

APPENDIX L

REAL ESTATE PLAN

18 Sept 08

DRAFT

**REAL ESTATE PLAN
CLEVELAND DREDGED MATERIAL MANAGEMENT PLAN
SPONSOR: Cleveland Cuyahoga County Port Authority**

AUTHORITY

The Cleveland Harbor Dredged Material Management Plan (DMMP) is conducted under the guidance of ER 1105-2-100, Appendix E; the Planning Guidance Notebook: The studies are conducted to verify that all Federally maintained navigation projects have sufficient capacity for dredge material disposal for a minimum of 20 years. The studies are conducted pursuant to existing authorities for individual navigation feasibility studies, Preconstruction Engineering and Design (PED) investigations, construction, or Operations and Maintenance (O&M), as provided in Congressional Committee study resolutions and public laws authorizing specific projects.

Cleveland Harbor, Ohio, was initially authorized as a Federal harbor by Congress in the River and Harbor Act of 1875. The 1875 authorization was modified in 1886, 1888, 1896, 1899, 1902, 1907, 1910, 1916, 1917, 1935, 1937, 1945, 1946, 1958, 1960, and 1962 River and Harbor Acts. The project was also authorized under the 1976 and 1986 Water Resource Development Acts (WRDA), the 1985 Supplemental Appropriations Act, and the 1988 Energy and Water Appropriations Act.

Five Confined Disposal Facilities (CDF) have been constructed at Cleveland Harbor; CDF Dikes 9, 10B, 12, 13, and 14. Dike 10B is expected to reach capacity in 2009. It was originally thought that it would reach capacity in 2015 but due to lower lake levels and dredging by private entities, the lifespan of the CDF has been drastically reduced. Fill Management Plans have been developed at the other CDFs for interim capacity.

The Real Estate Plan (REP) addresses the Buffalo District Corps of Engineers' and the Non-Federal Sponsor's plan to construct a CDF to meet the dredging needs for the Cleveland Harbor Federal Commercial Navigation Project. The new CDF will meet the dredging needs between the year 2014 (the estimated date the new CDF would be operational) and the year 2034 which would provide 20 years of capacity.

1. PURPOSE

The purpose of the DMMP is to develop and evaluate alternative programs to maintain the authorized navigation channel in Cleveland Harbor and Cuyahoga River Channels for a minimum period of 20 years.

The project site is located along the southern shore of Lake Erie at the mouth of the Cuyahoga River in the City of Cleveland, Cuyahoga County, Ohio. The port is located 28 miles east of Lorain, Ohio and 33 miles west of Fairport, Ohio.

The selected alternative for the new CDF is referred to as Alternative Plan 4 and involves the construction of a multi celled CDF: To the south, the East 55th Street site will be bounded by an improved State Park Marina breakwater, the natural shoreline near the terminus of East 55th Street, and a to-be-constructed perimeter wall/dike. A portion of the eastern boundary would be formed by the existing First Energy circulating water intake (necessary improvements will be made to the structure) and the remainder of the perimeter shown will be formed by still to be constructed walls.

The perimeter walls will be comprised of both rubblemound dykes (similar in construction to that of existing Dike 10B) and back-to-back open cell wall design. The CDF would be constructed in optimally sized cells in order to spread out construction costs over time while balancing cost effectiveness. Cell size and sequencing has not yet been finalized, but the combined footprint will not exceed what is shown in the attached sketch. Anticipated volume is 6,850,000 cubic yards, which will provide approximately 21 years of capacity assuming an annual dredging volume of about 330,000 cubic yards per year.

The first cell would be constructed from 2012 through 2014, allowing filling operations to begin in FY15. Additional cells would follow, with each subsequent cell becoming operational as the previous cell is filled.

2. LER REQUIRED FOR CONSTRUCTION, OPERATION AND MAINTENANCE

Based on existing project authorities, the non-Federal Sponsor is required to provide, without cost to the United States, unencumbered, all lands, easements and rights of way and spoils disposal areas necessary. For the Fill Management Plans, CDF10B is still open and in use. Appropriate Rights of Entry have been obtained for CDF 9 and 12 for the Fill Management Plans on those CDFs.

For the selected alternative 4, navigational servitude will apply. The Non-Federal Sponsor will be required to provide the necessary bottomland leases which will be acquired from the State of Ohio. A two acre temporary work and storage area will also be required for three years which will be located on State Park lands.

No present or anticipated mineral activity is within site. Initial plans and specifications do not identify any relocation of public utilities or roadways. There will be no displacement of persons or businesses.

ESTATES

Temporary Work and Storage Area: A temporary easement and right-of-way in, on, over and across tract Nos. ____, ____, and ____, for a period not to exceed three years, beginning with the 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, 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 Cleveland Harbor Confined Disposal Facility 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 owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easements hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

No other estates will be required however the NFS will be required to obtain a submerged land lease from the State of Ohio and will need to provide an Attorney's Certificate validating the lease.

3. LER ALREADY OWNED

The Non-Federal Sponsor does not currently own any of the LERRD required.

4. LER AQUIRED FOR, OR WITH THE USE OF FUNDS FROM, ANOTHER FEDERAL PROGRAMS OR PROJECT

No LER was previously acquired with Federal funds or in conjunction with another Federal Project.

5. NON-STANDARD ESTATES

No Non-Standard Estates are required for this project.

6. EXISTING FEDERAL PROJECTS

There is no existing Federal Project that lies fully or partially within the project area.

7. FEDERAL LAND

There is no federally owned land in the project area.

8. NAVIGATION SERVITUDE

Navigational Servitude does apply.

9. PROJECT MAP

See Exhibit A

10. INDUCED FLOODING

There will be no induced flooding in the project area or as a result of the project.

11. BASELINE COST ESTIMATE

The estimated value of the temporary work area easement is \$45,000. This estimate is based upon an assumed value of recreational property at the site, reduced from 50% fee value for 3 years. Their estimated administrative cost for obtaining the submerged land lease is approximately \$5,000. The Federal administrative costs are estimated to be \$10,000. This estimate is only for determining an estimated total project cost for planning purposes. It cannot be used in determining the amount of land, easements, and rights-of-way plus incidental costs for inclusion in the final total project costs.

12. RELOCATION ASSISTANCE

The project will not require Relocation Assistance Benefits (Public Law 91-646).

13. MINERALS

No extractable minerals or standing timber of vegetation are on the Project lands.

14. CAPABILITY ASSESSMENT

The Cleveland Cuyahoga County Port Authority is the non-federal sponsor for the new CDF.

The Port Authority has the full power, authority and capability to provide the items of local cooperation. It, also, has the legal capability to provide its share of total project costs. Finally, the Port Authority has

the capability to complete its portion of the project within the designated time frames.

The Port Authority is capable of providing all required LERRDs necessary for project construction, operation and maintenance. The Port Authority is a legally constituted public body with the full power, authority, and capability to perform of the terms of the PCA. It has the power of eminent domain. Its legal department is fully capable of handling acquisitions and condemnations. Requirements of PL 91-646, acquisition policies and procedures, LERRD crediting procedures, and the requirements for land acquisition have been discussed with the sponsor. See the enclosed, Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability. Exhibit C

15. ZONING

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

16. SCHEDULE

LERRD certification will be obtained in accordance with the project schedule.

17. FACILITY OR UTILITY RELOCATIONS

Plans and Specifications do not identify any utilities/facilities that will need to be relocated.

18. ENVIRONMENTAL

The Cleveland Harbor DMMP Environmental Impact Statement (EIS) will ultimately address all requirements of Federal, State, and local policies and law. This report will summarize the results of a detailed multi-year investigation of various options and alternative plans for dredged material disposal at Cleveland, Ohio and will evaluate the engineering, economic, and environmental pluses and minuses of those alternatives. In compliance with NEPA, the proposed project was formally initiated by the widespread mailing of a Public Scoping Information Packet in 2006. A Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS) was published in the Federal Register in 2006. The draft EIS is an on-going document that is open for comment throughout the entire study. The EIS identifies existing conditions in the project area and the environmental effects that the proposed project will have on the project location. Existing conditions that were analyzed include socioeconomics, transportation, water quality/water resources, sediment quality, hazardous, toxic and radioactive waste (HTRW), cultural resources, aesthetics, recreation, fish and wildlife, species of concern, wetlands, geology, climate, air quality and noise. A Fish and Wildlife Coordination Act Report was provided by the U.S. Fish and Wildlife Service in 2007. USACE-Buffalo District will initiate future reports and coordination in compliance with the Clean Water Act and the Coastal Zone Management Act.

Under Section 106 of the National Historic Preservation Act, consultation was initiated through the Scoping Information Packet. Approximately 216 properties in the City of Cleveland are listed on the National Register of Historic Places (NHRP). Of the cultural resources listed, the Cleveland East and West Pier head Lights are located immediately adjacent to three of the proposed areas for new CDFs. While the proposed new CDF would not be constructed immediately adjacent to the East and West Pier heads, care and concern will be taken during construction to avoid damage to the historic lighthouses. Both pier heads have recently been repaired and rehabilitated with sheet pile and armor stone to enhance the structural integrity and stability of the facility.

19. PROJECT SUPPORT

There is no known opposition from the public to this project.

20. RISK NOTIFICATION

A risk notification letter has not been sent out.

21. OTHER RELEVANT REAL ESTATE ISSUES

The proposed footprint of the East 55th Street site encroaches on the existing Federal approach channel in the east basin and eastern flared portion of the 25-foot deep dock approach channel to the former Nicholson Cleveland Terminal Company pier. These portions of the existing project were authorized but never constructed. These portions of the channel must be de-authorized in order to implement the proposed East 55th Street CDF alternative. The impact of the proposed de-authorization to navigation is negligible. The Nicholson Cleveland Terminal Company is no longer in business; the facility was recently converted to residential lofts. The east approach channel will be realigned, but will maintain its depth and stand-off distances from harbor structures. The width will be reduced to 500 feet to de-authorize the never-constructed portions of the channel. The 500 foot channel width is consistent with the channel width throughout the remainder of the east basin. The distance between the toe of the east breakwater at the eastern end (the widest point) and the face of the CDF is approximately 600 feet. A 500 foot channel would provide a 100-foot wide berth along the face of the pier without impacting the stability of the breakwater.

There are no cemeteries within the project area. There are no special aquatic sites, including wetlands, impacted by the project.

The Detroit District Real Estate Division will coordinate, monitor and assist with all real estate activities undertaken by the Non-Federal Sponsor. If any acquisition activities are required by the Non-Federal Sponsor, the Real Estate Division will assure that the acquisition process is conducted in compliance 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 district team, and participate in the ITR.

EXHIBIT A

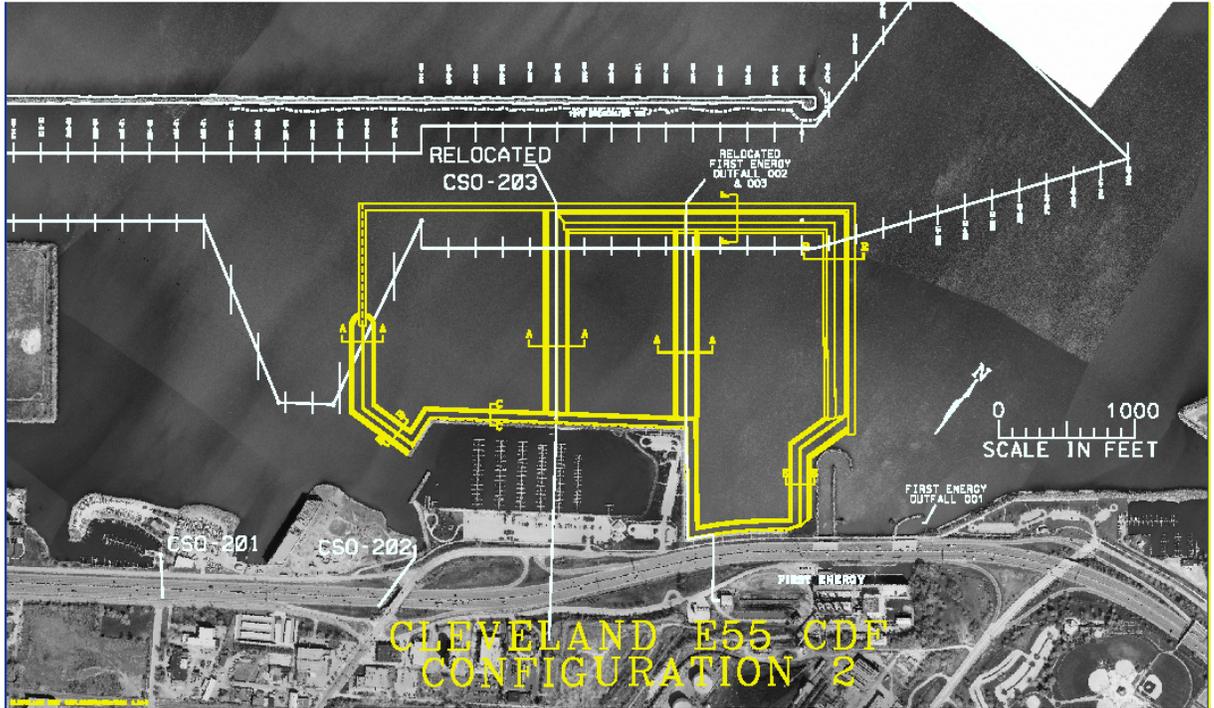


EXHIBIT "C"

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

PROJECT: **Dredged Material Management Plan, Cleveland, Ohio**

I. LEGAL AUTHORITY

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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)

Initials JRJ Date 9/12/08

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 JRJ Date 9/12/08

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

N/A

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(Yes/No)

Initials JRJ Date 9/12/08

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

(yes/no/not applicable)

Initials JRJ Date 9/12/08

d. With regard to this project, the sponsor is anticipated to be: highly capable / capable/moderately capable/marginally capable/insufficiently capable. (If the sponsor is believed to be insufficiently capable, provide explanation.)

Initials JRJ Date 9/12/08

Prepared by:

JENNIFER R. JANIK
Realty Specialist

Reviewed and approved by:

VICTOR L. KOTWICKI
Chief, Real Estate Division