

PAHOKEE RESTORATION
CONTINUING AUTHORITIES PROGRAM
SECTION 1135 PROJECT
FINAL INTEGRATED FEASIBILITY STUDY AND ENVIRONMENTAL
ASSESSMENT

APPENDIX C
Real Estate Plan



**US Army Corps
of Engineers**
Jacksonville District

**PAHOKEE RESTORATION
CONTINUING AUTHORITY PROGRAM (CAP)
SEC 1135 PROJECT MODIFICATIONS FOR IMPROVEMENTS
TO THE ENVIRONMENT
PAHOKEE, FLORIDA**

**INTEGRATED FEASIBILITY REPORT AND
ENVIRONMENTAL ASSESSMENT**

REAL ESTATE PLAN

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APPENDIX C

PAHOKEE RESTORATION

CONTINUING AUTHORITY PROGRAM (CAP)

SEC 1135 PROJECT MODIFICATIONS FOR IMPROVEMENTS

TO THE ENVIRONMENT

PAHOKEE, FLORIDA

INTEGRATED FEASIBILITY REPORT AND

ENVIRONMENTAL ASSESSMENT

REAL ESTATE PLAN

1. STATEMENT OF PURPOSE

This Real Estate Plan (REP) is provided in support of Palm Beach County, Florida, the non-federal sponsor for the Feasibility Study. The purpose of the study is to recommend a plan for project modifications for improvements from the physical influences that are impairing the local environmental resources upon which this area depends as well as negatively impacting the economy.

This report is preliminary and is intended for planning purposes only. Both the final real property lines and land value estimates are subject to change even after approval of this report. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land costs.

2. PROJECT AND STUDY AUTHORIZATION

The authority for this project is Section 1135 of the Water Resources Development Act of 1986 (P.L. 99-662), as amended.

Restoration projects may be undertaken at those locations where the construction or operation of an existing Corps project has contributed to the degradation of the quality of the environment. These projects do not need to modify an existing Corps project.

3. PROJECT LOCATION

Pahokee, Florida is located in South Florida, on the eastern shore of Lake Okeechobee. The City of Pahokee is within Palm Beach County and is approximately 100 miles north of Miami. The potential area for the project spans approximately 15 miles as indicated in Figure 1.



Figure 1

4. PROJECT DESCRIPTION

The recommended plan includes creating two upland islands for a total of 28.7 acres. One of the islands will be low profile and one will be high profile. The low profile island would be 300 feet x 1500 feet at elevations to 11 feet NAVD 88. The high profile island will be 100 feet x 1000 feet at elevations to 13 feet NAVD 88.

6. ESTATE TO BE ACQUIRED

Temporary Work Area Easement

A temporary easement and right-of-way in, on, and over across (the land described in Schedule A) Tract No 731 for a period not to exceed _____, beginning with date possession of the land is granted to the Non-Federal Sponsor, for use by the United States, its representatives, agent, and contractors as a work area to 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 Pahokee Restoration 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 landowner, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridge the rights and easements hereby required; subject however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

7. FEDERALLY-OWNED LAND

The United States of America owns approximately 487 acres of perpetual levee right-of-way easements acquired from the State of Florida. The State of Florida conveyed the perpetual easements for:

“...the right, privilege, power and authority to enter upon, occupy and use any or all of said lands for right of way purposes...”

8. NON-FEDERALLY-OWNED LAND

There are no non-federally owned lands required to support construction of the proposed project.

9. NON-FEDERAL OPERATION AND MAINTENANCE RESPONSIBILITIES

The non-federal sponsor will be required to provide, without cost to the United States, the aforementioned lands, access routes for ingress/egress, and staging areas necessary for project construction. A Right-of-Entry for Authorization for Entry for Construction will be provided by the non-federal Sponsor to USACE prior to solicitation for a construction contract in order to identify and validate that sufficient real property interests are available. Operation and maintenance is a 100% non-federal responsibility.

10. NON-FEDERAL AUTHORITY TO PARTICIPATE IN PROJECT

Palm Beach County, Florida is a political subdivision of the State of Florida as provided by Article 8, Section 1 of the Florida Constitution. Counties of Florida are empowered by Florida Statutes s. 125.01(j) to “[e]stablish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control and erosion control, air pollution control and navigation and drainage and cooperation with government agencies and private enterprises in the development and operation of such programs.”

Palm Beach County as the NFS for the project has been an integral part of the Project Delivery Team (PDT) from the conception of the project. At each step of the process, Palm Beach County has contributed to the available information, participated in the formulation, and review of the report.

11. NAVIGATION SERVITUDE

Navigation servitude does not apply to this project.

12. ATTITUDE OF OWNERS

Palm Beach County, Florida, the non-federal sponsor, requested the project by letter dated 16 July 2015. The project has both public support and strong Congressional support.

13. MINERALS

There are no present or anticipated mineral activity within the project area that would affect the construction, operation, or maintenance of the project.

14. HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW)

No signs of potential HTRW problems were identified and no sites with potential for contamination with HTRW were found as cited in section 2.3.12 of the main report.

15. INDUCED FLOODING

There will be no induced flooding directly associated with this project.

16. ZONING ORDINANCES

Application or enactment of zoning ordinances will not be used in lieu of acquisition.

17. RELOCATIONS ASSISTANCE (PUBLIC LAW 91-646 AS AMENDED)

This project will not impact any people or businesses requiring relocations. USACE does not anticipate any claims for benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. §4601 *et. seq.*) and its implementing regulations (49 CFR Part 24).

18. RELOCATIONS, ALTERATIONS, VACATIONS, AND ABANDONMENTS

No relocations, alterations, vacations or abandonments of utilities, structures, facilities, cemeteries, or towns have been identified within the proposed construction limits of the recommended plan.

19. STANDING TIMBER AND VEGETATIVE COVER

There is no timber or unusual vegetative cover that will be impacted by the project.

20. RECREATION RESOURCES

There are no separable recreational lands identified for the project.

21. CULTURAL RESOURCES

There are cultural resources that have been identified that could affect the project. Cultural Resources are addressed in the main report under 2.4.6 Cultural Resources.

22. OUTSTANDING RIGHTS

There are no known outstanding rights in the project area.

23. MITIGATION

There is no mitigation for the Recommended Plan.

24. ACQUISITION/ADMINISTRATIVE COSTS

The estimate of the Federal real estate administrative cost is \$35,000.00. This figure includes project real estate planning, mapping, review, oversight, monitoring, analysis of real estate requirements and estates. The non-federal sponsor will receive credit towards its share of real estate administrative project cost incurred for certifications. Non-federal acquisition/administrative costs are estimated to be \$35,000.00.

25. SUMMARY OF PROJECT REAL ESTATE COSTS

The following cost figures are subject to change prior to construction. The Lands and Damages estimate are preliminary costs. This information is for the Project Delivery Team to know what the estimated land valued would be if crediting were to apply to this project.

a. Lands and Damages	\$	0
b. Acquisition Administrative cost		\$70,000.00
Federal	\$35,000.00	
Non-Federal	\$35,000.00	
c. Total Estimated Real Estate Cost		\$70,000.00
d. Contingency (15%) Non-Federal		\$ 5,250.00
e. Contingency (13.2%) Federal		\$ 4,620.00
f. Total Real Estate Costs		\$79,870.00

26. REAL ESTATE ACQUISITION SCHEDULE

Palm Beach County, Florida, as the non-federal sponsor, is responsible for certifying that lands are available for project advertisement and construction. Lands required for the project fall under one owner, Palm Beach County. Palm Beach County owns the lands in fee. Acquisition of the required interests in real estate is not anticipated to take a long time. For scheduling purposes, six months has been established to accomplish real estate acquisition. Once final plans and specs have been completed and the Project Partnership Agreement has been executed, the Project Sponsor, Project Manager and Real Estate Technical Manager will formulate the milestone schedule to meet the date for advertisement and award of the construction contract.

27. CHART OF ACCOUNTS FOR PROJECT

01 - Lands & Damages		\$	0
01B-- Acquisitions			\$70,000.00
01B20 - Non-Federal	\$35,000.00		
01M00 – Contingency (15%)	<u>\$ 5,250.00</u>		
30 – Planning, Engineering & Design			
Acquisition Administrative Fee – Federal	\$35,000.00		
Contingency (13.2%)	<u>\$ 4,620.00</u>		
Total Estimated Real Estate Cost:			\$79,870.00

Exhibit C-1

REAL ESTATE CAPABILITY ASSESSMENT

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

FOR PAHOKEE RESTORATION (SEC 1135) PROJECT MODIFICATIONS FOR IMPROVEMENTS TO THE ENVIRONMENT

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes?
- b. Does the sponsor have the power of eminent domain for this project?
- c. Does the sponsor have "quick-take" authority for this project?
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary?
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn?

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require technical training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended?
- b. If the answer to 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?
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule?
- e. Can the sponsor obtain contractor support, if required in a timely fashion?
- f. Will the sponsor likely request USACE assistance in acquiring real estate?

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site?
- b. Has the sponsor approved the project/real estate schedule/milestones?

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects?
- b. With regard to this project, the sponsor is anticipated to be: highly capable/fully.

V. Coordination:

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

Date: _____

Prepared by:

Angela Huggins
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Real Estate Division

Reviewed by:

Hansler A. Bealyer
Chief, Acquisition Branch
Real Estate Division

Reviewed and approved by:

Derrick D. Moton
Acting Chief, Real Estate Division
Real Estate Division

Exhibit C-2



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT, CORPS OF ENGINEERS
701 SAN MARCO BLVD
JACKSONVILLE, FLORIDA 32207-8175

Real Estate Division

Ms. Julie Bishop
EER Division Director
Palm Beach County Department of Environmental
Resources Management
2300 North Jog Road, 4th Floor
West Palm Beach, FL 33411-2743

Dear Ms. Bishop:

The intent of this letter is to formally advise Palm Beach County, Florida, as the Non-Federal sponsor for the Pahokee Continuing Authority Program (CAP) Sec 1135 Project Modifications for Improvements to the Environment Feasibility Study, 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:

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 sponsor and the Government may not be executed and implemented;

4. 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;

5. 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.

6. 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 execution and the Government's notice to commence acquisition and performance of LERRD; and

7. 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 the County's participation in this project. Should you have questions or concerns pertaining to this letter, please feel free to contact Ms. Angela Huggins at angela.f.huggins@usace.army.mil (904) 232-1939.

Sincerely,

Derrick D. Moton
Acting Chief, Real Estate Division