

FLOOD PROTECTION CORRIDOR PROGRAM
MIDDLE CREEK FLOOD DAMAGE REDUCTION AND
ECOSYSTEM RESTORATION PROJECT

SCOPE OF WORK

The Middle Creek Flood Damage Reduction and Ecosystem Restoration Project (Project) is one step in the process of restoring damaged habitat and the water quality of the Clear Lake watershed. Reconnection of this large previously reclaimed area, as a functional wetland is anticipated to have a significant effect on the watershed health and the water quality of Clear Lake. The Project will also eliminate flood risk to 3 additional residential structures, numerous outbuildings and approximately 840 acres of agricultural land.

In June 1999, the Corps began a Feasibility Study that evaluated six alternative projects, including the No Action, three restoration alternatives, and a non-structural and a structural flood damage reduction alternative. The restoration alternatives all include reconnecting the area adjacent to Clear Lake and Rodman Slough, with the primary difference being the northern limit of the Project area. The pure flood damage reduction alternatives were not cost-effective. During the Feasibility Study that reviewed flood damage reduction, habitat and other benefits, it was determined the most beneficial project would be full restoration of the Project area. Full restoration requires all property in the Project area, 1,650 acres, be purchased in fee. Purchased lands will be restored to near natural conditions and the levees will be breached. Environmental review as required by NEPA and CEQA was conducted concurrent with the Feasibility Study. The Final Feasibility Study/Environmental Impact Statement/Environmental Impact Report was issued in September 2002.

The purpose of this scope of work is to continue with acquisition of properties necessary to implement the Project. Acquisition will be made from willing sellers only. As total land, easement and relocation costs are in excess of \$13 million, this scope of work emphasizes acquisition of properties that have residential dwellings, as this will reduce the most potential flood damages and reduce the risk to life of residents. Because not all land protected by the levees will be purchased, full restoration will be delayed until all properties are purchased, allowing restoration activities and decommissioning of the levee system.

Fifty-six (56) parcels remain needing acquisition in fee, purchase of overflow easements or in need of hydraulic mitigation. If funds become limited towards the end of the acquisition process, the District reserves the right to bypass or skip over properties that have values greater than the remaining funds available and acquire the properties that can be acquired with the available funds. All properties will be acquired according to Local, State and Federal laws and regulations, including the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24.

After the properties are acquired, improvements, such as homes, outbuildings and associated infrastructure will be removed and/or abandoned on site in accordance with Local, State, and Federal laws. Properties will be rezoned as Open Space and no future building will be permitted on the properties.

Task 1: Administration

This task includes administration of the grant and coordination of activities associated with acquisition of the properties. Administrative costs include District/County staff time expended throughout the project. Staff includes, but is not limited to, the Director of Water Resources, Water Resources Program Coordinator, County Surveyor, Right-of-Way Agent and County Counsel.

Property acquisition will be in accordance with Local and State regulations and will also be consistent with Federal guidelines in order for the acquisition to count as local match for implementation of the Middle Creek Flood Damage Reduction and Ecosystem Restoration Project. After purchase, all properties will have a deed restriction, such as a flood easement recorded. After all properties are purchased, the County will initiate a rezone of the purchased parcels to change the zoning to Open Space.

Task 2: Relocation, Demolition and Cleanup Expenses

Because this is part of a larger Federal project, Federal requirements will apply to land purchase under the FPCP Program. Federal law (PL 91-646) requires relocation assistance be provided for residents that are displaced by Federal projects. Relocation expenses, including moving expenses, are included under this task. Because the primary emphasis of this scope-of-work is to acquire flood-prone homes and the associated property, the structures and associated utilities will be removed and/or abandoned in place. Residential structures and accessory structures will be completely removed from the property. Paved sidewalks and driveways will also be removed. Unpaved areas will be revegetated as required. Revegetation is temporary until the full project is implemented. Items such as septic systems and water wells will be abandoned in accordance with local and state laws. All other utilities will be removed from the purchased parcels. Fencing to prevent trespass may be installed along the perimeter of the parcels to prevent trespass and off road vehicular use. Fencing will only be installed if trespass and off road vehicular activity becomes a problem.

Task 3: Acquisition Costs

Acquisition costs include all costs associated with purchase, including appraisals, inspections, purchase price, title insurance, and closing costs. Staff time associated with negotiations is included within Task 1: Administration. Subtasks include:

1. Obtain legal descriptions of parcels or surveyed descriptions for partial purposes.
2. Obtain an appraisal for the acreage and estate from an acceptable appraiser.
3. Obtain State approval of the appraised amount.
4. Make offers at not less than fair market value as provided in the appraisal.
5. Upon agreement of purchase price, enter escrow period, make appropriate inspections and close escrow.

Task 4: Hydraulic Mitigation on USA-In-Trust Parcels

There are eight (8) parcels held by the United States in trust for the Robinson Rancheria. The Middle Creek Project will cause flooding on these parcels. Corps of Engineers policy will not allow activities on the USA-In-Trust properties, therefore, a “ring levee” to protect the USA-In-Trust parcels was proposed in the Feasibility Study. The Robinson Rancheria opposed the ring levee and has proposed an alternative of transferring the trust status of two parcels to other parcels, elevating the parking lot above the 100-year floodplain, elevating a portion of the flood-prone property, and selling overflow easements on the parcels west of Highway 20. The Corps has prepared an alternative that includes the Rancheria’s proposal, however, it cannot be implemented until the trust is transferred.

Provided that the trust is transferred in a timely manner, this task will include the hydraulic mitigation (elevation of flood-prone facilities) and acquisition of an overflow-conservation easement in the former trust properties west of Highway 20.

- Elevation of the facilities will require development of engineered plans and specifications, competitive bidding for a construction contract, and construction of the improvements. All construction will be subject to the appropriate local, state and federal regulations.
- Overflow-conservation easements will be acquired utilizing the same procedure described in Task 3.

Task 5: Property Maintenance

When the District purchases the properties as described above, the District will assume maintenance responsibility for the properties. Exhibit G describes the maintenance costs associated with ownership of the properties within the proposed Middle Creek Project area. We anticipate these costs will be ongoing for several years before the Middle Creek Project is fully implemented. Because the Middle Creek Project has not been authorized, nor has the CEQA/NEPA been fully approved, we cannot accurately determine the length of time that the properties must be maintained prior to full project implementation. Therefore, a full twenty percent (20%) of the acquisition cost will be deposited in a trust fund to pay for the maintenance of the properties. As expenses are likely to be greater than the interest on the trust fund, the balance of the trust fund will likely decrease over time.

Any balance in the trust fund that remains when the Middle Creek Project is fully implemented will remain in the trust fund and be utilized for long term operation, maintenance and monitoring of the full Project.