REAL ESTATE PLAN

APPENDIX E
REAL ESTATE PLAN

LEON CREEK FLOOD RISK MANAGEMENT FEASIBILITY PROJECT

SAN ANTONIO RIVER AUTHORITY
CITY OF SAN ANTONIO (BEXAR COUNTY) TEXAS

DATE OF REPORT

OCTOBER 25, 2013

PREPARED BY

U.S. ARMY CORPS OF ENGINEERS
FORT WORTH DISTRICT

This Real Estate Plan has been prepared in accordance with ER 405-1-12 dated 1 May 1998.

PREPARED BY:

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PURPOSE

This Real Estate Plan has been prepared in support of the feasibility study that describes the lands, easements, right of way, relocation, and disposal (LERRD) required for the Leon Creek Flood Risk Management Feasibility Study in the City of San Antonio (Bexar County) Texas. The project includes both structural and non-structural alternatives, located at two locations along Leon Creek or its tributaries. In general Leon Creek is located on the north and west side of San Antonio.

- <u>Alternative (2B)</u> is structural and located in the southwest quadrant of the intersection of Southwest Military Drive (Highway 13) and Quintana Road, immediately west of the Port Authority of San Antonio and Lackland Ari Force Base. This alternative entails the construction of a levee and modification to the Leon Creek channel. The estate for this alternative is fee simple, channel improvement easement, and temporary work area easement.

The Recommended Plan for Alternative (2B) provides for the construction of a levee designed to protect against the 1% AEP event. This feature includes 2,850 linear feet of channelization immediately downstream of the levee to mitigate for slight rises in water surface elevations caused by the levee. The channel work will utilize natural design parameters, including in-channel habitat components, in order to be self-mitigating in terms of aquatic impacts. Twenty acres of riparian vegetation will be installed in conjunction with the natural channel design.

- <u>Alternative AOI-4</u> is non-structural and includes the acquisition of 4 single family residences and 30 condominiums that are adjacent to Huesta Creek. This alternative is located south of Loop 1604 and west of Babcock Road. The estate for this alternative is fee simple.

The Recommended Plan for Alternative AOI-4 includes the permanent evacuation of 4 single-family homes and 32 condominiums located within the 4% AEP floodplain.

The San Antonio River Authority (SARA) is the local sponsor and will acquire all LERRD. The feasibility study is authorized by the Guadalupe and San Antonio Rivers and Tributaries, Texas, Resolution adopted by the Committee on Transportation and Infrastructure, U.S. House of Representatives, House Resolution docket 2547, dated 11 March 1998, which reads:

> *"Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, that, the Secretary of the Army is requested to review the report of the Chief of Engineers on the Guadalupe and San Antonio Rivers, Texas, published as House Document 344, 83rd Congress, 2nd Session, and other pertinent reports, with a view to determining whether any modifications to the recommendations contained therein are advisable at the present time, with particular reference to providing improvements in the interest of flood control, environmental restoration and protection, water quality, water supply, and allied purposes on the Guadalupe and San Antonio Rivers in Texas."*

LAND, EASEMENTS, AND RIGHTS-OF-WAY FOR THE RECOMMENDED PLAN

The subject property is located within the City of San Antonio in Bexar County, Texas. The recommended plan is a combination of structural and non-structural alternatives, located at two separate areas along Leon Creek or its tributaries.

- The first alternative is structural and located in the southwest quadrant of the intersection of Southwest Military Drive (Highway 13) and Quintana Road, immediately west of the Port Authority of San Antonio. This alternative entails the construction of a levee, floodwall, development of a sump area, modification to the Leon Creek channel, and includes both staging and disposal areas that will be located on Port Authority land, immediately adjacent to the project.

This alternative is a total of 46.025 acres which includes 22.747 acres in fee, 16.278 acres in channel improvement easement, and 7.0 acres for temporary work area easements (staging and disposal areas).

- 22.747 acres in fee
    - Private ownership
        - Ruiz
        - Maples
    - Public ownership
        - City of San Antonio
        - Port Authority of San Antonio
- 16.278 acres in channel improvement easement
    - Public ownership
        - San Antonio River Authority
- 7.0 acres in temporary work area easement
    - Public ownership
        - Port Authority of San Antonio

- The second alternative is non-structural and totals 3.85 acres that includes the acquisition of 4 single family residences and 32 condominiums that are adjacent to Huesta Creek. This alternative is located south of Loop 1604 and west of Babcock Road.
    - Single Family – 0.82 acres
    - Condominiums – 3.03 acres

The real estate interests for this project are as follows. All lands needed for this project will be acquired in fee, with the exception of the land needed for the channel improvement, staging area, and disposal site.

- Fee Simple - the fee simple title to the land described, subject, however to existing easements for public roads and highways, public utilities, railroads and pipelines.

- Channel Improvement Easement - a channel improvement easement is the perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across the land described for the purposes as authorized by the Act of Congress approved, including the right to clear, cut, fell, remove, and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject , however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

- Temporary Work Area Easement - a temporary work area easement and right-of-way in, on over and across the land described for a period not to exceed 2 years, beginning with date possession of the land is granted to the United States, for used 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 Leon Creek Project, together with the right to trim, cut, fell and remove therefore 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.

Access to both sites is from public roads.

COST SHARE OF PROJECT

The cost-share for the project is estimated at 65% Federal and 35% local. The estate to be acquired by the local sponsor is fee simple, channel improvement easement, and/or temporary work area easement. Table 1 identifies the estates, number of acres in each, and estimated value of the land that will be acquired by SARA.

TABLE 1
LAND, EASEMENTS, and RIGHTS OF WAY
Leon Creek Flood Risk Management Project
San Antonio (Bexar County) Texas

PROJECT PURPOSE: Flood Risk Management		
PROJECT FEATURE: Flood Risk Management		
ESTATE	ACRES	ESTIMATED VALUE
Fee Simple:		
Structural Alternative	22.747	$1,569,554*
Non-Structural Alternative	3.85	$3,266,615
Channel Improvement Easement:		
Structural Alternative	16.278	$32,556
Temporary Work Area Easement:		
Structural Alternative	7.0	$178,250

*Includes Damages/Severances

NON-STANDARD ESTATES

This project does not have a non-standard estate.

EXISTING FEDERAL PROJECT

There is no other existing Federal project.

FEDERALLY OWNED LAND

There is no federally owned land associated with this project.

NAVIGATIONAL SERVITUDE

Although Leon Creek may be considered navigable under the State of Texas definition, it is not navigable for commerce. As such, Federal Navigational Servitude is not applicable.

PROJECT AREA

Maps depicting the project area are attached.

FLOODING OF PROJECT AREA

There is no induced flooding as a result of the project.

BASELINE COST ESTIMATE FOR REAL ESTATE

Values included in the baseline cost estimate are taken from the Gross Appraisal, Leon Creek Flood Risk Management, dated September 12, 2013.

- 01 Land & Damages
- 01.23 Construction Contract Documents
- 01.23.03 Real Estate Analysis Documents
- 01.23.03.01 Real Estate Planning Documents, 25% based on reasonable cost estimates
- 01.23.03.02 Real Estate Acquisition Documents, 25% based on reasonable certainty
- 01.23.03.03 Real Estate Condemnation Documents, 20% based on the expectation of at least 10% will be condemned
- 01.23.03.05 Real Estate Appraisal Documents, 20% based on reasonable certainty of contract costs
- 01.23.03.06 Real Estate PL 91-646 Asst. Documents, 10% based on reasonable certainty
- 01.23.03.13 Real Estate Facility/Utility Relocation, 25% based on reasonable certainty
- 01.23.03.15 Real Estate Payment Documents, based on contingencies (20%) assigned by the Appraiser in the Gross Appraisal
- 01.23.03.17 Real Estate LERRD Accounting Documents, 20% based on reasonable certainty regarding accounting requirements

Cost estimates for the land needed for the project is presented in Table 2A. The estimates are presented in the standard Code of Accounts from M-CACES Model Database, October 1994.

Table 2
Real Estate Cost Estimates
Project: Leon Creek Flood Risk Management
Location: San Antonio (Bexar County) Texas

ACCOUNT	DESCRIPTION	ESTIMATE	CONTINGENCIES
01	Land & Damages		
01.23	Construction Contracts Documents		
01.23.03	Real Estate Analysis Documents		
01.23.03.01	Real Estate Planning Documents		

	Planning by Non Federal Sponsor	$39,000	$9,750
	Review of Non Federal Sponsor	$15,600	$3,900
01.23.03.02	Real Estate Acquisition Documents		
	Acquisitions by Sponsor	$312,000	$78,000
	Review of Sponsor	$15,600	$3,900
01.23.03.03	Real Estate Condemnation Documents		
	Condemnation by Sponsor	$120,000	$12,000
	Review of Sponsor	$2,000	$200
01.23.03.05	Real Estate Appraisal Documents		
	Appraisal by Sponsor	$195,000	$39,000
	Review of Sponsor	$15,600	$3,120
01.23.03.06	Real Estate PL 91-646 Asst Documents		
	PL 91-646 Asst by Sponsor	$68,000	$6,800
	Review of Sponsor	$13,600	$1,360
01.23.03.13	Real Estate Facility/Utility Relocation		
	Payment by Sponsor	$381,045	$95,261
	Review of Sponsor	$11,200	$2,800
01.23.03.15	Real Estate Payment Documents		
	Payment by Sponsor(Fee)	$5,046,965	$1,009,393
	Payment by Sponsor (PL 91-646)	$302,500	$60,500
	Review of Sponsor	$15,600	$3,120
01.23.03.17	Real Estate LERRD Credit Documents	$15,600	$3,120
	Total Admin & payment	$6,569,310	
	Total contingencies		$1,332,224
	Grand Total	$7,901,534	

RELOCATION ASSISTANCE PROGRAM PL 91-646

The non-structural alternative will include the buy-out of 4 single family residences (thought to be owner occupied) and 32 condominiums (tenant occupied). No businesses will be acquired. All relocation will be in accordance with PL 91-646.

MINERAL AND TIMBER ACTIVITY

There is no known mineral exploration or extraction activity in the area. Because of the limited potential for production in the area, the value of the mineral estate is considered nominal and is included in the value of the land. There is no merchantable timber present.

NON-FEDERAL SPONSOR'S CAPABILITY TO ACQUIRE LERRD

The local sponsor (SARA) is responsible for acquiring LERRD. A checklist has been prepared in accordance with Chapter 12 of ER 405-1-12 and is attached. The local sponsor is aware of the requirements of PL 91-646, as amended, and the requirements for documenting expenses for the purpose of LERRD credit. The local sponsor will also be advised of the risks associated with acquiring LERRD before execution of the PCA. The Corps will work with the sponsor throughout the project, to the extent appropriate and allowable; to ensure that there is understanding of the

Federal real estate principles. Action will also be taken to address any policy issues that could significantly impact the project.

ZONING ORDINANCES

There are no special Zoning Ordinances proposed for enactment with the project.

MILESTONES FOR REAL ESTATE ACQUISITION

• Project Partnership Agreement signed	November 30, 2013.
• Transmittal of ROW drawings	December 15, 2013
• Obtain title evidence	March 30, 2014.
• Obtain appraisals & review	May 15, 2014
• Start negotiations	June 1, 2014
• Conclude negotiations	October 30, 2014
• Conclude closings	November 30, 2014
• Conclude condemnations	March 30, 2015
• Certify availability of LERRD	April 15, 2015
• Review LERRD credit request	May 30, 2015
• Approve LERRD credit	July 1, 2015

FACILITY OR UTILITY RELOCATIONS

The Non-Structural portion of the plan indicates that all residential utilities will be capped and no facility or utility relocations will occur. The structural portion of the plan indicates that 28 utilities will be relocated. An Attorney's Opinion of Compensability will be prepared by Office of Counsel.

CONTAMINANTS ON REAL ESTATE ACQUISITIONS

Reports dated February 5, 2007 and April 23, 2007, prepared in accordance with ASTM E1527-05 (American Society for Testing and Materials, Standard Practice for Environmental Site Assessments) indicate that there is no known or suspected hazardous, toxic, and/or radioactive waste (HTRW) sites requiring remediation. Although none are expected, due diligence requires that actual field testing, conducted during demolition, could reveal that some of the structures contain materials for which special handling and disposal would be required.

OPPOSITION BY LANDOWNERS IN PROJECT AREA

No opposition has been stated by property owners.

OTHER REAL ESTATE ISSUES

No other Real Estate issues are known to exist.

CHECKLIST TO ACQUIRE LERRD (SARA)

I. Legal Authority

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **Yes**

b. Does the sponsor have the power of eminent domain for this project? **Yes**

c. Does the sponsor have "quick-take" authority for this project? **Yes**

d. Are any of the lands/interested in land required for the project, located outside the sponsor's political boundary? **No**

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **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 PL 91-646, as amended? **No**

b. If the answer to II (a) is yes, has a reasonable plan been developed to provide such training? **Not applicable**

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **Yes**

d. Is the sponsor's projected in-house staffing level sufficient considering other work load, if any, and the project schedule? **Yes**

e. Can the sponsor obtain contractor support, if required, in a timely fashion? **Yes**

f. Will the sponsor likely request USACE assistance in acquiring real estate? **No**

III. Other Project Variables

a. Will the sponsor's staff be located within reasonable proximity to the project site? **Yes**

b. Has the sponsor approved the project/real estate schedule/milestones? **Pending**

IV. Overall Assessment

a. Has the sponsor performed satisfactorily on other USACE projects? **Yes**

b. With regard to this project, the sponsor is anticipated to be: **Fully Capable**

V. Coordination

a. Has this assessment been coordinated with the sponsor? **Yes**

b. Does the sponsor concur with this assessment? **Pending**

Information provided to Mr. Claude Harding (Real Estate Manager) - SARA

Prepared by

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Thurman Schweitzer
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Reviewed and approved by:

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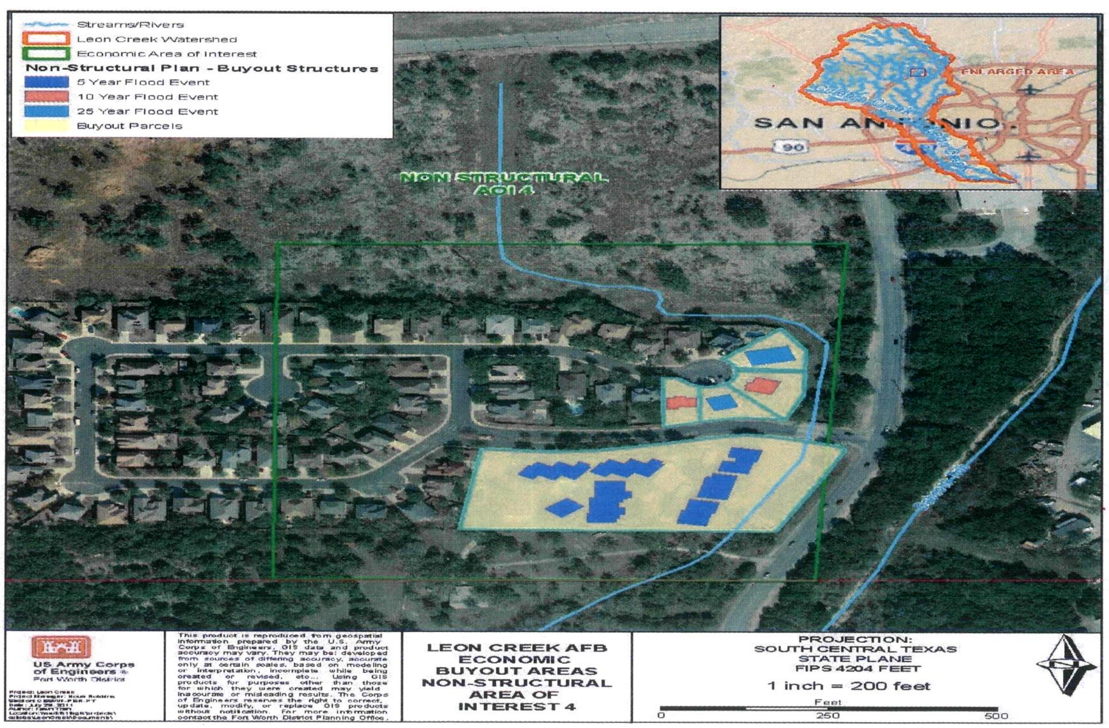
Roger Jennings
Chief, Planning & Appraisal Branch

Project Maps

Structural Alternative



Non-Structural Alternative