponsor</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Review of NFS</td>
<td>$1,775,000</td>
</tr>
<tr>
<td>CONTINGENCY (40%)</td>
<td>$710,000</td>
</tr>
<tr>
<td>Total Federal Review of NFS</td>
<td>$2,485,000</td>
</tr>
<tr>
<td>NFS Administrative Costs</td>
<td>$2,055,000</td>
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<tr>
<td>CONTINGENCY (40%)</td>
<td>$822,000</td>
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<tr>
<td>Total NFS Administrative Costs</td>
<td>$2,877,000</td>
</tr>
</tbody>
</table>

Table D-1 C. Baseline Cost Estimate for Real Estate: Total Real Estate Cost Estimate.

<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>Total Lands and Damages</td>
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</tr>
<tr>
<td>Total Federal Review of NFS</td>
<td>$2,485,000</td>
</tr>
<tr>
<td>Total NFS Administrative Costs</td>
<td>$2,877,000</td>
</tr>
<tr>
<td>Total Real Estate Cost Estimate</td>
<td>$54,027,000</td>
</tr>
</tbody>
</table>

D.25 Real Estate Chart of Accounts

Table D-2 A below summarizes the chart of accounts for the project.
Table D-2 A. Chart of Accounts for the Revised Recommended Plan.

<table>
<thead>
<tr>
<th>Codes for Chart of Accounts</th>
<th>Lands and Damages</th>
<th>Federal</th>
<th>Non-Federal</th>
<th>Totals</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$0</td>
<td>$1,635,000</td>
<td>$1,635,000</td>
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<tr>
<td>01b20 Acquisition: By NFS</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01b40 Acquisition: Review of NFS</td>
<td>$1,635,000</td>
<td>$0</td>
<td></td>
<td>$1,635,000</td>
</tr>
<tr>
<td>01c20 Condemnations: By Sponsor</td>
<td>$0</td>
<td>$420,000</td>
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<td>$420,000</td>
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<tr>
<td>01c40 Condemnations: Review of NFS</td>
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<td>$0</td>
<td></td>
<td>$140,000</td>
</tr>
<tr>
<td>01F20 PL 91-646 Relocation Assistance: By NFS</td>
<td>$0</td>
<td>$800,000</td>
<td></td>
<td>$800,000</td>
</tr>
<tr>
<td>01R1 Real Estate Payments: Land Payments</td>
<td>$0</td>
<td>$33,960,000</td>
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<td>$33,960,000</td>
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<tr>
<td>N/A Total Real Estate Cost Excluding Contingency</td>
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<td>$36,815,000</td>
<td></td>
<td>$38,590,000</td>
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<tr>
<td>N/A Contingency (40%)</td>
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<td>$14,727,000</td>
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<td>N/A Total Project Real Estate Cost Estimate</td>
<td>$2,485,000</td>
<td>$51,542,000</td>
<td></td>
<td>$54,027,000</td>
</tr>
</tbody>
</table>

Note: The Contingency incorporates the ROM cost estimate’s Real Estate Incremental Cost Factor of 40% for the Real Estate Payments and a contingency factor of 40% for the Federal administrative costs and the NFS’s incidental costs, to include administrative and relocation assistance.
D.26 Signatures

DATE: 13 May 2022

Appendix D prepared by:

____________________________________
Christopher D. Bukolt
Realty Specialist
Real Estate Division
Jacksonville District

Appendix D reviewed by:

____________________________________
Hansler A. Bealyer
Chief, Acquisition Branch
Real Estate Division
Jacksonville District
Appendix D approved by

____________________________________

Timothy H. McQuillen
Chief, Real Estate Division
Real Estate Division
Jacksonville District
D.27 Exhibits A, B, and C

Exhibit “A”

Real Estate Map
Exhibit A Real Estate Maps
Exhibit “B”

Assessment of Non-Federal Sponsor’s

Real Estate Acquisition Capability
APPENDIX D - REAL ESTATE

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

I. Legal Authority:

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? (yes/no)

Yes, per Section 373.139(2), Florida Statutes

"The governing board of the district is empowered and authorized to acquire in fee or less than fee title to real property, easements and other interests or rights therein, by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams, and lakes. Eminent domain powers may be used only for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property owned by the district or to be acquired by the district from a willing seller."

b. Does the sponsor have the power of eminent domain for this project? (yes/no)

Yes, per Section 373.139(2), Florida Statutes, as stated above. Section 373.1501, Florida Statutes, South Florida Water Management District as local sponsor gives authority to act as local sponsor on Federal projects.

c. Does the sponsor have "quick-take" authority for this project? (yes/no)

Yes, if a "quick take" as opposed to a "slow take" is the method by which the District pursues the condemnation, it takes approximately six months to a year depending on the county.

d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? (yes/no)

No.

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? (yes/no)

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 P.L. 91-646, as amended? (yes/no)

No.

b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? (yes/no)

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?
Yes. SWFMD Real Estate staff have successfully acquired many acres of land for Federal CERP projects and pre-CERP projects.

d. Is the sponsor’s projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? (yes/no)

Yes. However, the current workload is high and SWFMD needs to review the project acquisition schedule once it is developed.

e. Can the sponsor obtain contractor support, if required in a timely fashion? (yes/no)

Yes, if a contractor is needed we can hire.

f. Will the sponsor likely request USACE assistance in acquiring real estate? (yes/no) (IF “yes,” provide description)

No but coordination with USACE during the process will be key.

III. Other Project Variables:

a. Will the sponsor’s staff be located within reasonable proximity to the project site? (yes/no)

Yes.

b. Has the sponsor approved the project/real estate schedule/milestones? (yes/no)

No. SWFMD will review the schedule once it has been developed.

IV. Overall Assessment:

a. Has the sponsor performed satisfactorily on other USACE projects? (yes/no/not applicable)

Yes. Examples include Kissimmee River Restoration, C-111, C-44, Broward County Water Preserve Areas.

b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable. (If sponsor is believed to be “insufficiently capable,” provide explanation)

Highly Capable.

V. Coordination:

a. Has this assessment been coordinated with the sponsor? (yes/no)

Yes.

b. Does the sponsor concur with this assessment? (yes/no) (If “no,” provide explanation)

Yes.
Exhibit “C”

Risk Letter
DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8176  

June 15, 2018  

Real Estate Division  

Subject: Lake Okeechobee Watershed Restoration Project  

Ms. Marcy A. Zehnder  
Section Leader - Real Estate  
Lands Resources Bureau  
3301 Gun Club Road  
West Palm Beach, Florida 33406  

Dear Ms. Zehnder:  

The intent of this letter is to formally advise the South Florida Water Management District (SFWMD) for the project, of the risks associated with land acquisition prior to the execution of the Project Partnership Agreement (PPA) or prior to the Government’s formal notice to proceed with acquisition. If a non-Federal sponsor deems it necessary to commence acquisition prior to an executed PPA for whatever reason, the non-Federal sponsor assumes full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort.  

Generally, these risks include, but may not be limited to, the following:  

a. Congress may not appropriate funds to construct the proposed project;  
b. The proposed project may otherwise not be funded or approved for construction;  
c. A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;  
d. The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;  
e. The non-Federal sponsor may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;  
f. The non-Federal sponsor 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  

Exhibit C
execution and the Government’s notice to commence acquisition and performance of LERRD; and

g. The non-Federal sponsor 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.

We appreciate your participation in this project. Should you have questions or concerns pertaining to this letter please feel free to contact Emmanuel Freeman at (904) 232-1636.

Sincerely,

MCQUILLEN, TIMOTH
Y.H.ART.1050583305

Timothy H. McQuillen
Chief, Real Estate Division
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