

Appendix E
Real Estate



Portland District

APPENDIX E

Real Estate Plan

Oaks Bottom Wildlife Refuge Tidal Restoration Project

**FINAL
November 2015**

Appendix E – Real Estate Plan

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E.1. INTRODUCTION

This Real Estate Plan (REP) is developed in support of the October 2015 Final Integrated Feasibility Report and Environmental Assessment, Oaks Bottom Section 206 Habitat Restoration Project Feasibility Study, Portland, Multnomah County, Oregon. The REP identifies and describes the Lands, Easements, and Rights-of-Way (LER) required for construction, operation, and maintenance of the proposed project. This REP has been prepared according to the procedures set forth in ER 405-1-12, Change 31, dated 1 May 1998.

This study is being conducted under the authority of Section 206 of the Water Resources Development Act (WRDA) of 1996, Public Law 104-303. Section 206 provides authority for the Secretary of the Army to carry out aquatic ecosystem restoration projects within the Continuing Authorities Program. These projects usually include manipulation of hydrology in and along bodies of water, including wetlands and riparian areas.

The WRDA of 2014, Section 1030 modified the Federal cost-sharing limits of the Section 206 program; each project in the Section 206 program is now limited to a Federal cost share of not more than \$10 Million (the previous limit was \$5 Million). This Feasibility Study has been prepared according to the procedures for the Continuing Authorities Program as described in Appendix F of Engineering Regulation (ER) 1105-2-100 for projects under Section 206 of the WRDA of 1996.

This restoration project is needed because Oaks Bottom is one of the last remaining tidal floodplain habitats in the Lower Willamette River that could provide a significant area for juvenile salmon rearing and refuge habitat. Under current conditions the site is mostly inaccessible to salmon due to a large railroad berm with a small culvert that precludes salmon access with high velocities and/or poor positioning (disconnected during low tides and submerged at high tides). In addition, much of Oaks Bottom is dominated by non-native fish and plant species that have reduced habitat values for native fish and wildlife. If no action were taken, the habitats would continue to remain mostly disconnected from the River continuing to cause fish stranding and mortality and become ever more dominated by non-native plant and animal species further reducing habitat values for native species.

The proposed restoration project is a collaborative effort between the U.S Army Corps of Engineers (Corps) and the City of Portland Bureau of Environmental Services (City) and Portland Parks and Recreation (Portland Parks). The City of Portland, Oregon is the Non-Federal Sponsor. The City of Portland owns or will provide all the LERRDs required to support the proposed project.

A Real Estate Plan was prepared in support of the Oaks Bottom proposed project in July 2013. The July 2013 Real Estate Plan was submitted to NWD as an Appendix to the updated Main Report. This REP supersedes the July 2013 REP.

E.1.1. General Project Description

The purpose of the proposed project is to restore a more natural tidal hydrologic connection between Oaks Bottom and the Lower Willamette River, improve fish and wildlife habitats, reduce non-native species populations, and provide unhindered fish passage into and out of Oaks Bottom.

The recommended restoration plan includes the following elements:

- Replacement of the culvert under the Oregon Pacific Railroad Line's berm with a 16 foot by 10 foot precast three-sided arch culvert.
- Removal of the water control structure;
- Excavation of tidal slough channels to connect to the reservoir and southern ponds;
- Removal of invasive species;
- Revegetation with riparian and wetland species along the channels and around the perimeter of the reservoir and southern ponds;
- Placement of two viewing platforms adjacent to the Springwater Trail.

Historically, the Oaks Bottom study area was part of the Lower Willamette River floodplain and subject to natural river meandering, flooding, and daily tidal fluctuations. The construction of a railroad embankment along the entire western perimeter of the site in the early 1900s mostly isolated Oaks Bottom from the river, except for a small culvert connection. Oaks Bottom has been further degraded by the placement of fill on both the north and south ends of the site.

The City of Portland acquired the south landfill property from the Donald M. Drake Company in 1969 in order to block its development as an industrial property. Local groups campaigned during the 1970s to protect the wildlife and to provide park amenities. In 1988, Oaks Bottom was designated as the City of Portland's first wildlife refuge.

The refuge is separated from the Willamette River by railroad tracks on a high berm that inhibits natural tidal fluctuations of surface waters. A 5-foot-diameter culvert below the railroad provides the only surface water connection between the river and the floodplain, and the invert is located at 7.2 feet in elevation that only allows tidal connection about 50% of the time. The tidal connection is further regulated with a water control structure that prevents natural hydrologic exchange and fish passage. The culvert precludes fish passage nearly 50% of the time and likely causes stranding of the few fish that manage to enter.

The water control structure (constructed in 1989) is located approximately 50 feet upstream of the culvert and is used to impound a large reservoir in the southern half of the site. This water control structure further precludes tidal inflows and fish passage and is in poor structural condition (water flows under and around the structure in multiple locations). The water control structure and reservoir have not been successful in reducing the presence of non-native plant species.

The Lower Willamette River through the project area is highly developed for industrial, commercial and residential purposes. Much of the river is fringed by seawalls or rip rapped embankments. Thousands of acres of deltaic wetlands and riparian zones that historically occurred within and along the Lower Willamette River are almost non-existent today.

Tidal hydrology and fish passage from the river to the project areas is limited to a 0.02 acre area below the water control structure except when river levels exceed ordinary high water (2-year flow event). During higher river stages the culvert is submerged and surface oriented juvenile salmonids do not typically dive down to enter structures below the surface. Thus, salmonid access is likely to be very limited. To date, no salmon have ever been captured in Oaks Bottom. Non-native warm water fish species such as carp are present in high numbers in Oaks Bottom. For any fish that may occasionally enter the culvert, stranding is highly likely to occur following a flood event because the water control structure is not fish passable.

E.1.2. Previous Studies

Restoration planning has been underway for the proposed project since at least 2001 when the City of Portland hired the Montgomery Watson Harza Company to conduct a habitat assessment and develop restoration recommendations. By 2003, USACE began a Section 206 feasibility study and a tentative plan was identified. The feasibility study was suspended in 2004 due to reduced federal funding. By 2007, the City of Portland conducted an independent pre-design analysis. The analysis yielded the following design concerns which required additional investigation including:

- Potential effects of tidal channel/slough excavation on existing wetlands
- Fish passage and habitat use criteria
- Construction methods and culvert versus bridge alternatives and
- Sediment and water quality contamination.

Willamette River SubBasin Plan - The *Willamette Subbasin Plan* was completed in 2004 as one of the plans developed for the Northwest Power and Conservation Council that oversees fish and wildlife mitigation and management for Bonneville Power Administration (BPA) within the Columbia River Basin (which includes the Willamette River). The plan was prepared to identify restoration and conservation needs and develop a strategy for achieving watershed health and species recovery. The plan identifies several priority conservation themes for restoring fish and wildlife to productive and sustainable levels throughout the basin including: fixing culverts and diversions to allow fish passage; restoration of lowland riparian areas; and restoration of the Willamette River floodplain.

Lower Willamette River Ecosystem Restoration GI Study – This study is a cost-shared study between the Corps and the City of Portland and is focused on the identification and evaluation of ecosystem restoration opportunities throughout the Lower Willamette River and its tributaries to enhance fish and wildlife habitats and provide fish access. This study initially included Oaks Bottom as a potential restoration site, but now that the present study is underway, the Oaks Bottom site is no longer being considered as part of that study. One site being considered in the vicinity of Oaks Bottom is at Sellwood Riverfront Park just upstream of Oaks Bottom. This site could be restored to improve riparian habitat and create an off-channel area and wetland.

The 2015 REP covering the Lower Willamette River Ecosystem Restoration GI Study did not include the proposed project because the site had already been removed by the time the REP was written and there is no remaining overlap between the Lower Willamette River Ecosystem Restoration GI Study and the proposed project.

South Riverbank Projects – The City of Portland has implemented seven riverbank and riparian restoration projects on the left bank of the Lower Willamette River across and upstream of Oaks Bottom. Features included stormwater swales, riparian revegetation, placement of wood, removal of invasive species, and removal of concrete and other materials.

Stephens Creek Enhancement – The City of Portland implemented a creek channel and floodplain habitat restoration project at the mouth of Stephens Creek across the Willamette River from Oaks Bottom. Habitat restored included floodplain backwater, riparian zone, and improved cover in the channel and as it enters the Willamette River.

E.1.3. Federal Projects, Lands, and Other Projects in or Near the Study Area

There are no federal government civil works projects or federal owned lands within the study area. None of the proposed project lands in the aquatic restoration area were purchased for nor were they a part of any federal government civil works project.

E.2. PROJECT LOCATION

The Oaks Bottom Wildlife Refuge is a 160-acre floodplain and surrounding area located along the east bank of the Lower Willamette River at approximately River Mile (RM) 16 in Southeast Portland, Oregon. The project area is within the 100-year floodplain of the Willamette River, which is within the tidal zone of the Columbia River. The Willamette River merges with the Columbia River approximately 16 miles downstream of the project site. Oaks Bottom offers a unique opportunity for a large, natural, tidally-influenced floodplain and wetland area to be restored in the heart of the city of Portland.

Oaks Bottom Wildlife Refuge (hereafter referred to as Oaks Bottom) is owned and operated by the City of Portland Parks and Recreation and was the first Wildlife Refuge designated within the city. The project site is located on the right overbank (east side) of the Lower Willamette River and is situated below the bluff on the western edge of the Sellwood-Westmoreland neighborhood of Southeast Portland. On its west side, the site is bounded by a railroad embankment that separates Oaks Bottom from the Lower Willamette River.

E.3. ACCESS

Primary access to the construction site will be via an existing gravel road that is accessed from SE Grand. This road is entirely on City property or ROW, and use of it will result in an avoidance of impacts to SE Oaks Park Way in the vicinity of the amusement park.

E.4. DESCRIPTION OF LAND EASEMENTS AND RIGHTS-OF-WAY AND DISPOSAL

The majority of the project site is within public ownership. The City of Portland owns the parcels in fee identified as Parcel # R330381 and Parcel #R328473 (Map ID#s 1 and 11 as depicted on the Real Estate Map attached hereto as Exhibit A). The proposed project features that will be supported by these lands include revegetation ecosystem restoration and channel improvements with weir structures to stabilize the channel. A portion of Parcel # R330381 parcel (.31 acres) will be used as a Construction Staging Area. The City of Portland also owns Parcel #R328471 in fee (Map Key ID#9); .06 acres of the same parcel will be required to support the culvert construction, operation, and maintenance as well as a viewing platform. A 0.1 acre portion of The City of Portland fee-owned Parcel # R330395 (Map Key13) will be required to support a Construction Staging area. The City of Portland can demonstrate its ability to support a Temporary Work Area Easement through its fee-ownership of the subject parcel. A .95 acre portion of the City's Right of Way (Map 14) will be used as a Temporary Work Area for staging during project construction.

The Oaks Park Association (Oaks Pioneer Park) privately owns the 6.3 acre parcel identified as Parcel # R330303. (RE Map ID #6). A portion of the parcel (.01 acres) will be required to support the construction of a Temporary Ramp from SE Oaks Parkway to Springwater Trail and to support the construction of a Temporary Railroad Crossing. The Non Federal Sponsor will secure a two-year Temporary Work Area Easement to support the project feature.

Three and 46th one hundreds of an acre (3.46 acres) of the 11.52 acre property currently owned by METRO (see Map Key 10) will be required to support the proposed replacement of the culvert beneath the Oregon Pacific Railroad Line's berm with a 16 foot by 10 foot precast three-sided arch culvert. The City of Portland must acquire and certify a perpetual Pipeline Utility Easement real estate interest in Metro's parcel(s) prior to advertisement for construction.

METRO and the City of Portland have an ongoing Inter-government Agency Agreement focused on property management for habitat protection and native species restoration. The City of Portland is confident in its ability to acquire real estate interest in the METRO owned properties required to support the proposed projects because of its ongoing environmental protection and stewardship relationship with METRO.

The METRO purchased parcel # R502728 from the Oregon Pacific Railroad in the 1990s. A Relinquishment, Release, and Conveyance of Easement and Right of Way, Quitclaim Deed, and Bill of Sale document was executed on 10 July 1998 conveying the subject property to the METRO but reserving a perpetual railroad easement that is 17 feet wide.

The Oregon Pacific Railroad Line operations will continue during the project construction period. Construction of a temporary bridge will be necessary to support interim rail operations. The City of Portland is aware of the fact that they must initially underwrite the construction of the temporary bridge as a relocation expense and that they will be credited for relocation expenses during the LERRD Crediting process. The City of Portland must also secure a Perpetual Utility Easement from METRO to support the construction, operation, and maintenance of the proposed culvert replacement.

Map Key	Parcel ID	Owner	Project Acres	Estate	Estimated Value
1	R330381	City of Portland	53.30	Fee	\$533,000
11	R328473	City of Portland	8.80	Fee	\$ 88,000
Total Fee			62.10		\$621,000
6	R330303	Oaks Park Assn	0.01	Temporary Work Area Easement (2 years)	\$830
10	R502728	METRO	3.46	Perpetual Pipeline and Utility Easement	\$235
Subtotal			3.47		\$1065
9	R328471	City of Portland	.06	Perpetual Utility Easement (Culvert)	\$10.00
10	R502728	METRO	0.68	Perpetual Utility Easement	\$35.00
Subtotal			0.74		\$45
1	R330381	City of Portland	0.31	3yr Temp Work Area Easement	\$190.00
13	R330395	City of Portland	0.10	3yr Temp Work Area Easement	\$ 60.00
14	Ordinance # 106072	City of Portland ROW	0.95	3yr Temp Work Area Easement	\$ 60.00
Subtotal			1.36		\$310

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10	R502728	METRO	0.10	3 yr Temp Road Easement	\$10
Subtotal METRO TWAE			0.10		\$10.00
Total			67.77		\$622,430

*Notes: There are a number of old unpermitted and unregulated landfills within the project boundaries. Possible contamination from these landfills was not taken into consideration in the appraisal that supports the valuations shown above; the sites were treated as if clean. Effective date of value is 21 November 2013. Real estate interest values were gleaned from an appraisal report dated 9 January 2013 authored by NWS Review Appraiser, Karen Peterson. The subject appraisal report was reviewed and approved by Chief Appraiser, NWD via his 11 January 2013 Appraisal Review Report. The valuation results are being used to represent LERR costs order of magnitude.

Disposal: The excavation of the embankment material for the culvert replacement will remove a minimum of 2,000 CY of existing material. Much of this material is suitable for reuse in backfilling the embankment after placement of the new culvert. However, some excess material may need to be hauled away. Various methods may be viable including truck haul along the Springwater Trail or removal by barge. Because the trail and railroad will have an open cut during construction of the culvert, removal of the material will need to be facilitated to the south of the culvert (shortest haul distance) for the truck haul scenario, or be stockpiled on site until the cut is backfilled.

E.5. REAL ESTATE MAP

The real estate map was revised by Seattle District’s Technical Resources Branch on November 5, 2015. A copy of the revised map is attached as Exhibit A.

E.6. ESTATES (STANDARD AND NON-STANDARD)

Non-standard estates will NOT be required for this project. The NFS(s) will be required to certify appropriate real estate interest(s) in lands needed for the proposed project. ER 405-1-12, paragraph 12-9b requires fee title interest in properties needed to support ecosystem restoration projects unless a lesser estate is appropriate based on the extent of interests required for operation and maintenance of the project.

Fee Simple

The fee simple title to the lands described in Exhibit A; 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) for a period not to exceed three years beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Oaks Bottom Wildlife Refuge Tidal 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 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.

Perpetual Road Easement

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

Utility and 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 (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the 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..

E.7. NAVIGATION SERVITUDE

Navigation Servitude does not apply to any of the water bodies involved in this project nor are they listed as a Portland Navigable River within the State of Oregon.

E.8. INDUCED FLOODING

No induced flooding is anticipated as a result of the proposed ecosystem habitat restoration activities. No changes will occur to the current floodplain level or any conditions which control flooding at this site. As a result, there are no anticipated takings or potential compensation due to any of the landholders near the Oaks Bottom Wildlife Refuge Tidal Restoration Project.

E.9. PUBLIC LAW 91-646 AND LER ACQUISITION CAPABILITY

The Non-Federal Sponsor has full knowledge of the terms of Public Law 91-646 as amended. The non-Federal sponsor also has land acquisition experience and is fully capable of acquiring the necessary real estate interests for the proposed project. The Non-Federal Sponsor will be expected to complete, sign and submit the Certification of Lands documents along with copies of vesting deeds and title reports not more than 90 days-old that show that the Non-Federal Sponsor owns or controls the minimum property interests required for construction, operation, and maintenance of the proposed project.

E.10. Relocation Benefits

No Public Law 91-646 residential relocation assistance benefits are needed for this project.

However, the Oregon Pacific Railroad (a commercial short-line railroad) sits atop a buried trestle which bisects the project footprint and creates a dike that restricts water from the Columbia River from reaching the estuary area on the other side. The Railroad's primary business is delivering frozen foods to restaurant and grocery distribution hubs in Milwaukie, Oregon south of the project site

The railroad owner has indicated it is imperative that operations capability is maintained throughout the proposed project's construction period. The Non-Federal Sponsor and the railroad owner have evaluated alternative shipping methods including trucking. However, the regulations surrounding frozen food items are very strict and construction and maintenance cost of new temporary facilities is cost prohibitive.

The Non-Federal Sponsor and the railroad owner are developing a plan for a temporary bridge that can be placed by the railroad owner which will allow the railroad to operate across the culvert area on weekends during construction. This will enable the railroad to continue deliveries of perishable food products without requiring the construction of a truck warehouse facility. The temporary bridge will also allow the railroad owner to maintain his railroad franchise and existing customer base despite project construction interruptions.

The Oregon Pacific Railroad will construct the bridge and install it on additional steel piling that will be installed behind the sheet piling for the shoring support system. The cost of constructing both the temporary replacement is estimated at \$400,000.

NWS Office of Counsel prepared a Preliminary Attorney's Opinion of Compensability dated 15 November 2012 and concluded that the Oregon Pacific Railroad appears to have valid and existing real property interests within the project footprint that cannot be damaged, modified, or taken as a result of the project without government compensation. The appropriate measure of compensation is to provide a functionally equivalent or substitute facility per ER405-1-12(17-6). Modifying the railroad during construction will provide a functional equivalent to the railroad and should be considered adequate just compensation for the impact to the railroad owner(s) caused by the project.

As previously mentioned, the Non-Federal Sponsor must initially absorb all railroad relocation expenses. The federal government will credit the Non-Federal Sponsor for those expenses during the LERRD Crediting phase provided proper proof of payment is received from the Non-Federal Sponsor.

E.11. MINERAL/TIMBER ACTIVITY

There are no current or anticipated mineral or timber activities within the vicinity of the proposed project that will affect construction, operation, or maintenance of the proposed project. Nor will any subsurface minerals or timber harvesting take place within the project footprint.

E.12. ZONING ORDINANCES ENACTED

No zoning ordinances will be enacted to facilitate the proposed aquatic ecosystem restoration project. No zoning ordinances are proposed in lieu of, or to facilitate LERR acquisition in connection with the project.

E.13. UTILITIES RELOCATIONS

Various known utilities are present in the project vicinity. These include a power transmission tower that is currently located at the eastern toe of the embankment just south of the proposed culvert. The tower supports overhead transmission lines that run parallel to the embankment. The lines are likely high enough that they will not impact crane operation during construction. Staging and access will be designed to avoid impacts to the tower and lines.

There is also an abandoned gas main pipeline to be demolished and capped. The gas main is a steel pipe that measures approximately 18 inches in diameter. The pipe is exposed on the east side of the embankment located above the existing culvert. Roughly 100 feet of this line will be demolished, and the opposing ends will be capped and remain in place. The pipeline demolition cost will be absorbed as part of the project's construction cost.

Any conclusion or categorization contained in this Real Estate Plan, or elsewhere in this project 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 USACE and NON-FEDERAL SPONSOR 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.

E.14. LER Acquisition Process and LER Value Due to the Presence of Contaminants

The City of Portland conducted a Level 1 HTRW Assessment to determine whether CERCLA contaminants are present within the proposed project footprint. Reference: City of Portland. 2007. Oaks Bottom Wildlife Refuge Restoration Project, Sediment Evaluation Framework Level 1 Dredge/Sediment Assessment. Prepared by Bureau of Environmental Services, Coordinated Site Analysis Program.

The City has also conducted numerous other studies to identify the presence of contaminants within the project footprint with special emphasis on proposed excavation areas-- (See pages 15-19 of the Oak Bottoms 90% Feasibility Study Report for full discussion of the City's historical studies and sedimentation--water quality study maps).

There are no known impacts on the real estate acquisition process and the LER value estimate due to known or suspected presence of contaminants that are located in, on, under, or adjacent to the LER required for the construction, operation, or maintenance of the project.

Continued monitoring for evidence of contamination will be conducted during construction activities where excavation occurs. Acceptable excavated materials will be reutilized within the project footprint. Any unsuitable HTRW materials will be transported to a commercial disposal facility.

E.15. LANDOWNER VIEWS/PUBLIC OPPOSITION

Landowners of parcels required to support the proposed project have raised no objections. However, two letters were received in response to the Draft Integrated Feasibility Report/Environmental Assessment circulated for a 30 day public review on July 14, 2015. Both comment letters expressed support for the

project. Concerns about the potential for transport of sediments out of the refuge and possible contamination in the river were raised. The Corps and the Non-Federal Sponsor have since evaluated the concerns and have demonstrated the project will leave behind a clean surface in all excavated areas. Any low level contaminated materials will be transported off-site to an approved landfill. Every effort will be made to reduce the potential for transport of sediment out of the park due to reduced velocities through the culvert and by non-native species habitat reduction.

E.16. OUTSTANDING THIRD PARTY INTEREST

All property interests acquired in support of the proposed project must take priority over any third party interests that could defeat or impair the Non-Federal Sponsor's title to the property or interfere with construction, operation and maintenance of the project. All third party interests must be cleared from the title, or subordinated to the interest being made available for the project. The Non-Federal Sponsor's attorney will be expected to review title reports for project parcels and discuss within the Outstanding Third Party Risk Analysis document all special exceptions to fee title that have the potential to defeat the project purpose.

The Oregon Pacific Railroad has a Third Party Interest in METRO's Parcel R502728. The easement represents a third party encumbrance on property within the project footprint. The City of Portland and METRO must take the necessary actions to subordinate and or clear the Railroad's Third Party Interests within the proposed project footprint. The Subordination action must be completed by the Non-Federal Sponsor prior to completion of the federal government's certification of the Non-Federal Sponsor's real estate interests in the proposed project lands.

The City of Portland and METRO are engaged in an Interagency Agreement (IGA) which allows the City full property management responsibility of proposed METRO owned project lands and the right to make certain capital improvements upon those lands. Although the IGA terms give the City of Portland unfettered access to METRO owned parcels, those terms will not substitute for the required real estate interests as described in ER405-1-12 -(12-9b). The City of Portland must acquire perpetual pipeline/utility easements from METRO as required to support the proposed project. The Non-Federal Sponsor has confirmed METRO has the ability to grant the necessary easements and that they will pursue the acquisition of real property interests necessary for the proposed project.

E.17. RISKS ASSOCIATED WITH ADVANCE LAND ACQUISITION

The Non-Federal Sponsor has been notified in writing of the risks associated with acquiring properties/real estate interests prior to the agreement and full execution of the Project Partnership Agreement.

E.18. BASE LINE COST ESTIMATE

Estate	Acres	Estimated Lands and Damages Cost	NFS LERR Admin. Cost	NFS LERR Cost (Lands and Damages +Admin.)	Federal LERR Admin Cost
Fee Interest	62.10	\$621,000	\$12,000	\$633,000	\$ 5,000
Temporary Railroad Relocation Costs*	n/a	\$400,000	\$20,000	\$420,000	\$10,000
Perpetual Road Easements	4.59	\$1060	\$250	\$1,310.00	\$250.00
Perpetual Pipeline Utility Easement	.74	\$50	\$100.00	\$150.00	\$100.00
3 Year Temporary Work Areas	1.36	\$310.00	\$100.00	\$410.00	\$100.00
Subtotal	68.79	\$1,022,400	32,450	\$1,054,870	\$15,450
10% Contingency		\$10,224	\$3,245.00	\$105,487	\$1545
TOTAL (Rnd)		\$1,032,650	\$35,700	1,160,357	\$17,000

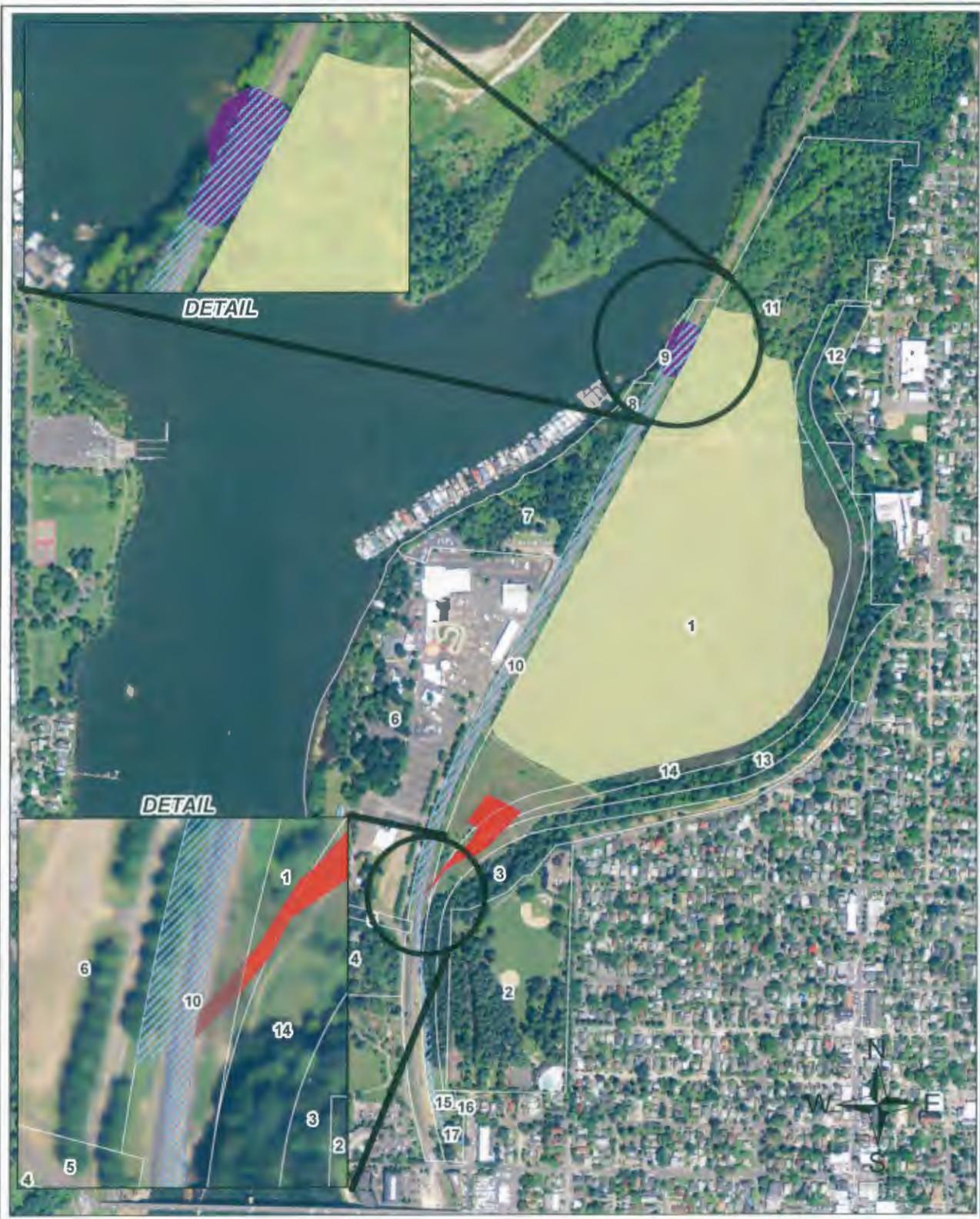
*Note: Relocation Cost estimate was secured from Tetra Tech, Inc.; USACE Cost Engineering group will offer an opinion of reasonableness during next phase.

Total Baseline Cost Estimate: **\$1,178,000** (Rounded)

E.19. REAL ESTATE ACQUISITION SCHEDULE

LER acquisition milestones are shown below including Certification of Lands prior to advertising for construction. The dates reflected in the schedule have been agreed upon by Real Estate, Project Management, and the Non-Federal Sponsor.

Activity	Estimated Completion Dates
Easement Acquisitions	September 2016
City of Portland Certification of Lands	November 2016
Advertise for Construction	January 2017



MapID	APN	OWNER1	OWNER2	text	Total APN Acres	Project Acres
1	R330381	CITY OF PORTLAND	PROPERTY MANAGER	Work Limits (Fee Simple)	60.07	53.3
1	R330381	CITY OF PORTLAND	PROPERTY MANAGER	Construction Staging Area	60.07	0.31
6	R330303	OAKS PARK ASSOCIATION	OAKS PIONEER PARK	Permanent Access Easement (Ramp)	34.79	0.01
9	R328471	CITY OF PORTLAND	PROPERTY MANAGER	Permanent Utility Easement	0.46	0.06
10	1502728	METRO	PROPERTY MANAGER	Total Permanent Areas	11.52	3.46
10	1502728	METRO	PROPERTY MANAGER	Permanent Utility Easement	11.52	0.69
11	R328473	CITY OF PORTLAND	PROPERTY MANAGER	Work Limits (Fee Simple)	25.20	8.8
13	R330395	CITY OF PORTLAND	BUREAU OF PARKS & RECREATION	Construction Staging Area	6.31	0.1
14	ORD 106072	ORDINANCE NUM 106072	CITY OF PORTLAND RIGHT OF WAY	Construction Staging Area	0.00	0.95
14	ORD 106072	ORDINANCE NUM 106072	CITY OF PORTLAND RIGHT OF WAY	Permanent Access Easement	0.00	0.437565
15		PORTLAND CITY OF	PROPERTY MANAGER	Permanent Access Easement	0.258074	0.073606
17		PORTLAND CITY OF	PROPERTY MANAGER	Permanent Access Easement	0.897131	0.200226

Enclosure 1	Oak's Bottom OREGON STATE MULTNOMAH COUNTY	Covered by: [] Date: 29 MAR 2013 Drawn: [] Site Name: [] 127445191-10 [] Subproject/med [] User Name: [] District: [] Title: []	U.S. ARMY CORPS OF ENGINEERS SEATTLE DISTRICT SEATTLE, WASHINGTON 
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EXHIBIT B

**REAL ESTATE PLAN
OAKS BOTTOM TIDAL RESTORATION
PROJECT**

**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)
- b. Does the sponsor have the power of eminent domain for this project? (yes/no)
- c. Does the sponsor have "quick-take" authority for this project? (yes/no)

[Note: For most governmental agencies within a state such as WA the following applies. Before using these statements determine their application to the situation.

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

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)
- 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/no)
- d. Is the sponsor's projected in-house staff level sufficient considering its other work load, if any, and the project schedule? (yes/no)
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? (yes/no)
- f. Will the sponsor likely request USACE assistance in acquiring real estate? (yes/no) (If "yes," provide description).

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? (yes/no)
- b. Has the sponsor approved the project/real estate schedule/milestones? (yes/no)

IV. Overall Assessment:

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

V. Coordination:

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

Prepared by:

Doris L. Cope

Realty Specialist

Reviewed and approved by:

Christopher D. Borton Chief, Real
Estate Division

EXHIBIT C DRAFT

DATE

Department of the Army Seattle District, Corps of Engineers ATTN: Real Estate Division Post Office
Box 3755 Seattle, Washington 98124-3755

*RE: Certification of Lands and Authorization for Oaks Bottom Wildlife Tidal Restoration Project
Feasibility Study*

Dear Ladies and Gentlemen:

This is to certify that the City of Portland (hereinafter referred to as the "Non Federal Sponsor") has sufficient title and interest in the lands hereinafter shown on Exhibit A, attached, to provide all lands necessary for the construction, operation, and maintenance of the Oaks Bottom Wildlife Tidal Restoration Project Feasibility Study.

Said lands and/or interest therein are owned or have been acquired by the Non Federal Sponsor, and are to be used for the construction, operation and maintenance of the above referenced project and include but are not limited to the following specifically enumerated rights and uses, except as hereinafter noted:

Fee Simple

The fee simple title to the lands shown in the project footprint, as depicted in Exhibit A.

Utility and 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 (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the 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.

Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across the land depicted in Exhibit A for a period not to exceed one (1) year, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a work area, including the right to deposit fill 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 Little Wood River Gooding Channel Rehabilitation 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.

Perpetual Road Easement

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

CITY OF PORTLAND, OR

DATE: _____

BY: _____

EXHIBIT D

D R A F T

ATTORNEY'S CERTIFICATE

RE: Certification of Lands and Authorization for Oaks Bottom Tidal Restoration Project Feasibility Study

I, _____, an attorney admitted to practice law in the State of _____ certify that:

I am the attorney for the City of Portland, Oregon (hereinafter referred to as the "Non Federal Sponsor").

I have examined the title to parcels shown on Exhibit A of land identified by the U.S. Army Corps of Engineers as needed for the Oaks Bottom Tidal Restoration Project Feasibility Study, which is included in the Certification of Lands and Authorization for Entry document to which this Certificate is appended.

The Non Federal Sponsor is vested with sufficient title and interest in the described lands required by the United States of America to support the construction, operation, and maintenance of the Oaks Bottom Tidal Restoration Project Ecosystem Restoration Feasibility Study.

There [] are (see attached risk analysis) [] are no outstanding third party interests of record that could defeat or impair the title and interests of the Non Federal Sponsor in and to the lands described, or interfere with construction, operation, and maintenance of the Project. Such interests include, but are not limited to, public roads and highways, public utilities, railroads, pipelines, other public and private rights of way, liens and judgments. To the extent such interests existed prior to acquisition of the described lands by the Non Federal Sponsor such interests have either been cleared or subordinated to the title and interests so acquired except as provided in the attached risk analysis.

The Non Federal Sponsor has authority to grant the Certification of Lands and Authorization for Entry to which this Certificate is appended; that said Certification of Lands and authorization for entry is executed by the proper duly authorized authority; and that the authorization for entry is in sufficient form to grant the authorization therein stated.

DATED AND SIGNED at _____, this ____ day of _____ 20__.

Attorney for the City of Portland, OR

EXHIBIT E

DRAFT

RISK ANALYSIS FOR OUTSTANDING THIRD PARTY INTERESTS

RE: Certification of Lands and Authorization for Oaks Bottom Tidal Restoration Project Restoration Feasibility Study

There are outstanding third party interests of record in and to the lands required for the Project. An evaluation of those interests is as follows:

1. **IDENTIFICATION OF THIRD PARTY INTERESTS:**

2. **ASSESSMENT:** (Discuss whether the exercise of that interest is likely to physically impair the Project. Discuss the legal implications if the interest is not cleared or subordinated. Discuss the practical impediments to the exercise of the interest such as any required permits, land use restrictions, or compensation.)

3. **PLAN TO RESOLVE:** (Discuss recourse available to protect the Project in the event the outstanding interest is exercised).

Signed:

Attorney for the City of Portland, OR

DATE _____