



**VALLEY CREEK  
FLOOD RISK MANAGEMENT STUDY  
CITY OF BIRMINGHAM  
CITY OF BESSEMER  
JEFFERSON COUNTY, ALABAMA**

**REAL ESTATE PLAN**

**September 2021**

**VALLEY CREEK FLOOD RISK MANAGEMENT STUDY  
JEFFERSON COUNTY, ALABAMA  
Real Estate Plan**

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## 1.0 Preamble

This Real Estate Plan (REP) is tentative in nature and is to be used for planning purposes only in order to support the ongoing study of proposed flood risk management measures along Valley Creek. Although this report is written based on specific data and research prepared by the Project Delivery Team (PDT), modifications to the proposed plan could occur during the review phase thus changing the final acquisition areas and/or administrative and land costs. Furthermore, due to the nature of this study, the level of detail provided herein is understood to be equivalent to the main report.

**1.1 Study Authorization:** The Study was undertaken under the authority of the House of Representatives Resolution Docket 2477 adopted March 7, 1996, by the Committee on Transportation and Infrastructure. The study was authorized in the interest of environmental quality, water quality, flood damage reduction and other purposes.

Interests in flood control have existed a number of years in this region, and a key motion towards the need to evaluate the flood issue was spawned as a result of the reports of the Chief of Engineers on the Headwaters Reservoirs, Warrior River, Alabama, dated December 23, 1982, in the interest of a comprehensive, coordinated watershed master plan for the watersheds in metropolitan Birmingham, Alabama, including Valley Creek.

**1.2 Official Project Designation:**  
Valley Creek Flood Risk Management Study

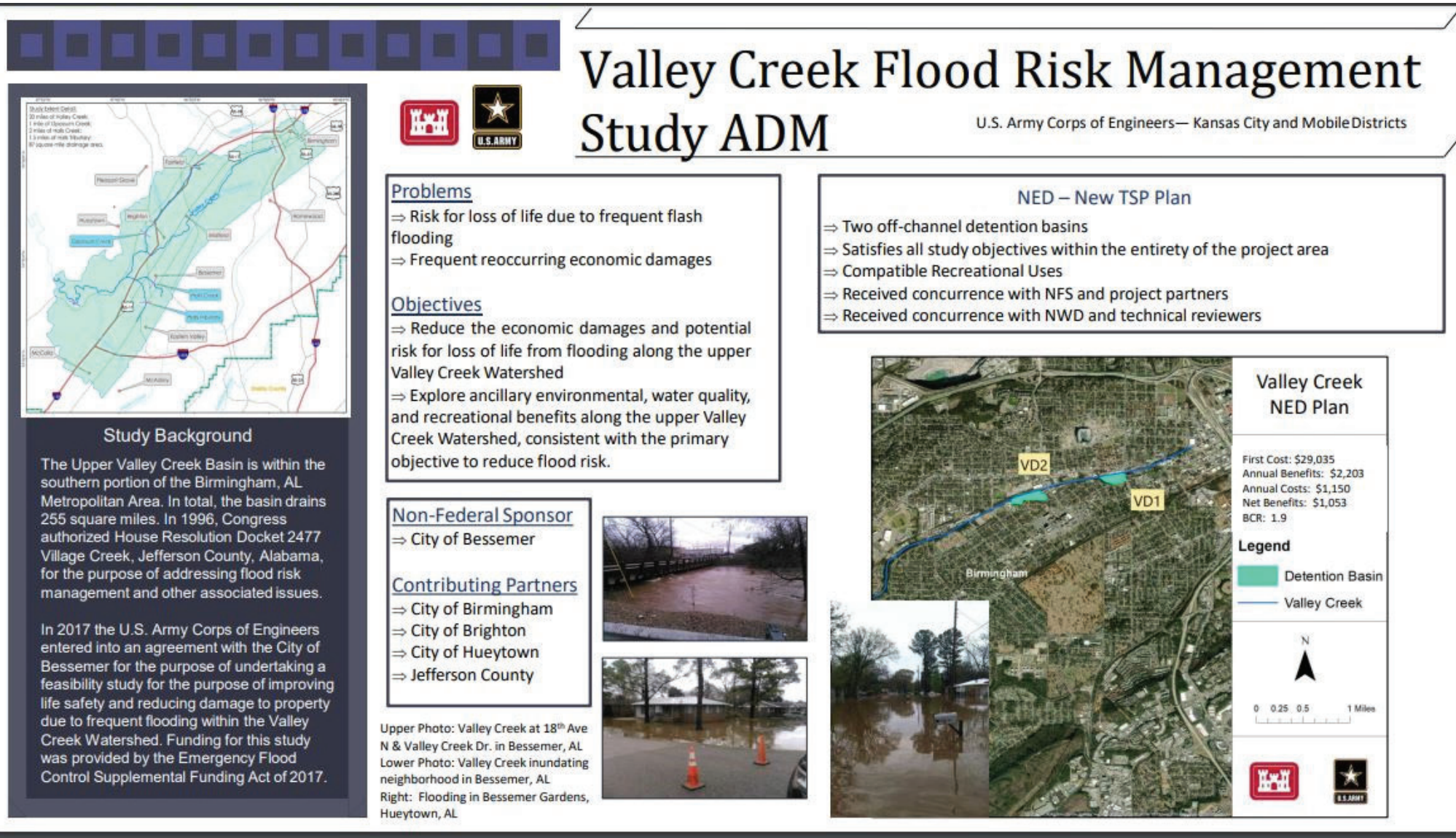
**1.3 Study Area:** Valley Creek emerges from headwater springs and then passes through an underground system of storm drains to enter an open channel in central Birmingham near Fifth Avenue and Seventh Street. From this point the creek flows southwesterly for about 27 miles through the communities of Bessemer, Midfield, Roosevelt, Brighton, Hueytown, and Bessemer. The creek then turns to flow northwesterly for about 33 miles to enter the Black Warrior River.

The study area in the Valley Creek Watershed consists of approximately 16 miles of the stream from the Bessemer city limits located just upstream of the confluence of Valley Creek and Black Creek to the head of Valley Creek at Alabama Highway 75. The drainage area contains approximately 40 square miles. The creek is a major tributary to the Black Warrior River. The mouth of the creek is located at Warrior River mile 170.23, about 16.6 miles upstream from Bankhead Lock and Dam (Lock 17).

**1.4 Reach Delineation:** All project improvements identified herein are lying outside of the jurisdiction of the Study Sponsor (City of Bessemer), and are situated within the jurisdiction of the City of Birmingham.

**1.5 Non-Federal Sponsor:** The Non-Federal Sponsor for the feasibility study is the City of Bessemer (the "Sponsor" or "the City"). If approved, the Real Estate implementation costs in implementation will be cost-shared 65% Federal – 35% Non-Federal for structural features with the Non-Federal Sponsor(s) on the Project Partnership

Figure 1-1 (Study Area)





Agreement (PPA). Furthermore, the non-structural costs above the 35% threshold are borne by the Sponsor up to an amount not exceeding 50% of non-structural costs.

## **2.0 Statement of Purpose**

The purpose of this Real Estate Plan (REP) is to present the overall plan describing the minimum real estate requirements for the construction, operation, maintenance, repair and rehabilitation herein referred to as the Recommended Plan.

## **3.0 Project Description**

Two off-channel detention sites (VD1 and VD2) have been identified as the Recommended Plan, and are illustrated in Exhibit A. These detention basins are based on 1:2 (V:H) side slopes, and bottom grading at 0.5% to allow for gravity drainage to the discharge inlet located near the downstream extent of each site. Reference the Engineering Appendix for further description of the features of the detention sites. Further engineering design refinements will occur in the Pre-Construction Engineering and Design (PED) Phase.

The Recommended Plan, as described in the Tentatively Selected Plan Milestone Meeting held on 29 January 2020 (NWD), and subsequently refined due to economic modelling revisions includes two off-channel detention sites (VD1 and VD2), requires fee simple acquisition of 154 private parcels and public rights-of-way, as delineated in Exhibit B.

## **4.0 Required Lands, Easements, Rights-of Way, Relocations, and Disposal Areas (LERRD):**

The following describes the LER required for the Recommended Plan. The parcel data is provided in Exhibit B with a delineation of standard estates described in Section 6.

**The Non-Federal Sponsor Real Estate Acquisition Capability Checklist, attached hereto as Exhibit C-1, indicates that the City of Bessemer is not capable of condemning real property interests in the City of Birmingham. Discussions with the City of Bessemer, City of Birmingham, and Jefferson County on 13 November 2020 indicated that the City of Birmingham would need to acquire all real property interests for construction, operation & maintenance of the project, and perform all required facility & utility relocations. This report is written with this path forward in mind, albeit the City of Bessemer is still discussed herein as they may be a participating party to the Project Partnership Agreement (PPA).**

### **Main Construction Area:**

Fee Simple (Standard Estate No. 1): Total fee simple acreage required for this Plan has been estimated at approximately 28.99 +/- acres within 154 parcels and public rights-of-way. Of those public rights-of-way, the 8 parcels identified are owned by the City of Birmingham. The project schedule has factored in the procedural requirements of the Birmingham City Counsel to vacate such rights-of-way within the project footprint. This vacation of the right-of-way is routed through the City of Birmingham Planning Department and requires sufficient survey data to modify subdivision plat.

The project would require the Fee Simple acquisition of all required project lands listed above, including within the right-of-way areas, and the delineation of any applicable Non-Standard Estate requirements will be coordinated with HQUSACE in the Pre-Construction, Engineering, and Design (PED) Phase. Reference Exhibit B for further delineation of parcel information.

### **Access:**

As noted in the current conceptual design, access is proposed to occur via existing public rights-of-way owned by the City of Birmingham.

### **Placement Areas:**

Due to the urban environment, all earthwork spoil from each measure will be hauled to the nearer of the two identified disposal sites: Vulcan Materials and Birmingham Northern Landfill, and it is in the best interest of the Government to be performed as a construction item and not a LERRD requirement to be provided by the Sponsor for this reason. Reference Appendix D (Cost Appendix) for further information.

Per ER 405-1-12, para 12-9.d.(3), while a temporary easement is generally required to support borrowing of materials, it is noted that small amounts of borrow materials, or disposal capacity, may sometimes be supplied by the construction contractor through use of a readily available commercial site. If so determined by an analysis conducted by PM, Engineering, Real Estate and other District and non-Federal sponsor offices, and if no other constraints exist, the construction contract solicitation documents should clearly request bids therefor and provision of such materials or capacity by the construction contractor would be in the nature of a construction item not LERRD (lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas). In no instance, however, should a contractor be required to provide lands, easements or rights-of-way (LER) for the project in support of borrow or disposal.

## **5.0 Non-Federal Sponsor Owned Lands:**

No lands for the Recommended plan have been identified as owned by the Non-Federal Sponsor for this study, the City of Bessemer. As referenced in the parcel tables, Exhibits B-1 and B-2, some parcels are owned by the City of Birmingham. Local cooperation with the City of Birmingham, including various entities of the City (i.e. Birmingham Parks Department, Birmingham Land Bank, etc) should occur in the PED phase."

In accordance with ER 405-1-12, Chap. 12, subparagraph 12-36.a.(1), "The fair market value of LER owned by the non-Federal sponsor on the effective date of the PCA [now known as PPA] for the project is the fair market value of the real property interests as of the date the non-Federal sponsor provides the Government with authorization for entry thereto for construction purposes."

## **6.0 Recommended Estates**

The recommended Standard Estate No.1 (Fee Simple) is listed below, as delineated in EC 405-1-11:

*"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."*

## **7.0 Existing Federal Projects:**

Portions of off-channel detention sites VD1 and VD2 have been identified as former FEMA buyout lands pursuant to Section 203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act 42 U.S.C. 5133, as amended, identifying the use of Pre-Disaster Mitigation Grants (PDM). The Sponsor is not entitled to receive credit for portions of LERRD provided to the project which have been formerly acquired at Federal expense.

The Department of the Army and the Federal Emergency Management Agency entered into a Memorandum of Understanding in 2000 to ensure coordination and understanding between FEMA's Hazard Mitigation Grant Program (HMGP) and USACE's Flood Risk Management Projects. The MOU directs for USACE District Offices to consult with the appropriate FEMA Regional Office to ensure that property in the proposed construction project footprint was not previously acquired under the HMGP. As the proposed Valley Creek detention basins impact lands previously acquired under the HMGP, the FEMA regional office, USACE, and the non-Federal Sponsor met on 20 August 2020 to discuss the study and to determine if the proposed project may proceed. FEMA & State EMA officials indicated that the proposed features would likely be fully compatible with open space requirements and referred to the process as "routine." The City of Birmingham prepared a formal Open Space Determination application to FEMA Region IV between August 2020 and February 2021, which resulted in a favorable determination for the purpose of the Detention Ponds construction only.

Reference Exhibit E for the FEMA and State EMA Open Space determination correspondence.

## **8.0 Federally-owned Lands**

There are no Federally-owned lands identified as part of the LER required for the plan.



## **9.0 Navigational Servitude**

Federal Navigational Servitude is defined as “the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U.S. CONST. art.I, Section 8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce-related purposes including navigation and flood control. In non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high water mark.”

Federal Navigational Servitude is not proposed for the Recommended Plan because subject off channel detention sites are not situated below the mean high water mark nor does this project have a nexus to navigation.

## **10.0 Maps**

The current real estate project maps are provided in Exhibit A. Jefferson County Tax Assessor mapping was consulted in the preparation of this Exhibit.

## **11.0 Induced Flooding**

At the current level of project development, there has not been any significant induced flooding impacts which have been identified with the Recommended Plan. Per H&H analysis, there is a potential for insignificant increased damages under infrequent events in the FWP over the FWOP condition in a small number of structures near the detention basin, albeit specific damage quantification related to the refined results was not performed.

Engineering model analysis as set forth in ER 405-1-12, Chap. 12, para. 12-16.c.(9) with regards to depth, frequency, duration, and extent indicated that no significant flooding is anticipated with the Recommended Plan. This section requires a further physical takings analysis if significant induced flooding is reasonably anticipated, which is not the case with the off-channel detention basins.

## **12.0 Baseline Cost Estimate for Real Estate (BCERE)**

Pursuant to PGL 31, a real estate cost estimate was prepared by Savannah District appraisers in August 2021, and included in Table 12.1, which reflects an anticipated real estate costs below 15% of the Total Project Cost Summary (TPCS).

Further analysis of the construction plan with regards to location of utilities should take place to mitigate risks of unanticipated cost increases. Jefferson County Environmental Services was consulted by the PDT during the course of the feasibility study effort. Reference Section 18 in addition to the Cost Appendix for further information regarding Utility & Facility Relocation Analysis:

<b>TABLE 12.1 - Baseline Cost Estimate for Real Estate</b>	
<b>Type of Costs</b>	<b>Total Costs</b>
<b>Land Acquisition Costs (Estimated)</b>	
Fee Simple Land Acquisition	\$800,000
Estimated P.L. 91-646 Relocation Assistance	\$93,000
Contingency	\$184,500
Total Real Estate Land Cost w/Contingency	\$1,077,500
<b>Utility/Facility Relocation Costs (Estimated)</b>	
Utility Relocation Non-Fed Administrative Costs	\$100,000
Estimated Sewer Build-Out	\$1,534,000
Total Utility/Facility Relocation	\$1,634,000
<b>LERRD Administrative Costs (Estimated)</b>	
Incidental Cost (NFS)	\$940,500
Contingency	\$174,100
Total LERRD Administrative Costs	\$1,114,600
<b>Total Estimated Creditable LERRD Costs</b>	<b>\$3,826,100</b>
	<b>- or rounded \$3,830,000</b>
<b>Fed LERRD/P.L. 91-646 Oversight (PED Acct)</b>	<b>\$320,000</b>

\*\* Any statement of creditability is subject to Federal regulations stated herein. NFS lands are generally not creditable with respect to Federal funding without legislation to the contrary (but are subject to a further review of creditability in a crediting package after PPA execution). The Fee Simple value estimate for private lands in the Recommended Plan is currently estimated at approximately \$800,000.

Any potential cost estimate for Federal and/or non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRDs, and other items are coded as delineated in the Cost Work Breakdown Structure (CW6819WB6S) are identified in the Chart of Accounts. This real estate cost estimate is then incorporated into the Total Current Working Estimate.

Pursuant to Section 103 of WRDA 2016, as amended, 33 U.S.C. § 2213, the NFS will provide the non-federal cost share and all necessary LERRD. Further, the NFS will be responsible for all OMRR&R and other provisions, which include, but are not limited to the following:

- ❖ Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the structural flood risk management features;

### **13.0 Compliance with Public Law 91-646**

All relocation assistance benefits for the relocation plan will be for owner-occupant, non-residential and tenant-occupant residents as authorized by Public Law 91-646. The structural plan includes demolition of 3 residential structures within the proposed construction area of VD1 and VD2. If the Plan is approved and appropriated, acquisition and relocation of displaced persons will comply with the provisions of the Uniform Relocations Assistance and Real Property Acquisition Policies Act (P.L. 91-646), as amended, and the uniform regulations contained in 49 Code of Federal Regulations, Part 24, including the provision of payment of relocations assistance benefits to eligible recipients.

### **14.0 Minerals and Timber Activity**

The history of the Birmingham metropolitan area is deeply rooted in mineral exploitation and development. Birmingham is situated in the Jones Valley, which is commonly known as one of the few places in the world harboring all three ingredients required to produce iron and steel: coal, limestone, and iron ore. At this time, there is no known mineral exploitation in the area, but in the interests of future preservation of the detention sites for Flood Risk Management, it is prudent to consider the ramifications of possible mineral exploitation on use of the proposed detention sites. Therefore, as aforementioned, Standard Estate No. 1 is recommended, which would include an

analysis of outstanding third party mineral rights to provide clear title to lands for the purposes of Flood Risk Management.

## **15.0 Land Acquisition Experience and Capability of the Non-Federal Sponsor**

An updated assessment of the Sponsor's land acquisition experience and capabilities for the Recommended Plan was previously coordinated with the City of Bessemer, with a determination that the City of Bessemer would be unable to provide all lands and perform the municipal planning functions required by the City of Birmingham.

Though the City of Birmingham is not a study sponsor, this report has been coordinated with Birmingham officials and will require the support of Birmingham to implement.

## **16.0 Zoning:**

Application or enactment of zoning ordinances is not anticipated for the Project. It is duly noted that new construction within the Special Flood Hazard Area delineated by FEMA is subject to zoning ordinance restrictions imposed in Title 1, Chapter 8, of the Zoning Ordinances of the City of Birmingham states in part, "A completed Floodplain Development Permit Application shall be required in conformance with the provisions of this Article prior to the commencement of any development activities, within the municipal limits of the City of Birmingham, including but not limited to construction of or improvements to buildings or other structures, utilities, roads, bridges, infrastructure, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of vehicles, equipment or materials, whether conducted by a private individual, business, or firm, a non-profit agency, or a Federal, State, or local public agency."

## **17.0 Acquisition Schedule**

The following tentative acquisition schedule is intended to provide a conceptual timeframe which may apply to the land acquisition required in conjunction with the Recommended Plan, but is being considered further by the City of Birmingham and City of Bessemer, moving forward. This schedule is subject to change in alignment with real world events on the ground, in coordination with the City, USACE personnel, and other project stakeholders.

### Milestone

PPA Execution  
EN Design completed  
Attorney's Opinion of Compensability  
FEMA HMGP Open Space Request  
Sponsor's Notice to Proceed with Acquisition  
Relocate Residents per P.L. 91-646  
Utility Relocation Agreement  
City of Birmingham Vacation of Roadway

### Milestone Date

9 months from report completion  
18 months from PPA Execution  
Concurrent with EN Design  
**Complete for Detention Ponds**  
6 months from Commencing Design  
1 year from NTP with Land Acq  
9 months from Attorney's Opinion  
6 months from Fee Interests Acquired

Phase 1 Authorization for Entry for Construction	Upon completion of Roadway Vacation
Phase 1 Certification of Real Estate	1 month from Authorization for Entry
Phase 1 Ready to Advertise for Construction	1 month from Certification of RE

## **18.0 Facility and/or Utility Relocations**

A real estate assessment was performed by the District per the requirements of PGL #31, which determined that Sewer utilities identified in Appendix D (Cost Appendix), captioned as two 8" clay pipes service communities upstream of the proposed project, and serve a public purpose, and are maintained by Jefferson County Environmental Services.

Any conclusion or categorization contained in this report that an item is a utility or facility relocation to be performed by the NFS as part of its LERRD responsibilities is preliminary only. The Government 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 the final Attorney's Opinion of Compensability for each of the impacted utilities and facilities."

A preliminary analysis of utilities was performed by USACE and the conceptual limitations of scope of project design and associated cost estimations have not factored in such issues other than a generic representation in overall project contingency. Further analysis of sanitary sewer lines in the detention sites should be undertaken in the Pre-construction Engineering and Design (PED) phase, which could potentially have a bearing on the overall project costs and schedule. Jefferson County Environmental Services was consulted during the study and indicated that sewer lines running through the proposed basin service communities upstream of them.



The map displays a section of the City of Princeton, New Jersey, with the following features:

- Streets:** 3RD AVE W, 2ND ST, 1ST ST SW, SAINT CHARLES AVE, PRINCETON AVE, and CENTER ST.
- Public Utility Easements (PUBLIC ALY):** Indicated by green lines and labels, including easements for 2ND ST, 1ST ST SW, SAINT CHARLES AVE, and PRINCETON AVE.
- Property Lots:** Numerous lots are shown with their addresses, including 1106-009, 1106-008, 1106-007, 1106-006, 1106-005, 1106-004, 1106-003, 1106-002, 1106-001, 1106-000, 1106-009A, 1106-009B, 1106-009C, 1106-009D, 1106-009E, 1106-009F, 1106-009G, 1106-009H, 1106-009I, 1106-009J, 1106-009K, 1106-009L, 1106-009M, 1106-009N, 1106-009O, 1106-009P, 1106-009Q, 1106-009R, 1106-009S, 1106-009T, 1106-009U, 1106-009V, 1106-009W, 1106-009X, 1106-009Y, 1106-009Z, 1106-009AA, 1106-009AB, 1106-009AC, 1106-009AD, 1106-009AE, 1106-009AF, 1106-009AG, 1106-009AH, 1106-009AI, 1106-009AJ, 1106-009AK, 1106-009AL, 1106-009AM, 1106-009AN, 1106-009AO, 1106-009AP, 1106-009AQ, 1106-009AR, 1106-009AS, 1106-009AT, 1106-009AU, 1106-009AV, 1106-009AW, 1106-009AX, 1106-009AY, 1106-009AZ, 1106-009BA, 1106-009BB, 1106-009BC, 1106-009BD, 1106-009BE, 1106-009BF, 1106-009BG, 1106-009BH, 1106-009BI, 1106-009BJ, 1106-009BK, 1106-009BL, 1106-009BM, 1106-009BN, 1106-009BO, 1106-009BP, 1106-009BQ, 1106-009BR, 1106-009BS, 1106-009BT, 1106-009BU, 1106-009BV, 1106-009BW, 1106-009BX, 1106-009BY, 1106-009BZ, 1106-009CA, 1106-009CB, 1106-009CC, 1106-009CD, 1106-009CE, 1106-009CF, 1106-009CG, 1106-009CH, 1106-009CI, 1106-009CJ, 1106-009CK, 1106-009CL, 1106-009CM, 1106-009CN, 1106-009CO, 1106-009CP, 1106-009CQ, 1106-009CR, 1106-009CS, 1106-009CT, 1106-009CU, 1106-009CV, 1106-009CW, 1106-009CX, 1106-009CY, 1106-009CZ, 1106-009DA, 1106-009DB, 1106-009DC, 1106-009DD, 1106-009DE, 1106-009DF, 1106-009DG, 1106-009DH, 1106-009DI, 1106-009DJ, 1106-009DK, 1106-009DL, 1106-009DM, 1106-009DN, 1106-009DO, 1106-009DP, 1106-009DQ, 1106-009DR, 1106-009DS, 1106-009DT, 1106-009DU, 1106-009DV, 1106-009DW, 1106-009DX, 1106-009DY, 1106-009DZ, 1106-009EA, 1106-009EB, 1106-009EC, 1106-009ED, 1106-009EE, 1106-009EF, 1106-009EG, 1106-009EH, 1106-009EI, 1106-009EJ, 1106-009EK, 1106-009EL, 1106-009EM, 1106-009EN, 1106-009EO, 1106-009EP, 1106-009EQ, 1106-009ER, 1106-009ES, 1106-009ET, 1106-009EU, 1106-009EV, 1106-009EW, 1106-009EX, 1106-009EY, 1106-009EZ, 1106-009FA, 1106-009FB, 1106-009FC, 1106-009FD, 1106-009FE, 1106-009FF, 1106-009FG, 1106-009FH, 1106-009FI, 1106-009FJ, 1106-009FK, 1106-009FL, 1106-009FM, 1106-009FN, 1106-009FO, 1106-009FP, 1106-009FQ, 1106-009FR, 1106-009FS, 1106-009FT, 1106-009FU, 1106-009FV, 1106-009FW, 1106-009FX, 1106-009FY, 1106-009FZ, 1106-009GA, 1106-009GB, 1106-009GC, 1106-009GD, 1106-009GE, 1106-009GF, 1106-009GG, 1106-009GH, 1106-009GI, 1106-009GJ, 1106-009GK, 1106-009GL, 1106-009GM, 1106-009GN, 1106-009GO, 1106-009GP, 1106-009GQ, 1106-009GR, 1106-009GS, 1106-009GT, 1106-009GU, 1106-009GV, 1106-009GW, 1106-009GX, 1106-009GY, 1106-009GZ, 1106-009HA, 1106-009HB, 1106-009HC, 1106-009HD, 1106-009HE, 1106-009HF, 1106-009HG, 1106-009HH, 1106-009HI, 1106-009HJ, 1106-009HK, 1106-009HL, 1106-009HM, 1106-009HN, 1106-009HO, 1106-009HP, 1106-009HQ, 1106-009HR, 1106-009HS, 1106-009HT, 1106-009HU, 1106-009HV, 1106-009HW, 1106-009HX, 1106-009HY, 1106-009HZ, 1106-009IA, 1106-009IB, 1106-009IC, 1106-009ID, 1106-009IE, 1106-009IF, 1106-009IG, 1106-009IH, 1106-009II, 1106-009IJ, 1106-009IK, 1106-009IL, 1106-009IM, 1106-009IN, 1106-009IO, 1106-009IP, 1106-009IQ, 1106-009IR, 1106-009IS, 1106-009IT, 1106-009IU, 1106-009IV, 1106-009IW, 1106-009IX, 1106-009IY, 1106-009IZ, 1106-009JA, 1106-009JB, 1106-009JC, 1106-009JD, 1106-009JE, 1106-009JF, 1106-009JG, 1106-009JH, 1106-009JI, 1106-009JJ, 1106-009JK, 1106-009JL, 1106-009JM, 1106-009JN, 1106-009JO, 1106-009JP, 1106-009JQ, 1106-009JR, 1106-009JS, 1106-009JT, 1106-009JU, 1106-009JV, 1106-009JW, 1106-009JX, 1106-009JY, 1106-009JZ, 1106-009KA, 1106-009KB, 1106-009KC, 1106-009KD, 1106-009KE, 1106-009KF, 1106-009KG, 1106-009KH, 1106-009KI, 1106-009KJ, 1106-009KK, 1106-009KL, 1106-009KM, 1106-009KN, 1106-009KO, 1106-009KP, 1106-009KQ, 1106-009KR, 1106-009KS, 1106-009KT, 1106-009KU, 1106-009KV, 1106-009KW, 1106-009KX, 1106-009KY, 1106-009KZ, 1106-009LA, 1106-009LB, 1106-009LC, 1106-009LD, 1106-009LE, 1106-009LF, 1106-009LG, 1106-009LH, 1106-009LI, 1106-009LJ, 1106-009LK, 1106-009LL, 1106-009LM, 1106-009LN, 1106-009LO, 1106-009LP, 1106-009LQ, 1106-009LR, 1106-009LS, 1106-009LT, 1106-009LU, 1106-009LV, 1106-009LW, 1106-009LX, 1106-009LY, 1106-009L

There is no known HTRW contamination within the selected footprint of this project. Kansas City District HTRW personnel consulted the databases maintained by cognizant agencies governing subject lands. Based on the findings of the records search for the project area, there is very low risk of encountering HTRW contamination for the measures being considered. Although there are some nearby sites (primarily past leaking petroleum USTs), most of those sites have been cleaned up and have a No Further Action status so pose very little risk. A site was identified on the ADEM brownfield map/database across the street from off-channel detention site VD1, but there is no information provided on the type or extent of contamination on the site. The site appears to be a salvage yard.

## 20.0 Attitude of Property Owners

12

Pursuant to the requirements set forth in the Land Acquisition Policy Act of 1960, Public Law 86-645 (33 U.S.C. § 597), mandates landowner notification within six months after authorization, and "a reasonable time after initial appropriations."

*Within six months after the date that Congress authorizes construction of a water resource development project under the jurisdiction of the Secretary of the Army, the Corps of Engineers shall make reasonable effort to advise owners and occupants in and adjacent to the project area as to the probable timing for the acquisition of lands for the project and for incidental rights-of-way, relocations, and any other requirements affecting owners and occupants. Within a reasonable time after initial appropriations are made for land acquisition or construction, including relocations, the Corps of Engineers shall conduct public meetings at locations convenient to owners and tenants to be displaced by the project in order to advise them of the proposed plans for acquisition and to afford them an opportunity to comment. To carry out the provisions of this section, the Chief of Engineers shall issue regulations to provide, among other things, dissemination of the following information to those affected: (1) factors considered in making the appraisals; (2) desire to purchase property without going to court; (3) legal right to submit to condemnation proceedings; (4) payments for moving expenses or other losses not covered by appraised market value; (5) occupancy during construction; (6) removal of improvements; (7) payments required from occupants of Government acquired land; (8) withdrawals by owners of deposits made in court by Government, and (9) use of land by owner when easement is acquired. The provisions of this section shall not subject the United States to any liability nor affect the validity of any acquisitions by purchase or condemnation and shall be exempt from the operations of subchapter II of chapter 5, and chapter 7, of title 5. (Land Acquisition Policy Act of 1960, Public Law 86-645, 33 U.S.C. § 597)*

## **21.0 Notifications to Non-Federal Sponsor**

The Sponsor was notified of the risks of acquiring lands prior to the execution of a Project Partnership Agreement/Notification to Proceed with Acquisition, and this risk notification is attached hereto as Exhibit C-2.

## **22.0 Other Issues**

In general, previous USACE involvement in the communities adjacent to Valley Creek has revealed that land title issues are a persistent issue with land acquisitions in this area. As such, provisions should be built into the schedule for any proposed land acquisition which could protract the timeframe for land acquisition.

It was determined by the Environmental PDT that mitigation bank credits could fulfill mitigation needs for the project. The following guidance from ER 1105-2-100 Appendix C is set forth:

"All costs associated with the acquisition of credits from the mitigation bank or in-lieu fee program will be classified as a one-time construction cost of the Civil Works project for which the mitigation is being provided. The costs for acquisition of credits will be shared in accordance with the cost sharing applicable to construction cost for that project purpose."

"Timing of Implementation. In accordance with Section 906 of WRDA 1986, as amended, (33 U.S.C. 2283), for any water resources development project which requires mitigation for fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate for fish and wildlife, such mitigation, including acquisition of the lands or interests in lands, shall be undertaken or acquired before the physical construction that causes the impacts for which mitigation is required. However, any physical construction required for the purpose of fish and wildlife mitigation may be undertaken prior to or concurrently with the physical construction of such project. For all water resources development projects which require mitigation for impacts to wetlands and for which the purchase of in-kind credits from mitigation banks and in-lieu fee programs is determined to be the appropriate form of mitigation, the Corps will purchase these credits concurrently with the physical construction that causes the impacts for which mitigation is required. However, where there are technical or cost-efficiencies or by request of the non-Federal sponsor, mitigation bank credits may be purchased prior to the physical construction that causes the impacts for which mitigation is required. Mitigation measures will be scheduled for accomplishment prior to or concurrently with other project features in the most efficient way."

## 23.0 Recommendations:

This report has been prepared in accordance with Paragraph 12-16 of Chapter 12 of the Real Estate Handbook, Corps of Engineers Regulation ER 405-1-12. It is recommended that this report be approved.

KENNEDY.KARE  
N.M.1230934289  
Digitally signed by  
KENNEDY.KAREN.M.1230934289  
Date: 2021.08.20 08:16:07 -05'00'

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KAREN M. KENNEDY  
District Chief of Real Estate  
U.S. Army Corps of Engineers  
Mobile District

Prepared by:

---

JOHN J. TETREAU  
Realty Specialist  
U.S. Army Corps of Engineers, Mobile District

**Exhibit A**  
**Real Estate Maps**

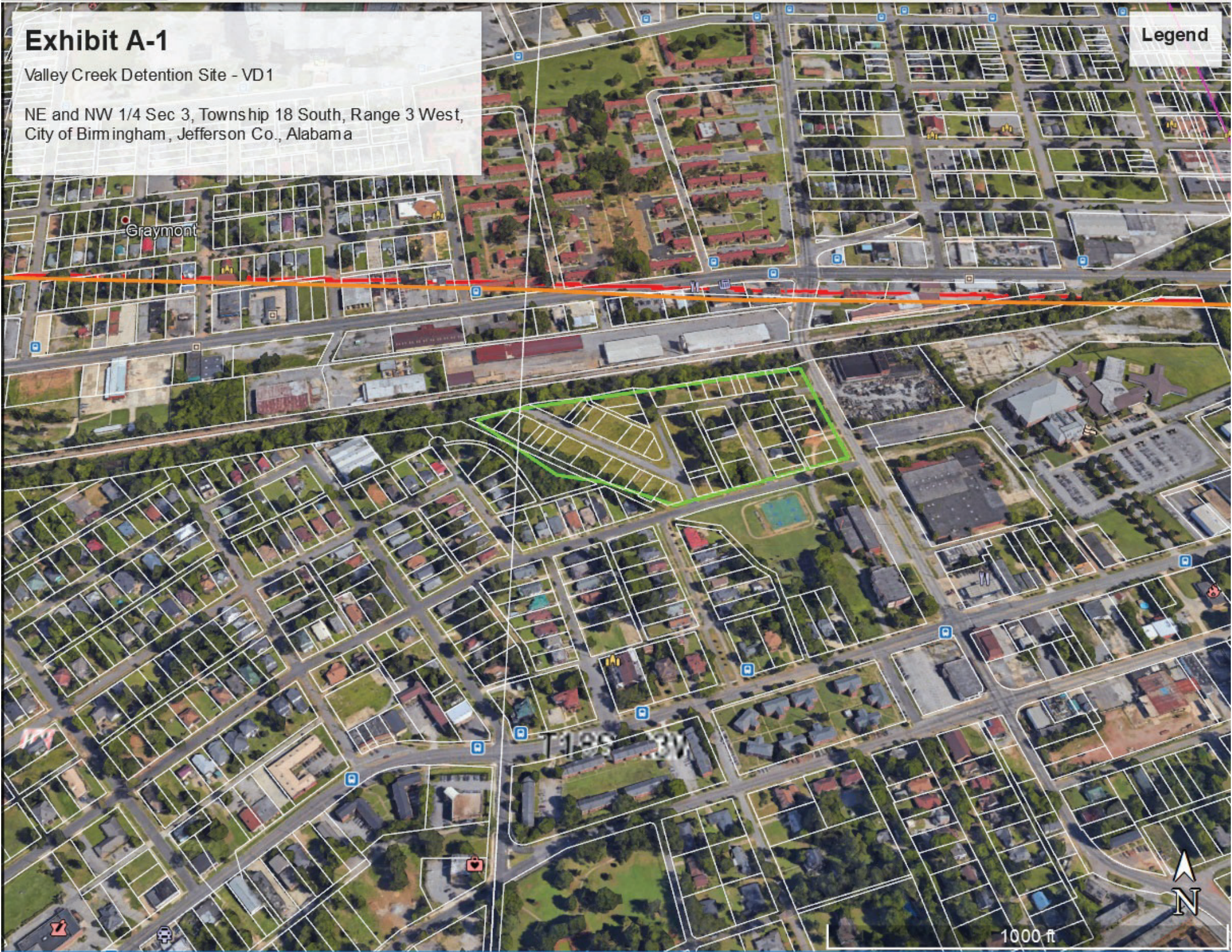


# Exhibit A-1

Valley Creek Detention Site - VD1

NE and NW 1/4 Sec 3, Township 18 South, Range 3 West,  
City of Birmingham, Jefferson Co., Alabama

Legend





## VD2 Detention Site

RED = New area  
GREEN = Old area



**Exhibit B**  
**Parcel Data**

Summary Page - Parcel and Acreage Estimations for Proposed Off-Channel Detention Sites VD1 and VD2

<b>Project Feature</b>	<b>Privately-Owned Parcels</b>	<b>Parcels Owned by NFS</b>	<b>Acreage Estimate (Estate)</b>
Detention Site VD1	21	44 (incl. ROW)	11.88 (Fee Simple)
Detention Site VD2	54	35 (incl. ROW)	17.11 (Fee Simple)
<b>TOTAL</b>	<b>75</b>	<b>79</b>	<b>28.99 +/- ac. (Fee Simple)</b>

**Parcels & ROW within Proposed Features (Not including temporary staging, access, and borrow areas): 154**

Exhibit B-1  
VD1 Parcel Data

PARCEL ID	SUBDIVISION NAME	RECOMMENDED ESTATE	GIS ACRES	FOOTPRINT
0000000000000000	ROW	VACATION OF ROADWAY	0.09	0.01
2900032999999999	ROW	VACATION OF ROADWAY	42.16	0.03
2900031000000000	ROW	VACATION OF ROADWAY	2.77	0.17
2900032777777777	ROW	VACATION OF ROADWAY	6.21	0.06
2900031999999999	ROW	VACATION OF ROADWAY	33.62	4.46
2900031005003000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.06	0.06
2900031006007000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031006008000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031008007000	WEST BHAM RE BK A 29-3-1	FEE SIMPLE	0.11	0.11
2900031008009000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.17	0.17
2900031005001000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.21	0.21
2900031005002000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.07	0.07
2900031006006000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.05	0.05
2900031006009000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.27	0.27
2900031008006000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.06	0.06
2900031004018000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.09	0.09
2900031005005000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.23	0.23
2900031007003000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.09	0.09
2900031008002000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031008011000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.13	0.13
2900031004017000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.18	0.18
2900031004019000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.08	0.08
2900031005007000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031008003000	WEST BHAM RE B A 29-3-1	FEE SIMPLE	0.17	0.17
2900031004012000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031004014000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031005010000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.05	0.05
2900031005012001	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.23	0.23
2900031007007000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.23	0.23
2900031007009000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.2	0.2
2900032008014000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031006005000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.06	0.06
2900031007002000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.06	0.06
2900031007004000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.09	0.09
2900031004016000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.22	0.22
2900031005008000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.1	0.1
2900031006004000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.16	0.16
2900031007001000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.58	0.58
2900031004011000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031004015000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031005009000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.07	0.07



Ex. B-1 (VD1 Parcel Data) - Continuation)

<b>2900031005012000</b>	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.1	0.1
<b>2900032008014001</b>	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900032008013000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.16	0.16
2900031007005000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.22	0.22
2900031006002000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.05	0.05
2900031007008000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900031005004000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031006001000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031008014000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.13	0.13
2900031004013000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.1	0.1
2900031008013000	WEST BHAM RE-B A 29-3-1	FEE SIMPLE	0.08	0.08
2900031004019001	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.06	0.06
2900031008005000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12
2900031008001000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.16	0.16
2900031008012000	WEST BHAM RE-B A 29-3-1	FEE SIMPLE	0.08	0.08
2900031006008001	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.11	0.11
2900032008001001	EBSCO-W ELYTON 29-3-1	FEE SIMPLE	0.43	0.01
2900031004001000	EBSCO-W ELYTON 29-3-1	FEE SIMPLE	0.57	0.14
2900031008004000	WEST BHAM 29-3-1 & 2	FEE SIMPLE	0.12	0.12

11.88 acres, more or less, estimated project footprint

**BOLD Parcels** - Owned by City of Birmingham or Birmingham Land Bank Authority

Disclaimer: Utility/Facility relocations not factored in.

Exhibit B-2  
Off-Channel Detention Area - VD2 Parcel Data

PARCEL ID	SUBDIVISION NAME	RECOMMENDED ESTATE	GIS ACRES	FOOTPRINT
2900041777777777	ROW	VACATION OF ROADWAY	6.8	0.49
2900041023002000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.08	0.08
2900041025014000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041019008000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041023013000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041020002000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.11	0.11
2900041020003000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.14	0.14
2900041023015000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041025003000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041025003001	FREYS ADD WOODLN 23-22-2	FEE SIMPLE	0.06	0.06
2900041019009000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041020005000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.19	0.19
2900041025004000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041022005000	WEST PRINCETON 29-4-1	FEE SIMPLE	2.77	2.77
2900041019007000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019004000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019029000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041019027000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07
2900041019028000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019022000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.18	0.18
2900041019024000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019023000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019025000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019032000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.01	0.01
2900041023004000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019036000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041023007000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019013000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.09	0.09
2900041019015000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07
2900041019014000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041023014000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041019012000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041025020000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041022004000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041025005000	RESUR OF LOTS 18 21-25 & 39-54 BLK 2 MAP OF WEST P	FEE SIMPLE	0.9	0.9
2900041025015000	RESUR OF LOT 18 21-25 & 39-54 BLK 2 WEST PRINCETON	FEE SIMPLE	0.05	0.05
2900041019005000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019026000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07
2900041025021000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.23	0.23
2900041025017000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041025019000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.17	0.17

## Exhibit B-2 (VD2 Parcel Data Continuation)

2900041019017000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07
2900041019018000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.14	0.14
2900041020004000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.16	0.16
2900041020007000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.11	0.11
2900041019031000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.1	0.1
2900041019001002	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041019037000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041023016000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041020006000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.23	0.23
2900041019033000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.14	0.14
2900041019001003	WEST PRINCETON 29-4-1	FEE SIMPLE	0.18	0.18
2900041019001004	WEST PRINCETON 29-4-1	FEE SIMPLE	0.25	0.25
2900041019039000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.09	0.09
2900041019042000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.2	0.2
2900041019001005	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041019035000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041023010000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.23	0.23
2900041020008000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.11	0.11
2900041023009000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019030000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041019038000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041019002000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.1	0.1
2900041023001000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.09	0.09
2900041023036000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.08	0.08
2900041023008000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041023011000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.12	0.12
2900041025016000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041023005000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041023012000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.06	0.06
2900041025002000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041020001000	WEST PRINCETON SUB 29-4-1	FEE SIMPLE	0.13	0.13
2900041019016000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07
2900041023003000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.09	0.09
2900041019006000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019011000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019010000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041019001001	WEST PRINCETON 29-4-1	FEE SIMPLE	0.34	0.34
2900041019040000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.23	0.23
2900041019001000	PIPPENS F L & M W 29-4-1	FEE SIMPLE	4.27	3.25
2900041019003000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.11	0.11
2900041023006000	FREYS ADD WOODLN 23-22-2	FEE SIMPLE	0.12	0.12
2900041019021000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.07	0.07

Exhibit B-2 (VD2 Parcel Data Continuation)

2900041019034000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.13	0.13
2900041019020000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.14	0.14
2900041019019000	WEST PRINCETON 29-4-1	FEE SIMPLE	0.14	0.14

17.11 acres, more or less, estimated site footprint

**BOLD Parcels** - Owned by City of Birmingham or Birmingham Land Bank Authority

Disclaimer: Utility/Facility relocations not factored in.

**Exhibit C-1**  
**Non-Federal Sponsor Capability Assessment**





*The Office of*  
Kenneth E. Gulley  
Mayor

*City of Bessemer*

1700 Third Avenue, Bessemer, AL 35020  
(205) 424-4060 FAX: (205) 424-4372  
Email: [mayorsoffice@bessemeral.org](mailto:mayorsoffice@bessemeral.org)

**VIA REGULAR US MAIL**

16 August 2019

Department of the Army Corps of Engineers  
Attn: USACE-SAM-RE-A  
P.O. Box 2288  
Mobile, Alabama 36628

**RE: VALLEY CREEK FLOOD RISK MANAGEMENT STUDY  
CITY OF BESSEMER, JEFFERSON COUNTY, ALABAMA**

To Whom it May Concern,

Please find the attached answers to your July 15, 2019 questionnaire concerning the assessment of non-federal sponsor's real estate acquisition capability:

1. **LEGAL AUTHORITY**

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

**Answer: Yes**

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

**Answer: Yes**

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

**Answer: No**

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

**Answer: Yes...pending the results of the flood study**

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

i. Private Property?

**Answer: Yes**

ii. State-Owned Property?

**Answer: No**

## **2. 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?

**Answer: Yes**

b. If the answer to 2(a) is "yes", has a reasonable plan been developed to provide such training?

**Answer: No**

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

**Answer: No**

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

**Answer: No**

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

**Answer: Yes**

f. Will the sponsor likely request USACE assistance in acquiring real estate? (If "yes", provide description).

**Answer: Yes...We can discuss further when the study is complete**

3. OTHER PROJECT VARIABLES

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

**Answer: Yes**

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

**Answer: To be determined**

4. OVERALL ASSESSMENT

- a. Has the sponsor performed satisfactorily on other USACE projects (if applicable)?

**Answer: Not applicable**

- b. Regarding this project, the sponsor is anticipated to be highly capable; fully capable; moderately capable; marginally capable; insufficiently capable.

**Answer: Moderately capable**

5. COORDINATION


- a. Has this assessment been coordinated with the sponsor?

**Answer: Yes**

- b. Does the sponsor concur with this assessment?

**Answer: Yes**

I hope this provides satisfactory answers to your questions. If you need any more assistance on this matter, please contact our Stormwater Specialist, Freddie Freeman at 205-424-4060 or [ffreeman@bessemeral.org](mailto:ffreeman@bessemeral.org).

  
Kenneth E. Gulley  
Mayor  
City of Bessemer

**Exhibit C-2**  
**Real Estate Risk Notification Letter**



DEPARTMENT OF THE ARMY  
MOBILE DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 2288  
MOBILE, ALABAMA 36628-0001

REPLY TO  
ATTENTION OF:

USACE-SAM-RE

15 July 2019

City of Bessemer  
Floodplain Management  
ATTN: Mr. Freddie F. Freeman, Jr.  
1700 3<sup>rd</sup> Ave North  
Bessemer AL 35020

**Subject:** Valley Creek Flood Risk Management Study – Formal Risk Notification Letter to Non-Federal Sponsor

Dear Mr. Freeman,

The intent of this letter is to formally advise the City of Bessemer, as non-Federal Sponsor for the proposed project, of the risks associated with land acquisition prior to the execution of a Project Partnership Agreement (PPA) or prior to the Government's formal notice to proceed with acquisition. If a Non-Federal Sponsor deems it necessary to commence acquisition prior to an executed PPA for whatever reason, the Non-Federal Sponsor assumes full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort.

While we acknowledge that no land acquisition is expected for the subject project based on the latest engineering designs, we are still required by regulation to notify the non-Federal Sponsor of the inherent risks associated with a cost-shared project of this nature.

Generally, these risks include, but may be not be limited to, the following:

- (1) Congress may not appropriate funds to construct the proposed project;
- (2) The proposed project may otherwise not be funded or approved for construction;
- (3) A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;
- (4) The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;

(5) The non-Federal sponsor may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;

(6) The non-Federal sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646 as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of Lands, Easements, Rights-of-way, Relocations, Disposal Areas and/or Borrow Areas (LERRD);

(7) The non-Federal sponsor may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PCA. Reference ER 405-1-12 (Change 31; 1 May 98) Section 12-31 Acquisition Prior to PCA Execution.

Please acknowledge that the Non-Federal Sponsor for the proposed project accepts these terms and conditions.

Accepted on behalf of the Non-Federal  
Sponsor:

 (Signature)

Major (Title)

Prepared by:

Russell W. Blount III  
Acting Chief  
Technical Services Branch  
Real Estate Division  
Mobile District  
U.S. Army Corps of Engineers



**Exhibit D**  
**Authorization for Entry / Attorney's Certification of Authority**

**AUTHORIZATION FOR ENTRY FOR CONSTRUCTION AND ATTORNEY'S  
CERTIFICATE OF AUTHORITY**

I, (name of accountable official), (title) for (name of non-Federal sponsor), do hereby certify that the (name of non-Federal sponsor) has acquired the real property interests required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction of (project name, specifically identified project features, etc.). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon (identify tracts) to construct (project name, specifically identified project features, etc.) as set forth in the plans and specifications held in the U. S. Army Corps Engineers' Mobile District Office, Mobile, Alabama.

WITNESS my signature as (title) for (name of non-Federal sponsor) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: (name)  
(title)

I, (name), (title of legal officer) for (name of non-Federal sponsor), certify that (name of non-Federal sponsor) has authority to grant Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as (title) for (name of non-Federal sponsor), this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: (name)  
(title)

Exhibit E  
FEMA Open Space Determination Correspondence



KAY IVEY  
GOVERNOR

STATE OF ALABAMA  
EMERGENCY MANAGEMENT AGENCY

5898 COUNTY ROAD 41 • P.O. DRAWER 2160 • CLANTON, ALABAMA 35046-2160  
(205) 280-2200 FAX # (205) 280-2495



BRIAN E. HASTINGS  
DIRECTOR

September 17, 2021

Tracey Hayes, Esq., CFM  
Natural Hazards Administrator  
Planning, Engineering and Permits  
710 20<sup>th</sup> St N, Birmingham, AL 35203

Subject: City of Birmingham, Request to Install a Detention Pond at Valley Creek on FEMA  
Deed Restricted Properties

Dear Ms. Hayes:

This letter is in response to the City of Birmingham's request for FEMA's concurrence as required by 44 C.F.R. § 80.19(a) for the installation of a detention pond to cover 67 properties at Valley Creek, Birmingham, Jefferson County, Alabama, 35218. The City of Birmingham acquired these properties under the Pre-Disaster Mitigation (PDMC) program in the FY2005 and FY2007 grant cycles. FEMA has determined the installation of a detention pond meets the requirements of 44 C.F.R. §80.19(a), and accordingly hereby approves the City of Birmingham's request.

The City of Birmingham's July 2, 2021, request letter also makes mention of "recreational features" in the City's conceptual plan for the parcels. Please note, from FEMA's attached letter that this approval only applies to the proposed detention pond. Any other contemplated use of the deed restricted parcels will need to meet the standards of 44 C.F.R. § 80.19 and may require prior written approval by FEMA.

I am attaching the FEMA approval letter with this correspondence. The City of Birmingham must adhere to any and all stipulations outlined in the FEMA approval letter.

If you need additional information regarding this request, please contact me at 205-541-3723 or [michaelj@ema.alabama.gov](mailto:michaelj@ema.alabama.gov).

Sincerely,

Michael Johnson  
State Hazard Mitigation Officer  
Alabama Emergency Management Agency



U. S. Department of Homeland Security  
Region IV  
3005 Chamblee Tucker Road  
Atlanta, GA 30341  
**FEMA**

September 13, 2021

Mr. Brian Hastings, Director  
Alabama Emergency Management Agency  
5898 County Road 41  
P.O. Drawer 2160  
Clanton, AL 35046-2160

Attention: Mr. Michael Johnson, State Hazard Mitigation Officer

Reference: City of Birmingham, Request to Install a Detention Pond at Valley Creek on a FEMA  
Deed Restricted Properties

Dear Mr. Hastings:

This letter is in response to the Alabama Emergency Management Agency's letter dated July 2, 2021, requesting FEMA's concurrence as required by 44 C.F.R. § 80.19(a) for the installation of a detention pond to cover 67 properties at Valley Creek, Birmingham, Jefferson County, Alabama, 35218. The City of Birmingham acquired these properties under the Pre-Disaster Mitigation (PDMC) program in the FY2005 and FY2007 grant cycles.

FEMA has determined the installation of a detention pond meets the requirements of 44 C.F.R. § 80.19(a), and accordingly hereby approves the City of Birmingham's request.

In accordance with 44 CFR § 13.37(a)(2), the Grantee (AEMA) is responsible for ensuring that the subgrantee (City of Birmingham) is aware of requirements imposed upon it by Federal statute and regulation. In addition, the City of Birmingham is required by the terms of the deed to comply with the restrictive covenants therein, including but not limited to the incorporation by reference of the requirements set forth in 44 C.F.R. part 80. Among these is the requirement to obtain prior FEMA approval before building any new structures or improvements on the property that are not expressly allowed by 44 C.F.R. § 80.19(a).

The City of Birmingham's July 2, 2021 request letter also makes mention of "recreational features" in the City's conceptual plan for the parcels. Please note, this approval only applies to the proposed detention pond. Any other contemplated use of the deed restricted parcels will need to meet the standards of 44 C.F.R. § 80.19 and may require prior written approval by FEMA.

If you have any further questions regarding this action, please contact Mr. Ernest E. Hunter at (770) 220-5471.

Sincerely,

Jacky S. Bell  
Director  
Mitigation Division