

APPENDIX G
Real Estate Plan

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REAL ESTATE PLAN GREEN BAY HARBOR, WISCONSIN DREDGED MATERIAL MANAGEMENT PLAN FOR A NEW DREDGED MATERIAL DISPOSAL FACILITY

AUTHORITIES

The Federal Navigation Project at Green Bay Harbor, Wisconsin was initially authorized by the **River and Harbor Acts of 23 June 1866, 13 July 1892, 26 June 1910, 8 August 1917, 3 March 1925, 30 August 1935, 26 August 1937, 2 March 1945, 23 October 1962**. Additional changes to the project were authorized by the **Water Resources Development Acts of 17 November 1986 and 8 November 2007**. The initial navigation project provided for dredging an entrance channel in Green Bay 26 feet deep for a distance of about 11.5 miles to Grassy Island; an entrance channel and a river channel 24 feet deep and 300 feet wide from Grassy Island to a point about 0.5 mile upstream from the mouth of the Fox River; then a Fox River channel 24 feet deep at varying widths to a point 1,700 feet to the Chicago and North Western Railway Bridge; then 18 feet deep and 150 feet wide to upstream locations.

The Water Resources Development Act (“WRDA”) of 1986, Public Law 99-662 (33 U.S.C. 2211) defined cost sharing between the Federal Government and the local sponsor. WRDA of 1986 was amended in Sec. 201(a) of WRDA 1996 by adding, among other things, “... the term ‘general navigation features’ includes constructed land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material ...”.

Section 221 of the Flood Control Act of 1970, Public Law 91-611, (42 U.S.C. 1962d-5b), as amended, and Section 101 of WRDA of 1986, provide, *inter alia*, that the Secretary of the Army shall not commence construction of any water resources project, or separable element thereof, until each non-Federal interest has entered into a written agreement to furnish its required cooperation for the project or separable element.

Section 217(c) of WRDA 1996 provides that the Government may carry out a program to evaluate and implement opportunities for public-private partnerships in the design, construction, management, or operation of dredged material disposal facilities in connection with construction or maintenance of Federal navigation projects.

1. PURPOSE

The purpose of this Dredged Material Management Plan (DMMP) study is to determine if additional suitable dredged material placement sites are located in the vicinity of Outagamie and Brown Counties that will satisfy future dredge disposal needs of a 20-year capacity associated with the Green Bay Harbor. The decision to recommend implementing the final Management Plan is based upon finding at least one potential solution that would be: (1) physically, economically and environmentally feasible; (2) in accord with current Federal policies and budgetary priorities; and, (3) supported by the project's sponsor, Brown County.

The purpose of this DMMP document is to: (a) present studies that have been conducted to date; (b) provide an economic assessment to justify continued maintenance dredging; (c) discuss potential options that appear viable for disposal of dredged material; and (d) select a Management Plan for Green Bay Harbor dredged material disposal.

PLAN SELECTION

As a component to this project, the Cat Island Section 204 study evaluated beneficial uses of dredged material, which included constructing three islands and a wave barrier. The islands would be filled with clean dredged material from the outer navigation channel. The islands serve both ecosystem restoration benefits and navigation purposes, and provide 20-years of dredged material capacity. This document identifies specific measures necessary to manage the volume of material likely to be dredged over a 20 year period within Green Bay Harbor. Historically, the Cat Island chain of islands, located within Green Bay, was severely eroded during high water levels and extreme wave attack in the early 1970s. It is believed that the loss of the “above water” part of the islands was responsible in whole or part for the loss of extensive emergent and submerged aquatic vegetation between the islands and the shore to the south and west (e.g. Duck Creek, Peter's Marsh and Peats Lake Wetland). In addition to these indirect impacts, the terrestrial habitat of the islands themselves was also directly lost. The US Fish & Wildlife, Brown County and the US Army Corps of Engineers plan to restore the islands through beneficial use of clean dredged sediment from the Green Bay Federal Navigation Channel.

The three key objectives of restoring the Cat Island Chain includes creating the conditions for re-establishment of emergent and submerged aquatic vegetation southwest of the Cat Island Chain (to help promote the recovery of the Duck Creek, Peter’s Marsh and Peat’s Lake Wetlands); providing capacity for placement of clean dredge spoils of Green Bay Federal Navigation Channel dredging activities; and restoring terrestrial habitat associated with the islands.

The Bayport Contained Disposal Facility (“CDF”) is the current disposal placement site for dredged material from the outer and inner Federal navigation channels at Green Bay Harbor. Bayport CDF is owned by Brown County and a tipping fee is assessed to the Federal Government to place dredged material within the Bayport CDF under an existing Section 217 agreement between Brown County and the Detroit District. With the current dredging cycle and the Bayport CDF being utilized for disposal of maintenance material, it is anticipated that the Bayport CDF will be at full capacity in 2015. A 36 acre expansion area of the Bayport CDF is being considered as an alternative for the inner harbor dredging and will service the project once the existing CDF is full.

DESCRIPTION OF THE DMDF PROJECT

Green Bay Harbor is located in the city of Green Bay, between Outagamie and Brown Counties Wisconsin, which is located about 204 miles north of Chicago, Illinois. The harbor is positioned at the southern portion of Green Bay on Lake Michigan’s western shore and extends up the Fox River to a location just downstream of DePere lock and dam (See Figure 1). The authorized project at Green Bay Harbor has two segments which consist of an outer and inner channel. The outer channel is approximately 11 ¼ miles long, 300 to 500 feet wide and 26 feet deep. From Grassy Island in the Bay to a point about ½ mile upstream from the mouth of the Fox River, the project has a reduced channel depth of 24 feet and is 300 feet wide. The inner channel (See Figure 2) begins at a ½ mile upstream of the mouth of the Fox River and extends approximately 7 miles upstream to the city of DePere. From the ½ mile point to approximately 3.5 miles upstream (Chicago and North Western

Railway bridge) the channel width varies but the authorized channel depth continues at 24 feet. A turning basin upstream of the Chicago and North Western Railway Bridge has a reduced depth of 20 Feet. Beyond the turning basin the Federal channel continues to be reduced to a depth of 18 feet deep and 75 feet wide that extends to the end of the authorized Federal navigation channel.

The project will consist of the construction of a three island (West, Middle and East Islands) DMDF, a partial wave barrier, and an access road. The project proposes to construct a three island (West, Middle, and East Islands) DMDF sequentially, and a partial wave barrier located within Green Bay, WI. The three islands and the wave barrier are centrally located between the northwest shoreline and the Federal navigation channel. This alternative would create a dredged material capacity of approximately 2,350,000 cubic yards. The size of the three islands are as follows: West Island is approximately 74 acres; Middle Island is approximately 92 acres; and East Island is approximately 106 acres. The three islands would encompass a total of approximately 272 acres. The construction of the three islands and wave barrier could be phased-in over a period of time as needed.

A permanent access road would be constructed initiating at the end of the existing public Bay Shore Drive extending approximately 1,872 feet to the shoreline of the mainland and then further extending into the water approximately 2,600 linear feet, connecting to the starting point of the wave barrier. The wave barrier would extend approximately 8,600 feet eastward along the northeast side of the three islands to protect the islands and the shallow water habitat behind it (Duck Creek, Peat's Lake and Peter's Marsh Wetland) against wave action from the bay. Construction of the West, Middle and East Islands and a partial wave barrier would create a reduction in wave height and restore approximately 1,225 acres of water habitat and 272 acres of terrestrial habitat for a total restoration of 1,497 acres (plan attached). A 400 x 100 foot (0.92 acre) work and storage area will be provided southerly of the terminus of Bay Shore Drive.

Based upon the investigation presented in this Phase II DMMP document, a combination of constructing an in-water DMDF (Cat Island chain and wave barrier) and the expansion of the Bayport CDF are designated as the "Base Plan". The use of the expanded Bayport CDF addresses the *inner harbor channel material* and the in-water DMDF (the islands portion only) will contain the *outer harbor channel material*. The Base Plan is physically feasible, environmentally acceptable (Federal Standards), least costly and it forms the basis for future actions leading toward adequately handling dredged material disposal for a minimum of 20 years for Green Bay Harbor and it also provides the maximum potential environmental beneficial use.

In addition, the locally preferred plan is also the Base Plan. The operation and maintenance of Bayport CDF will be funded thru a tipping fee. The benefits from constructing the in-water DMDF (islands and wave barrier) would provide 20-year dredged capacity and restore approximately 1,497 combined acres of water and terrestrial habit, and thereby serving both navigation and environmental purposes. The in-water DMDF (the island portion) provides dredged material capacity for navigation as well as having positive economic and secondary environmental benefits in providing a synergistic and cost-reducing approach, and is determined to be in the public interest. Therefore, the combination of island creation and expanded Bayport CDF is the recommended plan to address the needs of both the inner and outer harbors.

2. LERRDs REQUIRED FOR CONSTRUCTION, OPERATION AND MAINTENANCE

The local sponsor for the project is Brown County. The county will provide all easements and rights-of-way necessary for the construction, operation and maintenance of the new project. The county has the full power, authority and capability to provide the items of local cooperation. The county has the legal status to obtain additional property if required for the construction and/or operation of the project.

Fee Simple: The local sponsor must own *fee simple* title to the submerged lands upon which the project is constructed, and in doing so, it will be able to provide any estate required on the premises for construction. Fee Simple is the fullest ownership possible of the subject property, free from any claims whatsoever, except those specifically set forth in the instrument of conveyance and also subject to existing easements for public roads and highways, public utilities, railroads and pipelines. For this project, Brown County has obtained a Lake Bed Grant from the State of Wisconsin

Road Easement: The sponsor must own a perpetual and assignable easement and right of way in, on, over and across the land for the location, access, construction, operation, maintenance, alteration and replacement of road(s) and appurtenances 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; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. For this project, Brown County is the underlying fee owner for a portion of the proposed access road connecting the County road to the project at the shoreline of Green Bay. Other portions of that access road are owned by a private entity and the State of Wisconsin. For that portion of the access road owned by the State of Wisconsin, a long term lease over that portion of the road rather than an easement may be the only real estate interest available.

Temporary Work Area Easement: A temporary easement and right-of-way in, on, over and across the land for a period not to exceed the period of construction, beginning with the date of this instrument, for use by the United States, its representatives, agents and contractors as a work area, including the right to (borrow and/or deposit fill, spoil and waste material thereon) move, store and remove equipment and supplies, erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of a new dredged material disposal facility in Green Bay Harbor, 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.

3. LERRDs - ALREADY OWNED IN PART AND TO BE ACQUIRED IN PART

Brown County owns some, but not all, of the LERRDs required for the construction, operation and maintenance of the project. The project consists of the construction of a new in-water DMDF in Green Bay. For access to the DMDF in Green Bay, a permanent road easement (or suitable equivalent) is required as part of the project lands. Brown County, the local sponsor, owns a portion of the land on which the road easement is located. Other portions of the lands over which the access road is presently shown are owned by a private entity and the State of Wisconsin. For that portion of the access road that traverses the lands owned by the private entity Brown County will obtain a permanent road easement. For that portion of the access road that traverses the land owned by the State of Wisconsin, since the state is generally prohibited from making or granting any conveyance of state owned lands, Brown County will acquire a long term lease over that portion of the access road. Brown County also owns the land on which the work and storage area will be located.

4. LERRDs ACQUIRED FOR, OR WITH THE USE OF FUNDS FROM ANOTHER FEDERAL PROGRAM OR PROJECT

None.

5. NON-STANDARD ESTATES

The project does not include the requirement to acquire non-standard estates. For that portion of the proposed access road that is owned by the State of Wisconsin, Brown County will acquire a long term lease, which is not the estate recommended for an access road..

6. EXISTING FEDERAL PROJECTS

There is no Federal project that lies fully or partially within the LERRDs required for the project.

7. FEDERAL LAND

There is no federally owned land included within the LERRDs required for the project.

8. NAVIGATIONAL SERVITUDE

Navigational Servitude is being used for the Base Plan portion of this project that lies below the ordinary high water mark (“OHWM”) within the area of the access road and Islands and the wave barrier.

9. PROJECT MAP

Drawings depicting the project area are attached.

10. INDUCED FLOODING

It is not expected that flooding would occur as a result of the project.

11. BASELINE COST ESTIMATE

The estimated value of the permanent access road easement required for the Base Plan is ten thousand dollars (\$10,000.00). This estimate is based on an assumed value of residential property at the site, reduced from 50% fee value and a fair market rental value of 10% for the work and storage area.

Federal Administrative costs (Base Plan, expanded Bayport CDF, sites)	\$20,000.00
Non-Federal Sponsor costs	
a. LERRDs value (access road easement)	\$10,000.00
b. LERRDs value (expanded Bayport CDF - credit previously provided)	0.00
c. Administrative (estimated)	\$ 5,000.00
TOTAL	\$35,000.00
GRAND TOTAL INCLUDING THE 100 ACRE HOLLAND SITE	\$35,000.00

12. RELOCATION ASSISTANCE

There are no known Public Law 91-646 relocations necessary for the project. The project will not require displacement of persons or businesses.

13. MINERALS

No present or anticipated mineral activity is within the project area.

14 CAPABILITY ASSESSMENT

The sponsor is fully capable to perform the duties required for any acquisition associated with this project and management of the site. It also has the legal capability to provide its share of total project costs. Accordingly, the county has the capability to complete its portion of the project within the designated time frames. The county is capable of providing all required LERRDs necessary for project construction, operation and maintenance. The county is a legally constituted public body with the full power, authority, and capability to perform of the terms of the PPA. It has the power of eminent domain. There are no lands or interests in land required for the project located outside the sponsor's political boundaries or lands required for the project owned by an entity whose property the sponsor cannot condemn, other than those owned by the State of Wisconsin as a portion of an access road,. Its legal department is fully capable of handling acquisitions and condemnations. Requirements of PL 91-646, acquisition policies and procedures, LERRDs crediting procedures, and the requirements for land acquisition have been discussed with the sponsor. .

15. ZONING

The enactment of zoning ordinances will not be required for this project.

16. SCHEDULE

A schedule of the land acquisition milestones and LERRDs certification will be completed after any issues involving real estate are resolved (see milestones in the section "Real Estate Management Plan").

17. FACILITY OR UTILITY RELOCATIONS

No facility or utility relocations will be performed as a result of the project construction.

18. ENVIRONMENTAL

There are no historical properties within the proposed project area. No long term environmental impacts are expected. All other environmental items associated with the project will be addressed by the Environmental Analysis Branch.

19. PROJECT SUPPORT

There is no known opposition from the public to this project

20. RISK NOTIFICATION FOR ADVANCE NOTIFICATION

The non-Federal sponsor will be notified in writing about the risks associated with acquiring land before the execution of the PPA. The Non-Federal Sponsor has been given detailed information regarding the requirements for LERRDs necessary for completion of the project and fully anticipates meeting the current District schedule. The Real Estate Division will monitor and assist the Sponsor with all acquisition activities which will assure that the acquisition process complies with Federal and State laws.

Subsequent to execution of the PPA, Brown County will be advised in writing to proceed with acquisition of the required interests in real estate. The schedule for land acquisition will be coordinated with the project manager (“PM”) and the non-federal sponsor. The county will certify in writing to the Government that all LERRDs have been acquired, after they review the PPA and the Real Estate Certification documents. Potential date for Real Estate Certification is expected to be reasonable and conform to project milestones and requirements.

The Real Estate Division will further assess real estate requirements for the recommended plan, as well as, provide detailed information regarding LERRDs identified as necessary for the project. In addition, the Real Estate Division will coordinate, monitor, and assist with all acquisition activities undertaken by the non-federal sponsor. This will assure that the acquisition process complies with Federal and State laws specifically the requirements under the Federal Uniform Relocation and Acquisition Act (P.L. 91-646). The Real Estate Division will also attend District team meetings, review and provide input into draft and final reports prepared by the team, and participate in the internal technical review.

21. OTHER RELEVANT REAL ESTATE ISSUES

- a. There are no special aquatic sites aside from the lake bed grant to Brown County that is already in place. The access road will traverse wetlands.
- b. There are no cemeteries or public facilities within the Project area requiring relocation.
- c. Plans and specifications do not identify any relocation of public utilities or roadways.

EXHIBIT "A"

**DETROIT DISTRICT REAL ESTATE
ASSESSMENT OF NON-FEDERAL SPONSOR
REAL ESTATE ACQUISITION CAPABILITY**

PROJECT: Dredged Material Management Plan (DMMP) for a Dredged Material Disposal Facility (DMDF) at Cat Island, Green Bay, Wisconsin

I. LEGAL AUTHORITY

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

Yes

No.

Initials RJ Date: 5 March 2010

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

Yes

No.

Initials RJ Date: 5 March 2010

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

Yes

No.

Initials RJ Date: 5 March 2010

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

Yes

No

Initials RJ Date: 5 March 2010

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn?

Yes. State of Wisconsin

No

Initials RJ Date: 5 March 2010

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

Initials RJ Date 5 March 2010

b. If the answer to II.a. is "yes", has a reasonable plan been developed to provide such training?

- N/A

Initials RJ Date: 5 March 2010

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

- Yes
 No
 N/A.

Initials RJ Date: 5 March 2010

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

- Yes See a. above.

Initials RJ Date: 5 March 2010

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

- Yes
 No

Initials RJ Date: 5 March 2010

f. Will the sponsor likely request USACE assistance in acquiring real estate?

- Yes
 No

Initials RJ Date: 5 March 2010

III. OTHER PROJECT VARIABLES

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

- Yes
 No

Initials RJ Date: 5 March 2010

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

- Yes
 No

Initials RJ Date: 5 March 2010

c. Has the sponsor performed satisfactorily on other USACE projects?

- Yes
 No

Initials RJ Date : 5 March 2010

d. With regard to this project, the sponsor is anticipated to be: highly capable /
capable/moderately capable/marginally capable/insufficiently capable

- Yes The sponsor has performed successfully on other Corps of Engineers projects and has a full Real Estate Staff from the City of Green Bay performing Real Estate functions.
 No

Initials RJ Date: 5 March 2010

Prepared by:

/s/

ROBERT JAMESON

Signature

Realty Specialist

Title

Reviewed and approved by:

/s/

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