

**UPPER GUADALUPE RIVER
FLOOD RISK MANAGEMENT PROJECT
San José, California**

Real Estate Plan

Appendix E

**DRAFT INTEGRATED
GENERAL REEVALUATION REPORT
& SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT**

November 2022



**US Army Corps
of Engineers®**
San Francisco District



APPENDIX E

REAL ESTATE PLAN

Upper Guadalupe River Project General Reevaluation Report
(GRR) Feasibility Study
Santa Clara County, California

PREPARED FOR THE
SAN FRANCISCO DISTRICT
SOUTH PACIFIC DIVISION, U.S. ARMY CORPS OF ENGINEERS

November 2022

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Upper Guadalupe River Project GRR - Real Estate Plan

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Upper Guadalupe River Project General Reevaluation Report Feasibility Study, Santa Clara County, California REAL ESTATE PLAN

1 Introduction

This Real Estate Plan is prepared in accordance with ER 405-1-12, Section 12-16, in support of the Upper Guadalupe River Project General Reevaluation, or Reformulation study and addresses the real estate requirements for the General Re-Evaluation Report (GRR), which is the post authorization change document for the proposed Upper Guadalupe River flood control project.

The purpose of the GRR is to reevaluate the previously studied, congressionally authorized, and partially constructed project along the Upper Guadalupe River. The reformulation assesses the feasibility of managing flood risks and identify recreation improvement opportunities in the system to formulate alternative plans that could meet current and future needs, within the policies and regulations of the USACE. Based on the analysis undertaken and input from the non-federal sponsor, the PDT Project Delivery Team (PDT) members make a recommendation and identify a Tentatively Selected Plan (TSP) that maximizes net benefits, looking at benefits to national and regional economic development, environmental quality, as well as other social effects categories. The TSP milestone was completed on September 8, 2022.

This Real Estate Plan is tentative in nature, is to describe the Recommended Plan, the Combo Plan Alternative, and is to be used for planning purposes only. There may be modifications to the plan that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area (s) and/or administrative and land costs.

Non-Federal Sponsors

A Feasibility Cost Sharing Agreement was executed on December 30, 2020 with the Santa Clara Valley Water District (SCVWD) as the non-federal sponsor. The Upper Guadalupe River Flood Risk Management Study is cost shared 50% federal and 50% non-federal.

2 Project Description

Construction of the Upper Guadalupe River Project was authorized by Section 101(a) (9) of the Water Resources Development Act of 1999 (113 Stat. 275). The Project is part of a larger system of projects to provide flood risk reduction and other benefits to the Guadalupe River watershed (see Figure 1). The Guadalupe River watershed system consists of a number of reservoirs in the upper portion of the watershed and four civil works projects along the Guadalupe River: the Upper Guadalupe River Project, the Guadalupe River Project (also known as the Downtown Project), the Lower Guadalupe River Project, and the South San Francisco Bay Shoreline Project. The Upper Guadalupe River Project will be constructed by the San Francisco District, with the Santa Clara Valley Water District being the non-Federal sponsor. The Downtown Project was constructed by the Sacramento District, with Santa Clara Valley Water District as the non-Federal sponsor. The Lower Guadalupe River Project was locally funded and was constructed by the Santa Clara Valley Water District.

The primary authorized purposes of the General Reevaluation, or Reformulation study are flood risk management and recreation improvements, from I-280 extending south 5.5 miles along the Upper

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Guadalupe River in Santa Clara County, San Jose. The study will produce a General Reevaluation Report (GRR) to the Chief of Engineers. General Reevaluation Studies are to affirm, reformulate or modify a plan, or portions of a plan, under current planning criteria. General reevaluation studies frequently are similar to feasibility studies in scope and detail.

The purpose of the Reformulation study is to reduce and analyze current flood risks and identify ecosystem degradation and restoration opportunities in the system, define future without project conditions, and to identify flood risk management and recreation options that could meet current and future needs in combination with environmental quality improvements, within the policies and regulations of the USACE. Implementation the recommended TSP from this study could lead to a construction component if the solution is found to be in the federal interest.

3 Description of Land, Easements, Rights-of-Way, Relocation, and Disposal Areas (LERRDs)

The project is located in Santa Clara County, in west central California, immediately south of the San Francisco Bay. The project area includes approximately five and a half miles of the Upper Guadalupe River main stem between the Southern Pacific Railroad Bridge and the Blossom Hill Road Bridge. Two tributaries, which frequently overtop their banks, Ross Creek and Canoas Creek, are also included within the study area. The authorized project from the 1998 Feasibility Study and the 2005 Limited Reevaluation provides protection from a 1-percent flood for approximately 108,000 people, 2,000 acres of land, 8,250 structures (residential, commercial, and public facilities), and transportation corridors in the Silicon Valley region. High urban population in existing floodplain and short warning time due to rapid flooding makes timely evacuation difficult and poses a high safety risk.

For flood descriptive purposes, the entire Guadalupe River has been divided into a number of "reaches". Each reach is a segment of the river distinguished by a major street or railroad crossing. The Upper Guadalupe River project area contains Reaches 7 through 12, extending from the Southern Pacific Railroad Bridge just south of Interstate 280, upstream 5.5 miles to the Blossom Hill Road Bridge. The project area also includes areas of Ross Creek extending 5,200 feet upstream from its confluence with the Guadalupe River, and Canoas Creek extending 2,800 feet upstream from its confluence with the Guadalupe River (Figure 1).

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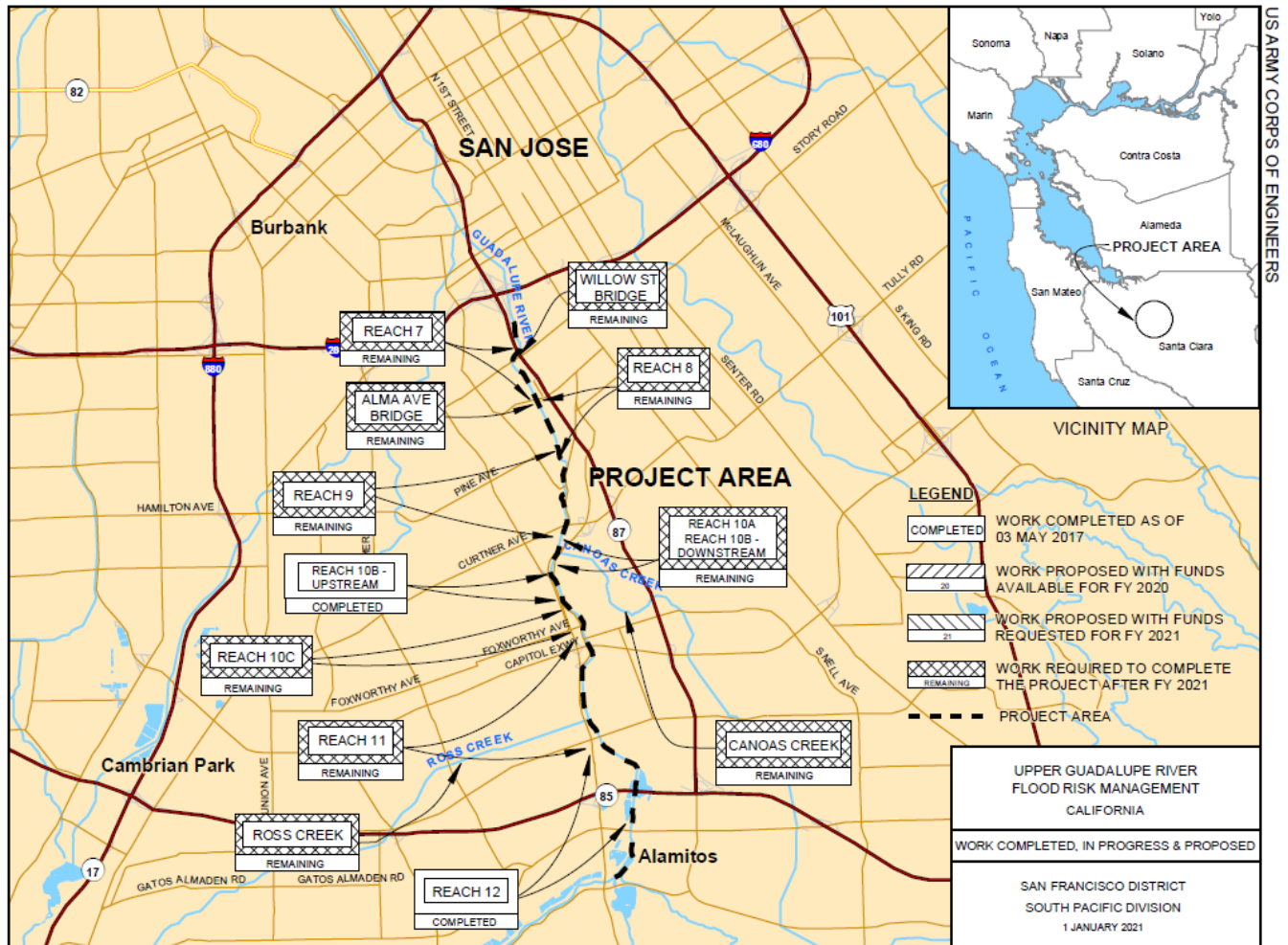


Figure 1. Project Area Map

The real estate cost estimate for the TSP was developed in accordance with ER 405-1-12 and based upon footprints delineating project requirements developed for feasibility level design by the San Francisco District Engineering Division. Four variations were reviewed for LERRDs requirements and include the types of acquisition as follows:

An estimated X acre is required for staging.

An estimated X acre is required for access.

An estimated X acre is required for construction.

The Tentatively Selected Plan (TSP) is Alternative 8b, the Combination Plan (Figure 2). The Combination Plan appears to maximize comprehensive benefits. Estimated 95% Damages Reduced, Total Project Cost: \$152.8M, Net Benefits: \$15.1M.

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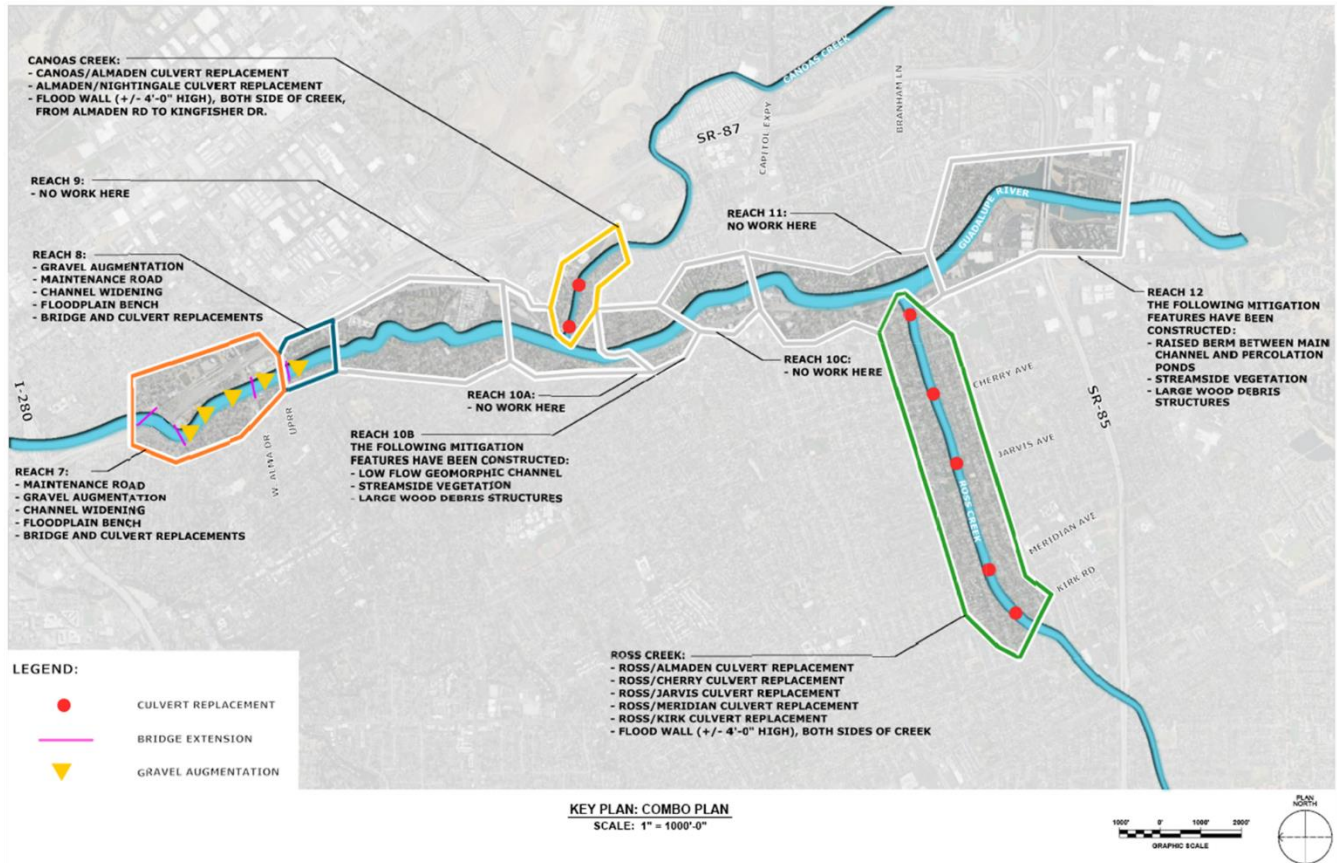


Figure 2. Alternative 2b: Combination Plan

The non-Federal sponsor will acquire the minimum interests in real estate to support the construction and subsequent operation and maintenance of the future USACE project. We anticipate Permanent and Temporary Easement acquisition will be required.

Once the project partnership agreement (PPA) process is complete, the San Francisco District Engineering Division will prepare the final design for advertisement and construction. During this process the tract register, and tract maps will be updated to reflect any modifications to include final staging areas, access requirements, construction haul routes, and recreation features. This information will be used for future crediting purposes.

4 LERRDs Owned by the Non-Federal Sponsor and Crediting

The project proposes construction of setback levees, or lowered floodplain terraces that could alleviate high in-channel velocities, widen the active channel, and lower flood stage, thereby decreasing flood risk downstream in a manner that is ecologically friendly and would realize incidental benefits for environmental quality. The NFS is currently believed to have ownership to lands located within the TSP project footprint. Any existing ownership and existing real estate easements would have to be reviewed and verified for sufficiency to meet project requirements.

The non-Federal sponsor will be required to acquire the minimum interest in real estate that will support the construction and subsequent operation and maintenance of the proposed USACE project. Credit will only be applied to LERRDs owned and/or held by the sponsors that fall within the "project footprint,"

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namely the LERRDs required for the TSP. Lands outside of the project requirements and that may be acquired for the sponsor's own purposes which do not support the minimum interests necessary to construct, operate and maintain the Project would not be creditable LERRDs. Only land deemed necessary to construct, operate and maintain the plan would be creditable. The value of potentially creditable lands owned by the sponsors is included in the TSP's cost estimate. We do not believe these lands have been provided for the previous project.

5 Standard Federal Estates and Non-Standard Estates

The following standard estates (with definitions) are identified as required for the project:

Fee: The fee simple title to (the land described in Schedule A) (Tracts Nos. ____ and ____), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Flood Protection Levee Easement (FPLE): A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos, ____, ____ and ____) to construct, maintain, repair, operate, patrol and replace a flood protection (levee) (floodwall)(gate closure) (sandbag closure), including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Road Easement: A (perpetual [exclusive] [non-exclusive]and assignable) (temporary) easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. ____, ____ and ____) 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); ¹ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Channel Improvement Easement: A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) (Tracts Nos. ____, ____, and ____) 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 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.

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Temporary Work Area Easement (TWAE): A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, Sonoma County Water Agency, for use by the United States, State Coastal Conservancy and/or Santa Clara Valley Water District, its representatives, non-Federal sponsors, 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 _____ 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.

Non-standard Estate for a Perpetual Easement:

A non-standard estate for lands on State of California/State Lands Commission property for the flood risk management and ecosystem restoration features may be required as California Code of Regulation does not currently allow State Lands Commission to grant perpetual interests over lands held in public trust. The non-standard estate, once determined, will be forwarded to SPD and HQ's for review and approval.

6 Description of any Existing Federal Projects in or Partially in the Proposed Project

Construction of both the Upper Guadalupe Project Reaches 10B and 12 were completed in 2016. It is not anticipated that the land and real estate interests required for the proposed project covered by this report includes lands or rights provided under either Reaches 10B and 12, for which the NFS would receive credit.

7 Description of any Federally owned Land Needed for the Project

There are no federally owned lands identified for this project.

8 Application of Navigational Servitude to the LERRDs Requirement

Navigation servitude is not necessary for this project.

9 Project Maps

See Figure 2.

10 Anticipated Increased Flooding and Impacts

There are no known anticipated flooding impacts at this time. Any updates to H&H modeling will be included later.

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11 Cost Estimate

A Cost Estimate was provided by Sacramento District Appraisal Branch dated June 22, 2022 for evaluation of the four Alternatives, all parcels were specified as Fee Simple acquisition (Table 1). Sacramento District Appraisal will perform a Gross Appraisal for the TSP (Alt 8b: Combination Plan) and the final report will be updated.

Alternative	# Acres	# of Ownerships	Proposed Estate	Cost Estimate
Alternative 2b: Modified Valley View Plan	43.06	37	Fee	103,000,000
Alternative 3b: Modified Bypass Plan	85.38	116	Fee	145,000,000
Alternative 7: Low Scope Plan	26.55	9	Fee	68,000,000
Alternative 8b: Combination Plan	19.5	22	Fee	68,000,000

Table 1. Real Estate Cost Estimates for Final Array of Alternatives

12 Relocation Assistance Benefits

The non-Federal sponsors must comply with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.* (P.L. 91-646, “the Uniform Act”) and provide relocation assistance to qualifying residences and businesses within the project area that are displaced, as defined in the Uniform Act, because of USACE project implementation. Possible displacements will be required for the TSP.

The sponsor has also been advised of PL 91-646 requirements to pay Fair Market Value for property as part of the acquisition necessary for the project and the requirements for documenting expenses for credit purposes.

13 Mineral / Timber Activity

There are no valuable minerals impacted by this project. There was no enhancement for mineral deposits included in the cost estimate.

14 Non-Federal Sponsor’s Ability to Acquire

The non-Federal sponsor has a real estate staff to acquire the necessary real estate. Most of the real estate required for the project is already owned by the NFS, under SCVWD, except for 13 privately owned parcels, 4 parcels owned by the State of CA, and 4 parcels owned other local agencies. No parcels appear to be in right-of-way, roads and expressways.

15 Zoning Anticipated in Lieu of Acquisition

Currently there is no zoning in lieu of acquisition planned in connection with the project.

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16 Hazardous, Toxic, and Radiological Waste (HTRW)

No HTRW conditions that could impact construction activities have been identified at this time. Further evaluation of the area is needed to make a final determination.

17 Real Estate Acquisition Schedule

No construction schedule has been provided at this time.

REAL ESTATE ACQUISITION SCHEDULE				
Project Name: Upper Guadalupe River GRR Project	USACE Start	USACE Finish	NFS Start	NFS Finish
Receipt of preliminary drawings from Engineering/PM (Conceptual, 10%, 30% Designs)	October 2024			
Receipt of final drawings from Engineering/PM (60%, 90%, 99%, 100%)		October 2025		
Execution of PPA	December 2025			
Formal transmittal of final drawings & instruction to acquire LERRDS (“Take Letter”)				
Conduct landowner meetings (if applicable, NFS responsibility)				
Prepare/review mapping & legal descriptions				
Obtain/review title evidence				
Obtain/review tract appraisals				
Conduct negotiations				
Perform closing				
Prepare/review condemnations				
Perform condemnations				
Obtain Possession				
Complete/review PL 91-646 benefit assistance				
Conduct/review facility and utility relocations.				
Certify all necessary LERRDS are available for construction				
Prepare and submit credit requests (3 months)				
Review/approve or deny credit requests (2 months)				

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Establish value for creditable LERRDS in F&A cost accounting system				
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18 Description of Facility and Utility Relocations

There are no impacted utilities/facilities identified at this time. Updates will be provided.

19 Statement Non-Federal Sponsor Notification

The non-Federal sponsors will be notified in writing about the risks associated with acquiring land for the proposed project prior to the Government's formal notice to proceed with acquisition. The final report will be updated.

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