

Flood Risk Management Feasibility Study

Peckman River Basin New Jersey

Final Integrated Feasibility Report and Environmental Assessment

Appendix E: Real Estate



**US Army Corps
of Engineers®
New York District**

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**PECKMAN RIVER BASIN, NEW JERSEY
FLOOD RISK MANAGEMENT FEASIBILITY STUDY
INTERGRATED FEASIBILITY REPORT
AND ENVIRONMENTAL ASSESEMENT**

DECEMBER 2019 FINAL REAL ESTATE PLAN

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Exhibits and Attachments

- Exhibit “A”- Real Estate Maps
- Exhibit “B”- Parcel Data
- Exhibit “C”- Standard Estates
- Exhibit “D”- Baseline Cost Estimate for Real Estate
- Exhibit “E”- Non-Federal Partner Capability Assessment



1. Preamble

a) Study Authorization: The Peckman River Basin, New Jersey Flood Risk Management Feasibility Study was authorized by a resolution of the U.S. House of Representatives, Committee on Transportation and Infrastructure Resolution Docket 2644 adopted on June 21, 2000.

b) Official Project Designation: Peckman River Basin, New Jersey Flood Risk Management Feasibility Study (the “Study”).

c) Study Area: The study area is located in the County of Passaic and Essex, spanning an area from West Orange to Woodland Park, New Jersey. It lies within the 8th Congressional District and is in a densely developed area of residential and commercial buildings.

The Peckman River Basin is one of the sub-watersheds of the Passaic River, with a drainage area of approximately 9.8 square miles. The river originates in the Town of West Orange and flows northeast through the towns of Verona, Cedar Grove, Little Falls, and Woodland Park where it discharges into the Passaic River.

d) Non-Federal Partner: The non-Federal partner for the Study is the New Jersey Department of Environmental Protection (NJDEP) (the “Sponsor”). The NJDEP will also serve as the non-Federal sponsor for the construction of the Study’s Recommended Plan at a 75% Federal and 25% non-Federal cost-share. In accordance with the Project Partnership Agreement (PPA) between the NJDEP and the Department of the Army (the “Government”), which is scheduled to be executed in August 2022, the NJDEP will be responsible for performing or ensuring the performance of the Lands, Easements, Right-of-Ways, Relocation and Disposal Area (LERRD) required for the Recommended Plan as outlined in this Real Estate Plan (REP).

2. Statement of Purpose

The purpose of this REP is to describe the minimum LERRD requirements for the construction, operation and maintenance of Recommended Plan. This REP describes the estimated Land, Easements and Right-of-Way (LER) land values, cost to acquire the LER, the types of real estate interests required, property information, and other pertinent information relative to the real estate acquisition process and schedule. Further, this report identifies and describes the facility and utility relocations that are necessary prior to construction. This REP is the first prepared for the Study and is an appendix to its Integrated Feasibility Report and Environmental Impact Statement (the “main report”).

3. Study Purpose and Features

a) Study Purpose: The purpose of the Study is to manage the risk of flooding from the Peckman River. The water basin experiences frequent flash flooding from intense thunderstorms and heavy rainfall. These storms can deposit large amounts of precipitation in the watershed,



producing significant runoff. The runoff can quickly exceed the capacity of the river channel, bridge and culvert openings carrying it. The primary water resources problem in the Peckman River Basin is flooding resulting mainly from two sources: (1) flash flooding from rapid runoff in the Peckman River watershed; and (2) backwater flooding from the Passaic River. The Study is designed to address flooding from the Peckman River, not backwater flooding from the Passaic River. There is an ongoing U.S. Army Corps of Engineer (USACE) study addressing flooding on the Passaic River.

Through an iterative plan formulation process, a range of structural and nonstructural measures were considered that could potentially manage flood damages in Woodland Park and Little Falls. These areas are where the basin most frequently floods and is also the most densely populated areas. Measures were identified, evaluated, compared, and developed into numbered flood risk management alternatives. The alternative that offered the highest net benefits was identified as the Tentatively Selected Plan (TSP). USACE then began the process of detailed feasibility analysis on the TSP to identify project dimensions that would maximize the net benefits for what is known as the National Economic Development (NED) Plan. The TSP is the NED Plan and the Recommended Plan for the Study.

b) Recommended Plan: The Recommended Plan consists of the following structural and nonstructural measures.

I. *Structural Measures* consists of: (a) a 40ft wide underground diversion culvert that would divert floodwaters from the Peckman River to the Passaic River during and after storms; (b) a weir to limit water flow downstream of the Peckman River and redirect floodwaters to the diversion culvert; (c) channel modifications in the Peckman River near the diversion culvert opening; and (d) levees and floodwalls.

II. *Nonstructural Measures* are techniques for reducing accountable flood damage to existing structures within a floodplain. These techniques consists of measures to dry-proof, wet-proof, or elevate structures. Dry-proofing consists of constructing or installing features designed to allow flood waters to reach a structure, but diminishes the flood threat by preventing flood waters from entering a structure (e.g., attaching watertight sealants on basement windows of a residential property). Wet-proofing consists of constructing or installing features designed to allow water to flow in and out of a structure, but prevents the contact of water to essential utilities or mechanicals of the structure (e.g., filling a basement or elevating or protecting the HVAC system). Elevations involves raising the lowest finished floor of a building to a height that is above the flood level (i.e. raising a home).

Fifty-eight structures have been identified for nonstructural flood risk management measures to either dry-proof, wet-proof, or raise/elevate. The main objective for the nonstructural treatment is to help reduce flood damages of the existing structures. It is not an integral component for the function of the proposed levee/floodwall. Therefore, nonstructural measures will be offered to property owners on a voluntary basis and implemented only with the property owner's consent.



III. *Mitigation* is required over approximately 5.12 ac due to unavoidable temporary or permanent environmental impacts to forested wetland, riparian habitat and stream restoration. Since the final design of the Recommended Plan has not occurred, impacts to environmental resources and the resulting real estate requirements for mitigation are preliminary in nature, and are therefore, subject to change. Environmental impacts will be further refined for better accuracy and precision during the Study’s preconstruction, engineering, and design (PED) phase.

There may also be impacts to Green Acres-protected lands, which could require land or monetary (through a credit bank) compensation to satisfy mitigation requirements. Coordination is ongoing with NJDEP to assess impacts to Green Acres-protected lands, if any, and to determine its mitigation requirement. See paragraph 21 for additional information on Green Acres impacts.

c) Required Lands, Easements, and Rights-of-Way (LER):

In accordance with the future PPA, the Sponsor will be responsible for acquiring, or ensuring the performance of acquiring, all the LER required for the construction, operation and maintenance of the Recommended Plan. A list of the impacted properties and the real estate interests required is provided in Exhibit “B”. Table-1 offers a summary of the LER requirements.

Table-1: Recommended Plan LER Summary

	Required Acres				No. of Impacted Parcels		
	Fee	Permanent Easements	Temporary Easements	Total	Private	Public	Total
Totals	±5.84	±11.34	±6.20	±23.38	16	12	28

For owners who elect to receive nonstructural flood-proofing measures on their property, a Rights-of-Entry (ROE) will be obtained for access and implementation. Since ROEs do not constitute an interest in land and since the proposed nonstructural plan will be implemented only if the owner willingly participates and makes their property available, obtaining ROEs is not considered a real estate requirement for implementation of the Recommended Plan. Therefore, the need to obtain ROEs for flood-proofing is not factored into the information presented in Table-1. However, for planning and budgeting purposes, this report assumes 100% participation from owners, which equates to up to 54 properties that would require an ROE.

The following details the minimum interest in real property required for the Recommended Plan’s construction, operation and maintenance requirements:



I. Fee (USACE Standard Estate No. 1): Approximately 5.84 acres (ac) are required in fee for the construction of a weir (± 0.72 ac) (1 public, 2 private) and for environmental mitigation (± 5.12 ac).

The incremental cost analysis to definitely identify the environmental mitigation requirements for the Recommended Plan has not yet been completed. Therefore, the 5.12 ac identified for mitigation is a general estimate (with an unknown location) that will be confirmed during PED. Any lands that may need to be acquired to satisfy mitigation requirements for impacts to Green Acres-protected land, if any, is under assessment and not included in this report. See paragraph 21 for additional information.

II. Permanent] Channel Improvement Easement (USACE Standard Estate No. 8): Approximately 5.63 ac are required in perpetuity for channel deepening, widening and erosion control measures. Including the public street right-of-way known as Sindle Avenue (± 0.024 ac), there are 11 tax parcels impacted by this permanent easement (6 public, and 5 private).

III. [Permanent] Flood Protection Levee Easement (USACE Standard Estate No. 9): Approximately 3.57 ac are required in perpetuity for the construction of floodwalls and one gate closure. There are 9 tax parcels impacted by this permanent easement (8 public and 1 private)

IV. [Permanent] Pipeline Easement (USACE Standard Estate No. 13): Approximately 2.14 ac are required in perpetuity for the construction of an underground culvert. Including the public street right-of-way known as Paterson Avenue (± 0.072 ac) and submerged lands of the Passaic River (± 0.394 ac), there are 4 tax parcels impacted by this permanent easement (2 public and 2 private).

V. Temporary Work Area Easement (USACE Standard Estate No. 15): Approximately 6.20 ac are required for staging and work area purposes for an approximate two year period. Including the public street right-of-ways known as Sindle Avenue (± 0.006 ac), Harrison Avenue (± 0.006 ac), Willow Avenue (± 0.030 ac), and Paterson Avenue (± 0.064 ac), and the submerged lands of the Passaic River (± 0.061 ac), there are 27 tax parcels impacted by this temporary easement (11 public, 16 private).

There are no temporary easement requirements for borrowing or the disposal of excavated materials. Disposing of excavated material will be the responsibility of the selected construction contractor to dispose the excavated material at an authorized site.

VI. Right-of-Entry for Construction (ROE): ROEs are required only from those owners who voluntarily elect to receive the proposed nonstructural flood-proofing measures on their property. Up to 54 properties (3 public and 51 private) may require an ROE to perform flood-proofing measures. Along with the ROE, a flood-proofing agreement will be executed between the property owner and Sponsor. The flood-proofing agreement will outline the flood-proofing work and provide the means for such work to occur. It will also identify any restrictions that may



limit improvements or modifications to the property that could jeopardize the effectiveness of the flood-proofing measure's intended purpose.

The real estate agreements for the lands acquired by the Sponsor must contain the USACE-approved standard estate language as written herein (see Exhibit "C" for the estate language). Any modification to the standard estate language must be approved by either the USACE New York District Chief of Real Estate or USACE Headquarters. Deed and easement agreements between the Sponsor and landowner must also contain the necessary covenant to run with the land.

Since this report was prepared during a feasibility level study, the size of the required real estate interests presented in this REP are preliminary estimates based only on existing, readily available Geographic Information System (GIS) data. The LER requirements are subject to change with plan optimization during PED when final plans, specifications and detailed drawings are prepared. After the PPA is fully executed and once the final design of the Recommended Plan has been completed, a general written description of the final LER (with supporting real estate maps) and any facility or utility relocation required will be provided to the Sponsor in their formal written *Notice to Proceed with Real Estate Acquisition* letter (hereinafter, the "NTP").

Once the Sponsor receives the NTP from USACE, the Sponsor will commence real estate acquisition activities. To delineate the precise boundary of the required real estate interests and to mitigate against potential boundary disputes, boundary land surveys, with corresponding legal descriptions for each required estate, will be completed by the Sponsor. Further, the Sponsor is advised to obtain a chain of title and title insurance on all acquired property to identify potential encumbrances and to protect against "defects" in title. USACE will remain in close coordination with the Sponsor throughout the real estate acquisition process for support and guidance.

After the Sponsor completes its acquisition efforts and prior to USACE's issuance of the solicitation for construction contract(s), the Sponsor must provide USACE with copies of all real estate conveyance agreements recorded with Passaic County and a signed *Authorization for Entry for Construction* (with an attorney's Certificate of Authority) for all LER USACE identified in the NTP the Sponsor had to provide for that construction contract. USACE will examine and evaluate all records received to ensure sufficient real property interests are available to support construction. USACE will then certify in writing to the appropriate USACE District elements that the real estate for the project has been obtained and solicitation for the construction contract(s) may commence.

d) Appraisal Information: In accordance with USACE Real Estate Policy Guidance Letter No. 31, CEMP-CR, 11 Jan 19, subject: Real Estate Policy Guidance Letter No. 31-Real Estate Support to Civil Works Planning (hereinafter referred to as "PGL 31"), since the value (land, improvements, and severance damages) of the required real estate for the Recommended Plan were not expected to exceed ten percent of the overall project costs, an appraisal cost estimate, or a "rough order of magnitude" estimate, was completed. A cost estimate is not a full appraisal. To



establish a more accurate land valuation, a full land appraisal based on surveyed boundaries of the Recommended Plan’s final design plans is necessary.

The appraisal cost estimate represents the estimated market value of the Recommended Plan’s required real estate. It neither includes the incidental costs (e.g., appraisals, surveys, title, attorney fees, etc.) that will be incurred to facilitate the real estate acquisitions, nor does it represent the Recommended Plan’s total real estate cost (See paragraph 11 for the Recommended Plan’s total real estate cost). The appraisal cost estimate serves as the estimated compensation amount paid to property owners for the purchase of their land to implement the Recommended Plan.

An appraisal cost estimate for the Recommended Plan was completed in October 2019 by a licensed USACE staff appraiser who concluded the approximate market value (i.e. the estimated compensation amount expected to be paid to property owners) for all the required real estate is \$2,853,000 (rounded). The market value for the required real estate is shown in line item number 01B1, “Land Payments” in the Recommended Plan’s Base Line Cost Estimate for Real Estate (BCERE) (see paragraph 11(a)). Table-2 identifies the estimated payments for each real estate interest type to be acquired.

Table-2: Estimate Land Payments

Estate Type Required	Market Value	Damages	Total Land Payments
Fee	\$744,720	\$1,286,028	\$2,030,748
Permanent Easement	\$399,176	-	\$399,176
Temporary Easement	\$422,684	-	\$422,684
<i>Total Land Payments:</i>	<i>\$1,566,581</i>	<i>\$1,286,028</i>	<i>\$2,852,609</i>

Since ROEs do not represent an interest in land and have no market value, they were not considered in the appraisal cost estimate. The appraisal cost estimate was completed with the following Assignment Conditions:

Assignment Condition #1 – The appraiser did not receive a title report for the parcels impacted by the Recommended Plan. The cost estimate was predicated on the extraordinary assumptions that, as of the effective date of the cost estimate, the parcels impacted by the Recommended Plan: (1) did not begin condemnation proceedings; and (2) had marketable title without restrictions or encumbrances impacting cost.

Assignment Condition #2 – The cost estimate invoked the Jurisdictional Exception of the Uniform Standards of Professional Appraisal Practice (USPAP). “If any part of these standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.” USPAP 2014-2015 Edition, The Appraisal Foundation, Washington, DC, 2014, p. U-3.



The cost estimate was prepared for the internal use of USACE. Though not complying with all provisions of USPAP, the document does conform to the USACE regulations. For purposes of the estimate, the appraiser was advised that USACE operates under the Jurisdictional Exception provision of USPAP. Standards #1 in part and #2 had not been complied in the cost estimate. A cost estimate is not an appraisal as defined by USPAP. An appraisal is the process of developing an opinion of value. Cost is an estimate of fact, not an opinion of value, based upon land planning and engineering design parameters at a specific level of detail. As the design parameters are refined, the engineering and land planning facts may change necessitating a change in the cost estimate. The cost estimate report is not required to be in compliance with USPAP, i.e., since the Jurisdictional Exception is authorized.

Assignment Condition #3 – The appraiser was provided with the Recommended Plan’s preliminary real estate maps and parcel data spreadsheet. The cost estimate was predicated on the extraordinary assumption that, as of the effective date of the cost estimate, the preliminary real estate maps and parcel data spreadsheet accurately portrayed the location of the defined estates in land based upon the land use planning and engineering designs. The maps and parcel data parameters are frequently amended due to project planning reasons. Cost estimates change as project planning analysis changes the planning parameters.

Assignment Condition #4 – The appraiser was provided with the Recommended Plan’s preliminary real estate maps and parcel data spreadsheet indicating areas for the fee, and permanent and temporary easements. The data was applied in the cost estimate. The cost estimate is predicated on the extraordinary assumption that, as of the effective date of the cost estimate, the Recommended Plan’s parcel areas were consistent with the parameters of the Recommended Plan.

Assignment Condition #5 – The Temporary Work Area Easements were assumed to encumber the real property areas for a period of 2 years. The cost estimate was predicated on the extraordinary assumption that, as of the effective date of the cost estimate, the two year encumbrances were consistent with the parameters of the Recommended Plan.

Assignment Condition #6 – The cost estimate was predicated on the extraordinary assumption that, as of the effective date of the cost estimate: (1) there were no zoning bulk area requirement violations on any of the properties required for the Recommended Plan; (2) all properties were conforming uses; and (3) all properties were permitted uses under the zoning code. It was assumed that the existing land uses comply with current zoning requirements and did not impact the cost estimate conclusion.

Assignment Condition #7 – The cost estimate was based upon a superficial level of detail. The data provided for the analyst was based upon a preliminary design and did not provide specifics on each parcel. Superficial, in the context of the analysis, is defined as “the property data is concerned only with what is obvious or apparent, not thorough or complete at this point in the land planning process” as directed by PGL 31. If the design parameters change, the cost estimate may change.



4. LER Owned by the Non-Federal Partner

The State of New Jersey maintains fee ownership of approximately 0.455 ac of submerge lands of the Passaic River; ± 0.394 ac required for the Pipeline Easement and ± 0.061 ac required in temporary easements. Under the Submerge Lands Act (43 U.S.C. 1301-1315), the required submerged lands fall under the purview of the State. The estate and interest owned by the State of New Jersey is sufficient and available for the Recommended Plan. As an item of cooperation, the required State land is expected to be made available at no cost. No special value considerations or crediting principals will be applied for Sponsor-owned lands.

5. Non-Standard Estates

There are no proposed non-standard estates for the Recommended Plan. Non-standard estates are necessary only when there is no corresponding USACE approved standard estate for the real estate interest required, or where changes to a corresponding standard estate (or previously approved non-standard estate) are desired. In such situations, a non-standard estate must be drafted with coordination and consultation with the non-Federal partner, then approved by the District Chief of Real Estate or Headquarters USACE, as appropriate. Should changes to the standard estates, as provided in Exhibit "C", becomes necessary, a non-standard estate will be drafted (in coordination with appropriate parties) for approval and use for the Recommended Plan.

6. Existing Federal Projects

There are no known existing or proposed Federal projects that lie either partially or fully within the LER required for the Recommended Plan.

7. Federally-Owned Land

The Recommended Plan includes no Federally-owned lands as part of its LER requirements.

8. Navigational Servitude

Navigational Servitude is the dominant right of the Federal government under the Commerce Clause of the U.S. Constitution (Article 1, Section 8, Clause 3) to use, control and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce-related purposes, including navigation and flood control. For the navigational servitude to apply, there must be a relationship or nexus to navigation. As articulated in Engineering Regulation 405-1-12, Real Estate Handbook, Chapter 12, paragraph 12-7, "The determination of the availability of the navigational servitude is a two-step process. First, the Government must determine whether the project featured serves a purpose which is in the aid of commerce. Such purposes recognized by the courts include navigation, flood control and hydro-electric power. If it is so determined, then the second step is to determine whether the land at issue is located below the mean or ordinary high water mark of a navigable watercourse. Since the submerged lands required for the



Recommended Plan do not lie in navigable waters, the application of navigational servitude is not available for the Recommended Plan.

9. Real Estate Maps

Real estate maps are provided in Exhibit A. The GIS tax parcel data depicted on the maps were obtained in October 2019 from the New Jersey Office of Information Technology, Office of GIS. The tax parcel boundaries depicted on the maps were publicly published parcel composite at the time the maps were prepared. The parcel data sets are not intended for use as tax maps. The lot boundaries delineated in the real estate maps do not represent legal boundaries and should not be used to provide a legal determination of land ownership. The parcels boundaries are not survey data and should not be used as such. There may be boundary discrepancies between what is shown on the real estate maps and that of the property’s actual deeded boundary. The GIS tax parcel data obtained is intended for planning purposes to provide a reasonable representation of parcel boundaries and the project features of the Recommended Plan.

10. Induced Flooding

The Recommended Plan does not induce flooding.

11. Baseline Cost Estimate for Real Estate (BCERE)

a) The BCERE (provided in Exhibit “D”) establishes the estimated federal and non-federal financial costs attributed to the Recommended Plan’s real estate requirements. It is recorded in the 01-Lands & Damages project cost account. Itemized under “Incidental” and “Acquisition” categories, the BCERE provides a list of work activities/items with its associated estimated cost. The Recommended Plan’s total estimated real estate cost is **\$4,776,980**. Table-3 provides a summary of the BCERE.

Table-3: BCERE Summary

BCERE Category	Estimated Costs
Incidental	\$822,000
Acquisition	\$2,852,600
Contingency (30%)	\$1,102,380
<i>Total 01-Lands & Damages Cost</i>	<u>\$4,776,980</u>

b) For civil works projects that are cost-shared between the Federal Government and a non-federal interest, the Water Resources Development Act of 1986 (“WRDA 86”) assigns the non-Federal partner the responsibility of acquiring the LER and of performing the facility/utility Relocations and borrow/excavated material Disposal (i.e. “LERRD”) requirements for the project.



All LERRD must be acquired in accordance with the project’s PPA, WRDA 86, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Public Law 91-646”), as amended.

LERRD costs represent a non-Federal partner’s estimated upfront direct and indirect financial costs in fulfilling its real estate responsibilities. The non-Federal partner will receive credit for their actual associated costs if found to be reasonable, allowable and allocable. Supporting documents (i.e., receipts, invoices, official certified timesheets, etc.) of all LERRD costs incurred by the non-Federal partner will be submitted to USACE for review and evaluation as part of their claim for credit. LERRD cost are determined by adding the non-Federal costs in the Plan’s 01-Lands & Damages cost account with the cost in the Plan’s 02-Relocations cost account (See paragraph 17 for 02-Relocation costs). LERRD cost do not include Federal costs.

The Sponsor’s estimated LERRD cost for the Recommended Plan is \$4,555,000 (rounded). Table-4 provides an itemized summary.

Table-4: Sponsor’s Estimated LERRD Costs

LERRD Category	Estimated Cost
LER	\$4,233,580
Relocations	\$321,734
Disposals	\$0
<i>Total LERRD:</i>	<i>±\$4,555,314</i>

12. Public Law 91-646, Uniform Relocation Assistance

Public Law 91-646, as amended, provides uniform equitable treatment of persons and businesses displaced by a Federal or Federally-assisted project. Along with the PPA, it requires the non-Federal partner to provide assistance and certain benefits be paid to all persons and businesses that are displaced and must be relocated from their residence or place of business due to a Federally-funded project. The cost incurred by the non-Federal partner to provide relocation assistance is part of its LERRD responsibilities.

No person or business is expected to be eligible for Public Law 91-646 relocation assistance benefits for the Recommended Plan. While the Recommended Plan proposes the raising of certain properties that may require the owner to temporarily relocate, the raisings will be performed solely on a voluntary basis and only with the consent of the owner. Public Law 91-646 relocation assistance benefits are not paid under voluntary circumstances. If a homeowner elects not to participate, eminent domain will not be invoked. Consequently, a displaced person situation would not occur. Any property owner who elects to have their property raised and vacates the property during the construction period will do so at their sole expense and without reimbursement.



To avoid potential Public Law 91-646 claims by tenant(s)-occupied dwellings, flood-proofing measures will only be offered to owner-occupied dwellings (who have no tenants occupying their property) if vacating the property is required to implement the flood-proofing measure. A tenant(s) who may not be inclined to temporarily move, but forced to move by their landlord, may claim displacement and file a Public Law 91-646 claim. Additionally, due to the improvements made on the property, a tenant could experience higher rent upon their return and may claim rental assistance under Public Law 91-646 by claiming displacement.

13. Minerals and Timber Activity

There are no known present or anticipated mineral extraction or timber harvesting activities within the LER required for the Plan.

14. Land Acquisition Experience and Capability of the Non-Federal Partner

The Sponsor possesses sufficient general and legal acquisition authority to acquire all the real estate required for the Recommended Plan. They maintain the professional capability for land acquisitions and can reasonably obtain contract services if needed. The Sponsor has successfully completed real estate acquisition for similar USACE civil works projects located at Elberon to Loch Arbor, Newark, Greenbrook, and Port Monmouth, among others. The Sponsor is aware of Public Law 91-646 requirements as well as the requirement to document all LERRD expenses for its claim of credit. The Sponsor is highly capable of performing or ensuring the performance of its LERRD responsibilities. It is unlikely they will require the assistance from USACE to acquire the real estate on their behalf. See Exhibit “E” for the Non-Federal Partner’s Capability Assessment, which is currently being coordinated with the Sponsor. Once concurrence from the Sponsor is obtained, a signed copy will be provided prior to the final report submittal.

15. Zoning

No application or enactment of local zoning ordinances is anticipated in lieu of, or to facilitate, the acquisition of the Recommended Plan’s required real estate.

16. Schedule of Acquisition

Milestone	Date
PPA executed with Sponsor	Aug 2022
USACE provides the NTP letter to Sponsor	Sep 2022
Sponsor’s provides Authorization for Entry for Construction to USACE	Aug 2024
USACE certifies the real estate has been acquired by the Sponsor	Aug 2024
USACE commences with advertising for construction contracts	Sep 2024



17. Relocation of Facilities or Public Utilities

There are existing underground sanitary sewer and water lines along Harrison Street and Paterson Ave and aboveground electrical poles and lines along the diversion culvert that require removal and replacement to construct the Recommended Plan. The cost to relocate the utilities is approximately \$321,734, which is captured in the 02-Relocation project cost account. Detailed utility survey data for the project area will be obtained and investigated further during PED to identify any additional utility relocation requirements.

The above referenced facilities/utilities are generally of the type eligible for compensation under the substitute facilities doctrine. The substitute facilities doctrine provides an alternate means of just compensation to property owners affected by an acquisition or taking of property in order to place them in as good a position as if the property had not been acquired or taken. The measurement of just compensation – as it relates to the substitute facilities doctrine – has been required only when fair market value has been too difficult to establish or when its application would result in manifest injustice to the owner or the public. In such cases, the cost of constructing a substitute facility may be used as the measure of just compensation paid to the facility/utility owner where a substitute facility/utility is necessary. The substitute facilities doctrine is the foundation for the concept of “relocation” as applied to the implementation of water resources projects by USACE. Engineering Regulation 405-1-12, Real Estate Handbook, Change 31, 1 May 98, defines the term “relocation” as generally meaning:

To provide a functionally equivalent facility to the owner of an existing utility, cemetery, highway, or other eligible public facility and railroad when such action is authorized in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement (and attendant removal) of the affected facility or part thereof.

As a result of the impact the Recommended Plan has on the above described facilities/utilities, there is a requirement to perform such relocations and provide functionally equivalent substitute facilities, either at the current location or an alternate one, as just compensation for the property owners. As directed by PGL 31, this real estate assessment on the relocation of facilities and public utilities was established in lieu of a Preliminary Attorney’s Opinion of Compensability because the total estimated cost to relocate said facilities and public utilities is less than 30% of the overall cost of the Recommended Plan. This assessment has been prepared and used for the purpose of completing the study. A Final Attorney’s Opinion of Compensability and final relocation determination will occur during PED and prior to the execution of the PPA.

Currently, there is no need to acquire additional real estate to perform the facility/utility relocations as their removal and replacement will be completed within their existing right-of-way. The cost to relocate the facilities/utilities are part of the Sponsor’s LERRD expense and are creditable toward their cost-shared amount. Any conclusion or categorization contained in this REP that an item is a utility or facility relocation to be performed by the Sponsor as part of its LERRD responsibilities is preliminary only. USACE will make a final determination of the



relocations necessary for the construction, operation or maintenance of the Recommended Plan after further analysis, and completion and approval of a Final Attorney's Opinion of Compensability for each of the impacted utilities and facilities.

18. Hazardous, Toxic, and Radioactive Waste (HTRW)

There are no known HTRW or suspected presence of contaminants that are in, on, under, or adjacent to the LER required for the Recommended Plan.

19. Project Support

While the Sponsor and local stakeholders supports the Recommended Plan, a public meeting held in November 2017 drew both skepticism and support from local residents. Concerns surfaced regarding the potential impact the Recommended Plan could have on local businesses, aesthetics of the community, and property values. However, there is a general consensus on the need to address erosion and flooding of the Peckman River to reduce the risk of property damage and the potential loss of life during intense storm events. There are no known or anticipated landowner concerns that could impact the real estate acquisition schedule.

20. Risk Notification to Non-Federal Partner

During instances when the Sponsor chooses to acquire real estate before the full execution of the PPA and before receiving the NTP letter from USACE, they will assume full and sole responsibility for any and all costs and/or liabilities arising out of their acquisition effort. Generally, the risks include, but may not be limited to, the following:

- (1) Congress may not appropriate funds to construct the Recommended Plan;
- (2) The Recommended Plan may otherwise not be funded or approved for construction;
- (3) A PPA mutually agreeable to the Sponsor and the Federal Government may not be executed and implemented;
- (4) The Sponsor may incur liabilities and expenses 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 the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended;
- (5) The Sponsor may acquire interests or estates that are later determined by the Federal Government to be inappropriate, insufficient, or otherwise not required for the Recommended Plan;



- (6) The Sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under PL 91-646. This may also result in the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Federal Government's notice to commence acquisition; and
- (7) The Sponsor may incur costs or expenses in connection with its decision to acquire LER in advance of the executed PPA and issuance of the NTP letter which may not be creditable under the provisions of WRDA 86 or the PPA.

By letter dated November 11, 2019, a formal written notice was provided to the Sponsor outlining the above-stated risks.

21. Additional Information

The Recommended Plan impacts two parcels protected under the New Jersey Green Acres Program. The Green Acres Program is designed to protect, preserve and enhance the natural environment and historic, scenic and recreational resources. It is administered by the NJDEP Legal Services and Stewardship Bureau (the "Bureau"), including processing applications for the diversion of use. Since Green Acres designated lands must be used solely for recreation and conservation purposes, any diversion from its intended use requires a review and approval process by the Bureau. To offset impacts to Green Acres, diversion approval typically results in mitigation requirements through either land or monetary compensation at a 2:1 ratio – for every one acre impacted, two acres must be mitigated.

1. Block 218 Lot 1 consists of the Little Falls Recreation Center owned by the Town of Little Falls. There is likely a permanent impact caused by the culvert that would constitute a sub-surface diversion. The sub-surface impact may require mitigation.

2. Block 125 Lot 2 consists of the Peckman River and the bank off of Turnberry Road. There may be temporary impacts resulting from the temporary work area and access needed to facilitate the channel modification. Temporary impacts typically do not constitute a diversion of Green Acres use; and therefore, may not require mitigation.

Coordination is ongoing with NJDEP regarding potential impacts to Green Acres and any resulting mitigation that may be required. It is anticipated that the above Green Acres parcels will be made available for the Recommended Plan and that the application process for the diversion of use will not adversely impact the real estate acquisition schedule. For additional information on Green Acres, see Appendix-A, Environmental Resources, of the main report.



22. Point of Contact

This Real Estate Plan was prepared by Real Estate Project Delivery Team member Carlos E. Gonzalez. He may be contacted at (917)790-8465 (Email: Carlos.E.Gonzalez@usace.army.mil).


CARLOS E. GONZALEZ
Realty Specialist


LYDIA H. WILLIAMS
Chief, Real Estate
New York District



EXHIBIT "A"
REAL ESTATE MAPS





LEGEND

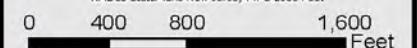
- Page Extents
- Temporary Work Area Easement
- Channel Improvement Easement
- Flood Protection Levee Easement
- Pipeline Easement
- Fee
- Green Acres Parcel
- Right Of Entry

Sources:

Imagery Background:
 Esri, DigitalGlobe, GeoEye, Earthstar
 Geographics, CNES/Airbus DS, USDA, USGS,
 AeroGRID, IGN, and the GIS User Community

Reference Map:
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Coordinate System:
 NAD83 StatePlane New Jersey FIPS 2000 Feet



1 inch = 800 ft

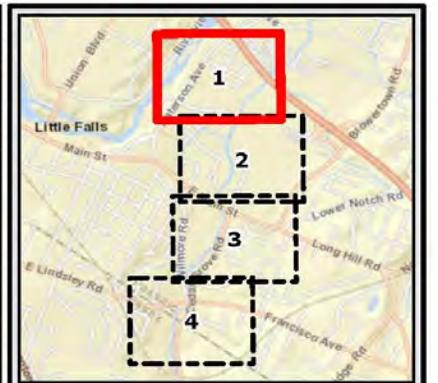
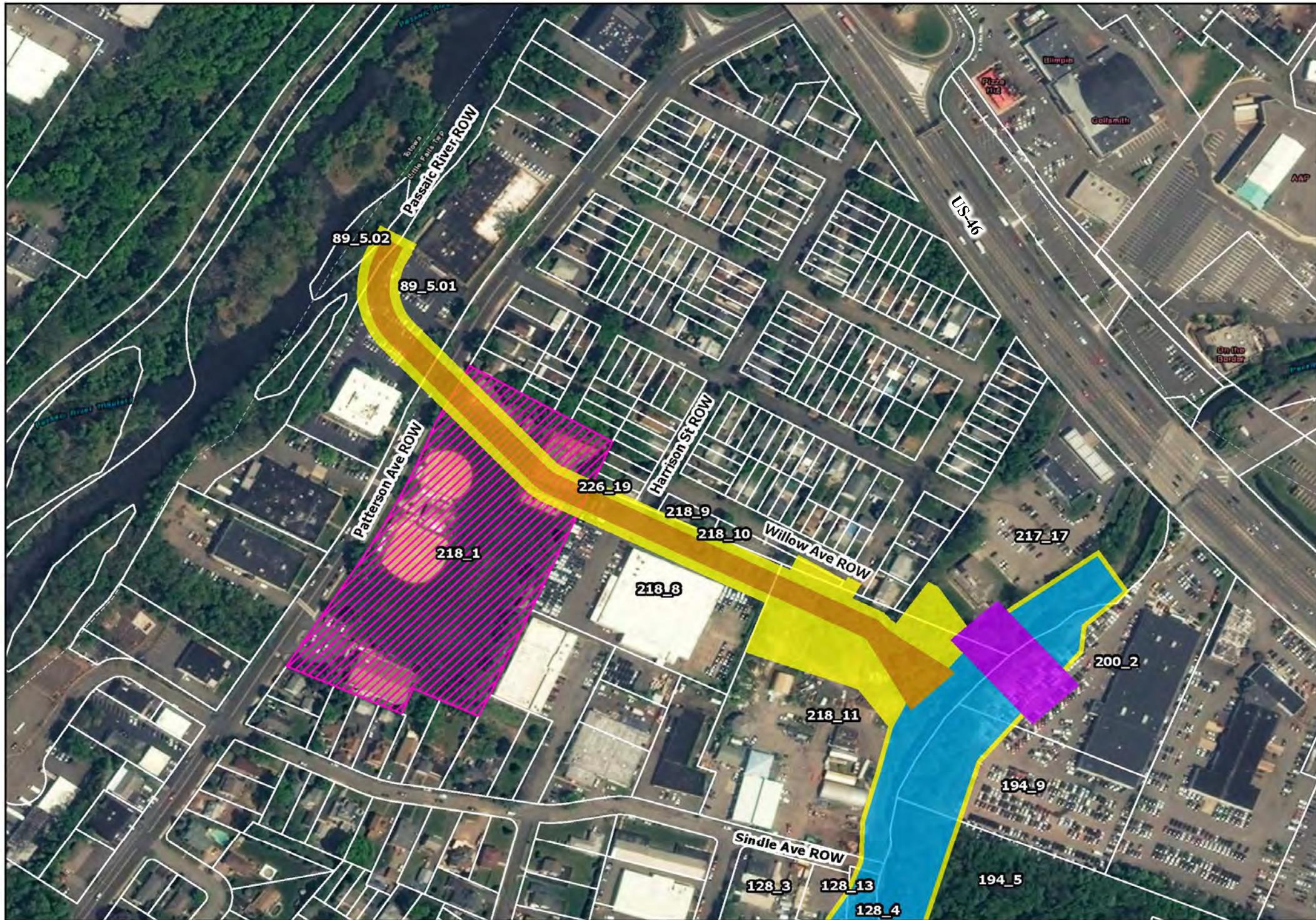
Peckman River

Index Map

Date: 10/8/2019



U.S. ARMY CORPS OF ENGINEERS
 NEW YORK DISTRICT



LEGEND

- Temporary Work Area Easement
- Channel Improvement Easement
- Pipeline Easement
- Fee
- Parcel Boundary Line
- Green Acres Parcel
- Right Of Entry (20191008)

Sources:
 Imagery Background:
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Coordinate System:
 NAD83 StatePlane New Jersey FIPS 2900 Feet

0 100 200 400 Feet

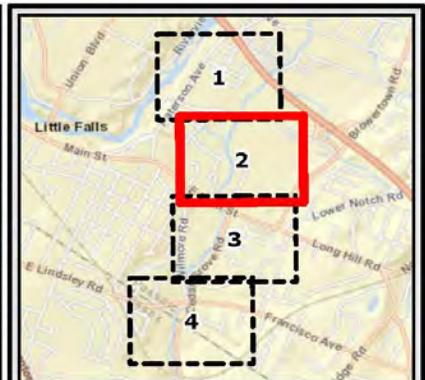
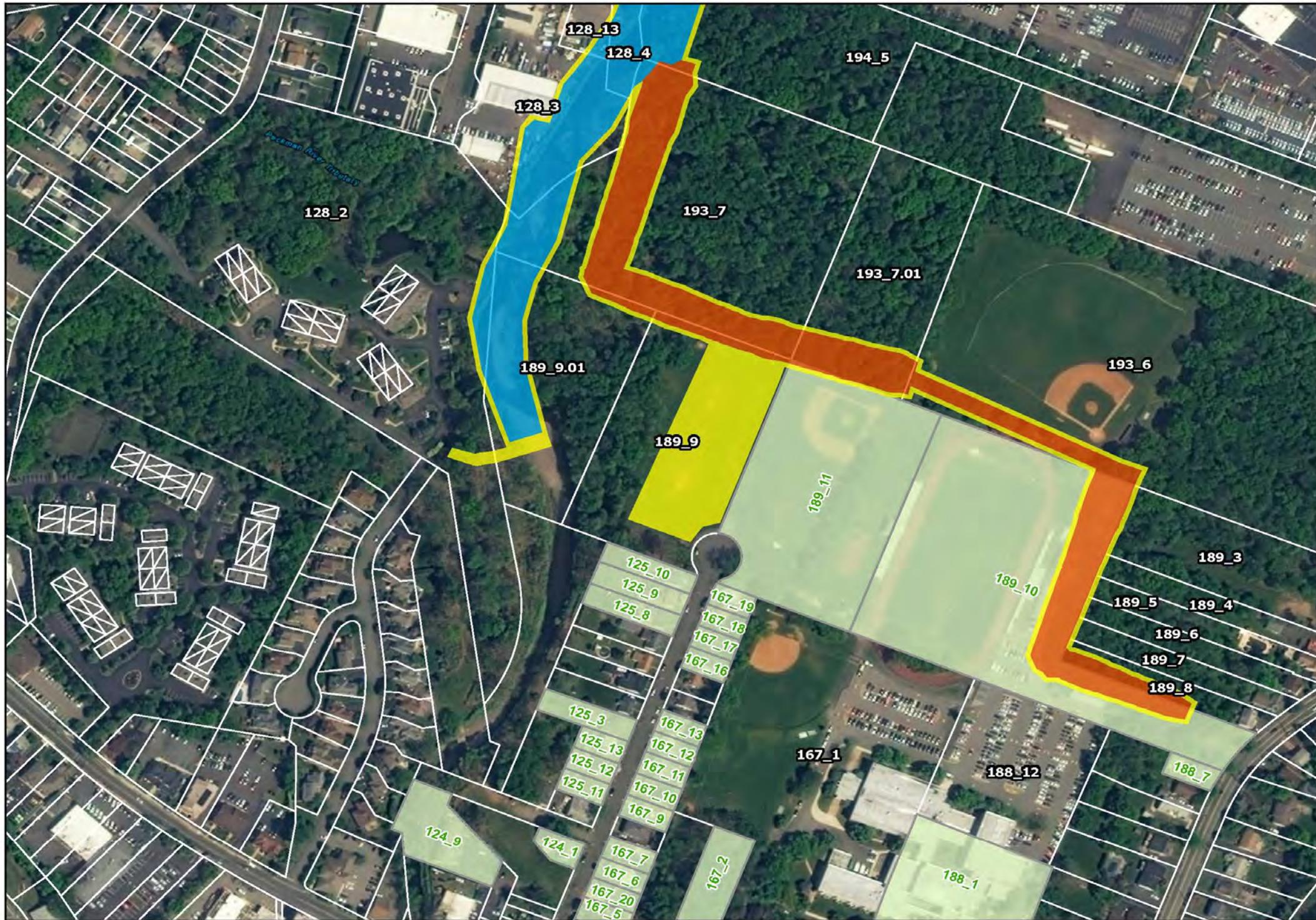
1 inch = 200 ft

Peckman River

Real Estate Map

Date: 10/9/2019 Page 1 of 4





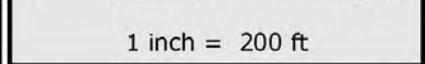
LEGEND

- Temporary Work Area Easement
- Channel Improvement Easement
- Flood Protection Levee Easement
- Parcel Boundary Line
- Green Acres Parcel
- Right of Entry (20191008)

Sources:
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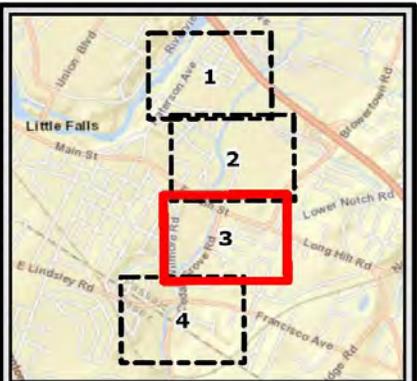


Peckman River

Real Estate Map

Date: 10/9/2019 Page 2 of 4





LEGEND

- Parcel Boundary Line
- Green Acres Parcel
- Right Of Entry (20191008)

Sources:
 Imagery Background:
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0 100 200 400 Feet

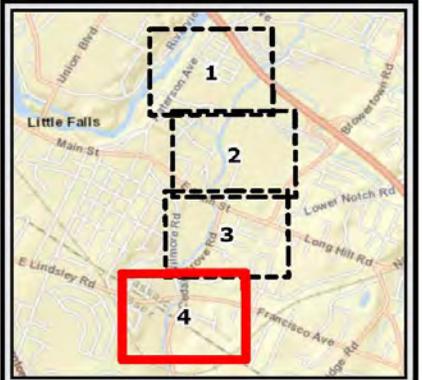
1 inch = 200 ft

Peckman River

Real Estate Map

Date: 10/9/2019 Page 3 of 4





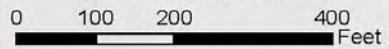
LEGEND

-  Parcel Boundary Line
-  Green Acres Parcel
-  Right Of Entry (20191008)

Sources:
 Imagery Background:
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Coordinate System:
 NAD83 StatePlane New Jersey FIPS 2900 Feet



1 inch = 200 ft

Peckman River

Real Estate Map

Date: 10/9/2019 Page 4 of 4



EXHIBIT "B"
PARCEL DATA



EXHIBIT "B"
PARCEL DATA

Block	Lot	Owner Name	Fee	Flood Protection Levee Easement	Channel Improvement Easement	Pipeline Easement	Temporary Work Area Easement	Right-of- Entry	Total
89	5.01	Private Owner	-	-	-	0.287	0.245	No	0.532
89	5.02	Private Owner	-	-	-	-	0.022	No	0.022
122	38	Private Owner	-	-	-	-	-	Yes	-
122	21	Private Owner	-	-	-	-	-	Yes	-
124	1	Private Owner	-	-	-	-	-	Yes	-
124	5	Private Owner	-	-	-	-	-	Yes	-
124	9	Private Owner	-	-	-	-	-	Yes	-
125	11	Private Owner	-	-	-	-	-	Yes	-
125	8	Private Owner	-	-	-	-	-	Yes	-
125	10	Private Owner	-	-	-	-	-	Yes	-
125	9	Private Owner	-	-	-	-	-	Yes	-
125	3	Private Owner	-	-	-	-	-	Yes	-
125	12	Private Owner	-	-	-	-	-	Yes	-
125	13	Private Owner	-	-	-	-	-	Yes	-
128	13	Private Owner	-	-	0.038	-	0.022	No	0.060
128	2	Private Owner	-	-	0.141	-	0.133	No	0.273
128	3	Private Owner	-	-	0.883	-	0.138	No	1.021
128	4	Private Owner	-	-	0.280	-	0.013	No	0.293
155	7	Private Owner	-	-	-	-	-	Yes	-
157	42	Private Owner	-	-	-	-	-	Yes	-
157	43	Private Owner	-	-	-	-	-	Yes	-
157	60	Private Owner	-	-	-	-	-	Yes	-
165	4	Private Owner	-	-	-	-	-	Yes	-
165	2	Private Owner	-	-	-	-	-	Yes	-
165	7	Private Owner	-	-	-	-	-	Yes	-
166	14	Private Owner	-	-	-	-	-	Yes	-

EXHIBIT “B”
PARCEL DATA

Block	Lot	Owner Name	Fee	Flood Protection Levee Easement	Channel Improvement Easement	Pipeline Easement	Temporary Work Area Easement	Right-of- Entry	Total
166	8	Private Owner	-	-	-	-	-	Yes	-
166	1	Private Owner	-	-	-	-	-	Yes	-
166	24	Private Owner	-	-	-	-	-	Yes	-
166	7	Private Owner	-	-	-	-	-	Yes	-
166	21	Private Owner	-	-	-	-	-	Yes	-
166	22	Private Owner	-	-	-	-	-	Yes	-
166	12	Private Owner	-	-	-	-	-	Yes	-
166	10	Private Owner	-	-	-	-	-	Yes	-
166	15	Private Owner	-	-	-	-	-	Yes	-
166	20	Private Owner	-	-	-	-	-	Yes	-
166	23	Private Owner	-	-	-	-	-	Yes	-
167	10	Private Owner	-	-	-	-	-	Yes	-
167	6	Private Owner	-	-	-	-	-	Yes	-
167	19	Private Owner	-	-	-	-	-	Yes	-
167	9	Private Owner	-	-	-	-	-	Yes	-
167	20	Private Owner	-	-	-	-	-	Yes	-
167	18	Private Owner	-	-	-	-	-	Yes	-
167	16	Private Owner	-	-	-	-	-	Yes	-
167	11	Private Owner	-	-	-	-	-	Yes	-
167	2	Private Owner	-	-	-	-	-	Yes	-
167	12	Private Owner	-	-	-	-	-	Yes	-
167	13	Private Owner	-	-	-	-	-	Yes	-
167	17	Private Owner	-	-	-	-	-	Yes	-
167	5	Private Owner	-	-	-	-	-	Yes	-
167	7	Private Owner	-	-	-	-	-	Yes	-
167	3.01	Private Owner	-	-	-	-	-	Yes	-

EXHIBIT “B”
PARCEL DATA

Block	Lot	Owner Name	Fee	Flood Protection Levee Easement	Channel Improvement Easement	Pipeline Easement	Temporary Work Area Easement	Right-of- Entry	Total
168	7	Private Owner	-	-	-	-	-	Yes	-
168	5	Private Owner	-	-	-	-	-	Yes	-
168	1	Private Owner	-	-	-	-	-	Yes	-
168	11	Private Owner	-	-	-	-	-	Yes	-
188	7	Private Owner	-	-	-	-	-	Yes	-
188	1	Township of Little Falls	-	-	-	-	-	Yes	-
189	10	Township of Little Falls	-	0.955	-	-	0.192	Yes	1.147
189	11	Township of Little Falls	-	0.011	-	-	0.039	Yes	0.050
189	3	Private Owner	-	-	-	-	0.036	No	0.041
189	4	Private Owner	-	-	-	-	0.011	No	0.011
189	5	Private Owner	-	-	-	-	0.011	No	0.011
189	6	Private Owner	-	-	-	-	0.011	No	0.011
189	7	Private Owner	-	-	-	-	0.012	No	0.012
189	8	Private Owner	-	0.147	-	-	0.073	No	0.220
189	9	Township of Little Falls	-	0.113	-	-	1.648	No	1.762
189	9.01	Township of Little Falls	-	0.051	0.679	-	0.239	No	0.969
193	6	Township of Little Falls	-	0.378	-	-	0.232	No	0.611
193	7	Township of Little Falls	-	1.450	0.376	-	0.358	No	2.199
193	7.01	Township of Little Falls	-	0.433	-	-	0.072	No	0.505
194	5	Township of Little Falls	-	0.027	0.716	-	0.073	No	0.817
194	9	Private Owner	-	-	0.634	-	0.055	No	0.689
200	2	Private Owner	0.409	-	0.587	-	0.079	No	1.075
217	17	Private Owners	0.211	-	0.534	-	0.277	No	1.021
218	1	Township of Little Falls	-	-	-	0.374	0.329	No	0.703
218	10	Private Owner	-	-	-	-	0.048	No	0.048
218	11	Township of Little Falls	0.101	-	0.734	0.566	1.282	No	2.683

EXHIBIT "B"
PARCEL DATA

Block	Lot	Owner Name	Fee	Flood Protection Levee Easement	Channel Improvement Easement	Pipeline Easement	Temporary Work Area Easement	Right-of- Entry	Total
218	8	Private Owner				0.444	0.361	No	0.805
226	19	Private Owner					0.018	No	0.018
Harrison St ROW		Township of Little Falls					0.006	N/A	0.006
Passaic River ROW		State of New Jersey				0.394	0.061	N/A	0.455
Paterson Ave ROW		Township of Little Falls	-	-	-	0.072	0.064	N/A	0.136
Sindle Ave ROW		Township of Little Falls	-	-	0.024	-	.006	N/A	0.030
Willow Ave ROW		Township of Little Falls	-	-	-	-	0.030	N/A	0.030
To Be Determined		Environmental Mitigation	5.120	-	-	-	-	N/A	5.120

EXHIBIT "C"
STANDARD ESTATES



EXHIBIT “C”

1) FEE

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

2) FLOOD PROTECTION LEVEE EASEMENT

A perpetual and assignable right and easement in the land described in Schedule A to construct, maintain, repair, operate, patrol and replace a flood protection [*floodwall*] [*gate closure*] [*levee*]; including all appurtenances thereto; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges in the land 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.

3) 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 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.

4) PIPELINE EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across the land described in Schedule A, for the location, construction, operation, maintenance, alteration; repair and patrol of underground culvert 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 "C"

5) TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across the lands described in Schedule A, beginning on _____ and ending on _____, or when construction activities are completed, whichever is later, for use by the United States, its representatives, agents, and contractors as a work area, including the right 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 Peckman River Basin, New Jersey Flood Risk Management 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.



EXHIBIT "C"

DEPARTMENT OF THE ARMY
RIGHT-OF-ENTRY FOR CONSTRUCTION

For use of this form, see ER 405-1-12; the proponent agency is CERE-P.]

(Project, Installation or Activity)

(Tract Number or Other Property Identification)

The undersigned, hereinafter called the "Owner," in consideration of the total compensation to be paid by the UNITED STATES OF AMERICA, hereinafter called the "Government," for all land or easement rights hereinafter described, to be determined by subsequent agreement between the Owner and the Government, or by judicial proceedings, hereby grants to the Government, a permit or right-of-entry upon the following terms and conditions:

1. The Owner hereby grants to the Government an irrevocable right to enter upon the lands hereinafter described at any time within a period of _____ (_____) months from the date of this instrument, in order to erect buildings or any other type of improvements and to perform construction work of any nature.
2. This permit includes the right of ingress and egress on other lands of the Owner not described below, provided that such ingress and egress is necessary and not otherwise conveniently available to the Government.
3. All tools, equipment, buildings, improvements, and other property taken upon or placed upon the land by the Government shall remain the property of the Government and may be removed by the Government at any time within a reasonable period after the expiration of this permit or right-of-entry.
4. The Government shall have the right to patrol and police the lands hereinafter described during the period of this permit or right-of-entry.
5. If aircraft flights over said lands, or entry upon the land by means of helicopter or other type aircraft, are necessary, the Government shall inform the Owner, in advance, of each such flight or entry.
6. In the event that the Government does not acquire title or other necessary interest in said land prior to the expiration of this permit or right-of-entry, or other renewal thereof, the parties agree that, if any action of the Government's employees or agents in the exercise of this right-of-entry results in damage to the real property, the Government will, at its option, either repair such damage or make an appropriate settlement with the Owner. In no event shall such repair or settlement exceed the fair market value of the fee interest of the real property at the time immediately preceding such damage. The Government's liability under this clause may not exceed appropriations available for such payment and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any other damages than provided herein. If the Government does acquire such title or other necessary interest, damages would be limited to the decrease in the fair market value of the owner's remainder caused by such damage.

The land affected by this permit or right-of-entry is located in the County of _____, State of _____, and is described as follows:

WITNESS MY HAND AND SEAL this _____ day of _____, _____

WITNESS:

(SEAL)

(SEAL)

UNITED STATES OF AMERICA

By _____
(Title)



EXHIBIT "D"
BASELINE COST ESTIMATE FOR REAL ESTATE



EXHIBIT “D”

BASELINE COST ESTIMATE FOR REAL ESTATE PECKMAN RIVER BASIN FLOOD RISK MANAGEMENT FEASIBILITY STUDY RECOMMENDED PLAN				
	PROJECT REAL ESTATE COSTS DESCRIPTION	NON-FED	FEDERAL	TOTAL COSTS
01A	INCIDENTAL COSTS	\$404,000	\$418,000	\$822,000
01A1	Acquisition (Admin Costs)	\$246,000	\$164,000	\$410,000
01A1A	By the Non-Federal Sponsor	\$246,000		
01A1B	By Government (Govt) on behalf of NFS			
01A1C	By Govt		\$164,000	
01A2	Land Survey	\$70,000	\$42,000	\$112,000
01A2A	By NFS	\$70,000		
01A2B	By Govt on behalf of NFS			
01A2C	Product Review		\$42,000	
01A3	Appraisal	\$48,000	\$24,000	\$72,000
01A3A	By NFS	\$48,000		
01A3B	By Govt on behalf of NFS			
01A3C	Product Review		\$24,000	
01A4	Title Services & Closing	\$40,000	\$24,000	\$64,000
01A4A	By NFS	\$40,000		
01A4B	By Govt on behalf of NFS			
01A4C	Product Review		\$24,000	
01A5	Other Professional Services	\$0	\$0	\$0
01A5A	By NFS			
01A5B	By Govt on behalf of NFS			
01A5C	Product Review			
01A6	Condemnation Proceedings	\$0	\$0	\$0
01A6A	By NFS			
01A6B	By Govt on behalf of NFS			
01A7	Public Law 91-646 Relocation Assistance			
01A7A	By NFS			
01A7B	By Govt on behalf of NFS			
01A8	Audit	\$0	\$164,000	\$164,000
01A8A	BY NFS			
01A8B	By Govt		\$164,000	
01B	ACQUISITION COSTS	\$2,852,600	\$0	\$2,852,600
01B1	Land Payments	\$1,566,600	\$0	\$1,566,600
01B1A	By NFS	\$1,566,600		
01B1B	By Govt on behalf of NFS			
01B2	Damage Payments	\$1,286,000	\$0	\$1,286,000
01B2A	By NFS	\$1,286,000		
01B2B	By Govt on behalf of NFS			
	Subtotal Lands & Damages (01A + 01B)	\$3,256,600	\$418,000	\$3,674,600
	Contingency (30%)	\$976,980	\$125,400	\$1,102,380
01	TOTAL LANDS & DAMAGES	\$4,233,580	\$543,400	\$4,776,980
02	TOTAL RELOCATIONS (Facilities / Utilities)	\$321,734	\$0	\$321,734



EXHIBIT "E"
NON-FEDERAL PARTNER CAPABILITY ASSESSMENT



EXHIBIT "E"

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

**PECKMAN RIVER BASIN, NEW JERSEY
FLOOD RISK MANAGEMENT FEASIBILITY STUDY**

I. Legal Authority.

- a) Does the Sponsor have legal authority to acquire and hold title to real property for project purposes?

Yes. Through N.J.S.A. § 58:16A-5, the State of New Jersey, as the non-Federal Partner for a Federal Civil Works project, has the 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?

Yes. The Sponsor has the power of eminent domain under the authority of the Eminent Domain Act, N.J.S.A. § 20:3-1 et seq.

- c) Does the Sponsor have "quick-take" authority for this project?

NO, The Sponsor does not have quick-take authority. Through the NJ Eminent Domain Act, a property can be acquired prior to an adjudication of compensation, but the process is as follows: the property must be appraised; the parties must conclude good faith negotiations; the State deposits compensation based on its determination of value into court.

- d) Are any of the lands/interests in land required for the project located outside the Sponsor's political boundary?

No. All lands required for the project are located within 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?

No. The Sponsor has the legal authority to condemn, if necessary, any of the lands or interest in lands required for the project.

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 Public Law 91-646 as amended?

Yes. While the project does not anticipate relocation assistance to be paid under PL 91-646, due to the recent hiring of new staff members, the Sponsor has asked USACE to research



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training opportunities on the subject matter. The District will be coordinating with the Sponsor for the appropriate training.

- b) If the answer to IIa is "yes," has a reasonable plan been developed to provide such training?

Not at this time, but the Corps is open to discussing making training available to the Sponsor.

- c) Does the Sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?

Yes. The Sponsor's in-house staff has real estate acquisition experience for Federal and non-Federal construction projects and can meet its responsibilities for the project.

- d) Is the Sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?

Yes. The Sponsor's in-house staff level is sufficient considering its other workload. Additionally, the Sponsor will be entering a partnership agreement with the local municipality to assist with real estate acquisition.

- e) Can the sponsor obtain contractor support, if required in a timely fashion?

Yes. If necessary, the Sponsor can obtain contract support in a timely fashion to assist with real estate acquisition for the project.

- f) Will the Sponsor likely request USACE assistance in acquiring real estate?

As of this assessment, the Sponsor has not requested USACE assistance to acquire the real estate on their behalf. It is unlikely USACE would acquire the real estate on behalf of the Sponsor because the Sponsor: (1) possesses the professional capability to acquire the real estate needed for the project; (2) can reasonably obtain, if necessary, real estate acquisition contracting services from sources other than the Federal Government; (3) have sufficient general and legal acquisition authority to acquire all the real estate required for the project; and (4) intend on entering into a partnership agreement with the local municipality to assist with real estate acquisition activities. However, since the standard project partnership agreement offers the Sponsor the opportunity to request USACE assistance with real estate acquisition, the option remains open to the Sponsor.

III. Other Project Variables.

- a) Will the Sponsor's staff be located within reasonable proximity to the project site?

Yes. The sponsor's staff is located within a reasonable proximity to the project site. Additionally, its partnership with the local municipality offers representatives within the immediate area.



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- b) Has the sponsor concurred with the project/real estate schedule/milestones?

Yes. The current project real estate acquisition schedule allots two years for the acquisition of real estate. USACE and the sponsor will continue to assess real estate acquisition requirements and process, including experiences from other partnered civil works projects, to adjust the schedule if needed.

IV. Overall Assessment.

- a) Has the sponsor performed satisfactorily on other USACE projects?

Yes. The Sponsor has performed satisfactorily on other completed and on-going USACE projects, including but not limited to civil works projects located at Elberon to Loch Arbor, Newark (Minish), Greenbrook, Union Beach and Port Monmouth.

- 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.

The sponsor is highly capable of performing its real estate acquisition responsibilities for the project.

V. Coordination.

- a) Has this assessment been coordinated with the sponsor?

Yes. This assessment has been coordinated with the Sponsor.

- b) Does the sponsor concur with this assessment?

Yes. The Sponsor concurs with this assessment.



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