
Appendix B: Real Estate Plan

Mississippi River, Dubuque County Iowa
CAP Section 14 Emergency Streambank Protection

Dubuque Forced Sewer Main

Feasibility Phase

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1. PURPOSE AND GENERAL PROJECT INFORMATION

1.1. Purpose. The information in this Real Estate Plan (REP) is based on preliminary data and is subject to change even after approval of the REP. There are no previous REPs developed for this Project.

This REP supports the Feasibility Report for the shoreline protection along the Mississippi River in Dubuque County, Iowa, which protects the City of Dubuque's forced sewer main. The City of Dubuque installed a 42-inch concrete sanitary forced sewer main along the shoreline of the Mississippi River in 1977. Originally, the concrete sanitary forced sewer main was covered with 24 inches of riprap for protection.

Due to the extended high-water levels along the Mississippi River, the shoreline has suffered significant erosion, leaving 180 feet of the concrete sanitary forced sewer main exposed at six key locations with an additional 400 feet of the sewer main nearly exposed. If the City's concrete sanitary forced sewer main is left exposed and unprotected, it could break and lead to catastrophic failure of the entire City's wastewater system and potential contamination of the Mississippi River. The Feasibility Report will propose how to protect and stabilize the City's concrete sanitary forced sewer main along the shoreline of the Mississippi River. The purpose of the REP is to identify the Project's overall real estate requirements and provide the estimated real estate costs of the recommended plan as proposed.

1.2. Project Location. The Project is located in Dubuque County, Iowa, along the Mississippi River between river miles 577 and 579 along the shoreline of the right descending bank. Figure B-1 shows the Project location.

1.3. Project Authority. The Project is authorized through the Continuing Authorities Program, Section 14 Emergency Streambank and Shoreline Protection.

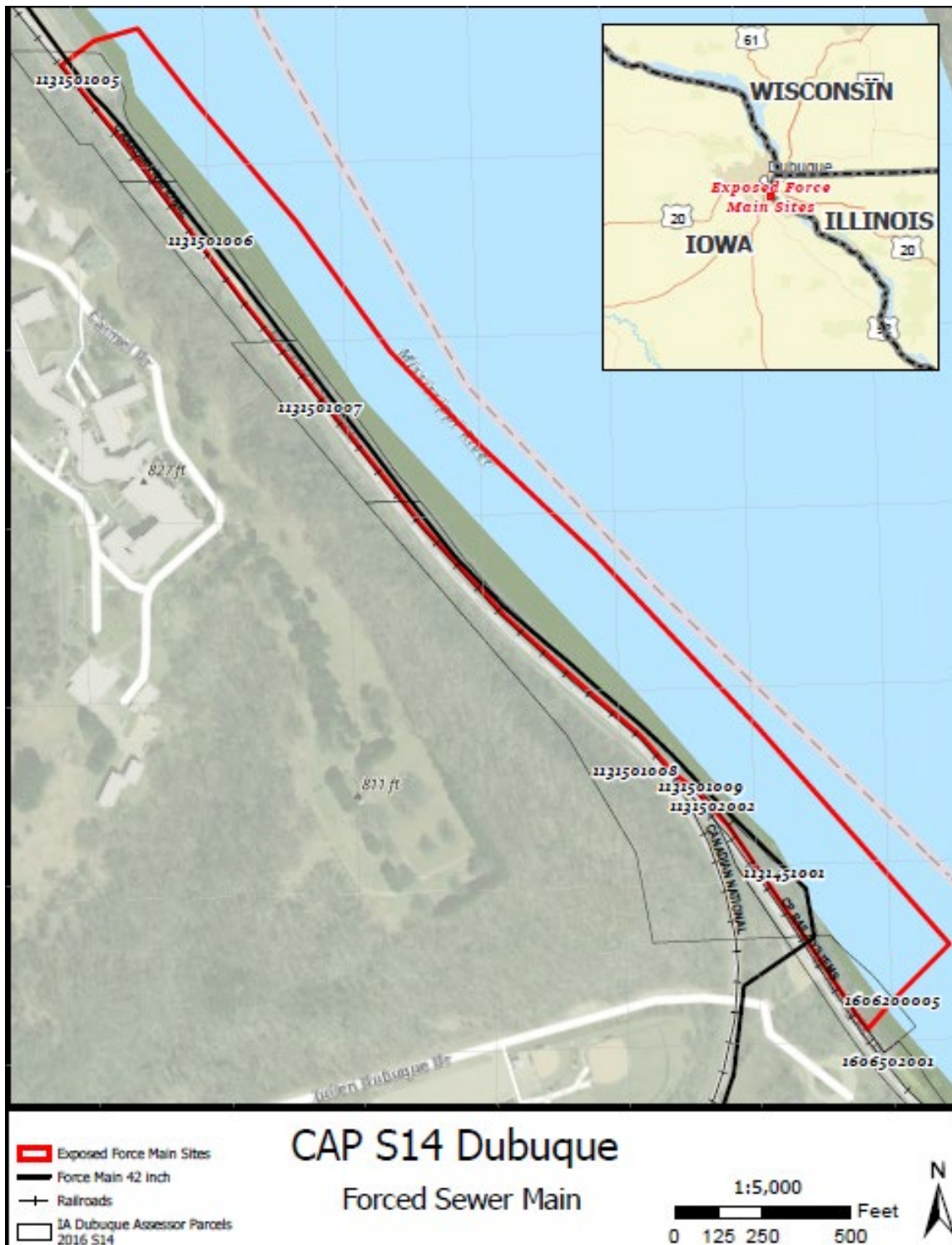


Figure B-1: Location and Vicinity Map

2. DESCRIPTION OF THE LANDS, EASEMENTS AND RIGHT-OF-WAYS REQUIRED FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF THE PROJECT

2.1. Description of Lands, Easements and Right-of-Ways Required for Construction, Operation and Maintenance of the Project. At the present time, the proposed Project area contains eight impacted parcels. Per the Dubuque County Assessor and the non-Federal Sponsor, the City of Dubuque owns two parcels: 11-31-451-001 and 16-06-200-005. According to the non-Federal Sponsor, the remaining parcels are owned or occupied by the Canadian National Railway: 11-31-501-005, 11-31-501-006, 11-31-501-007, 11-31-500-008, 11-31-501-009 and 16-06-502-001. All parcels are located within the City of Dubuque, Dubuque County, Iowa.

2.2. Number of Owners, Acres and Types of Easements. Ownership determination and acquisitions will be the responsibility of the non-Federal Sponsor. Table B-1 and Figures B-2 through B-9 reflect the tentative ownership determination of USACE Real Estate based upon information provided by the non-Federal Sponsor and publicly available data sources

Table B-1: Tentative Ownership Determination

Assessor Parcel No.	NFS-Identified Owner	Type of Easement	Acres
11-31-501-005	Canadian National Railway	Bank Protection Easement	+/- 0.28
11-31-501-006	Canadian National Railway	Bank Protection Easement	+/- 0.37
11-31-501-007	Canadian National Railway	Bank Protection Easement	+/- 0.37
11-31-501-008	Canadian National Railway	Bank Protection Easement	+/- 0.83
11-31-501-009	Canadian National Railway	Bank Protection Easement	+/- 0.09
11-31-451-001	City of Dubuque	Bank Protection Easement	+/- 0.52
16-06-200-005	City of Dubuque	Bank Protection Easement	+/- 0.46
16-06-502-001	Canadian National Railway	Bank Protection Easement	+/- 0.96

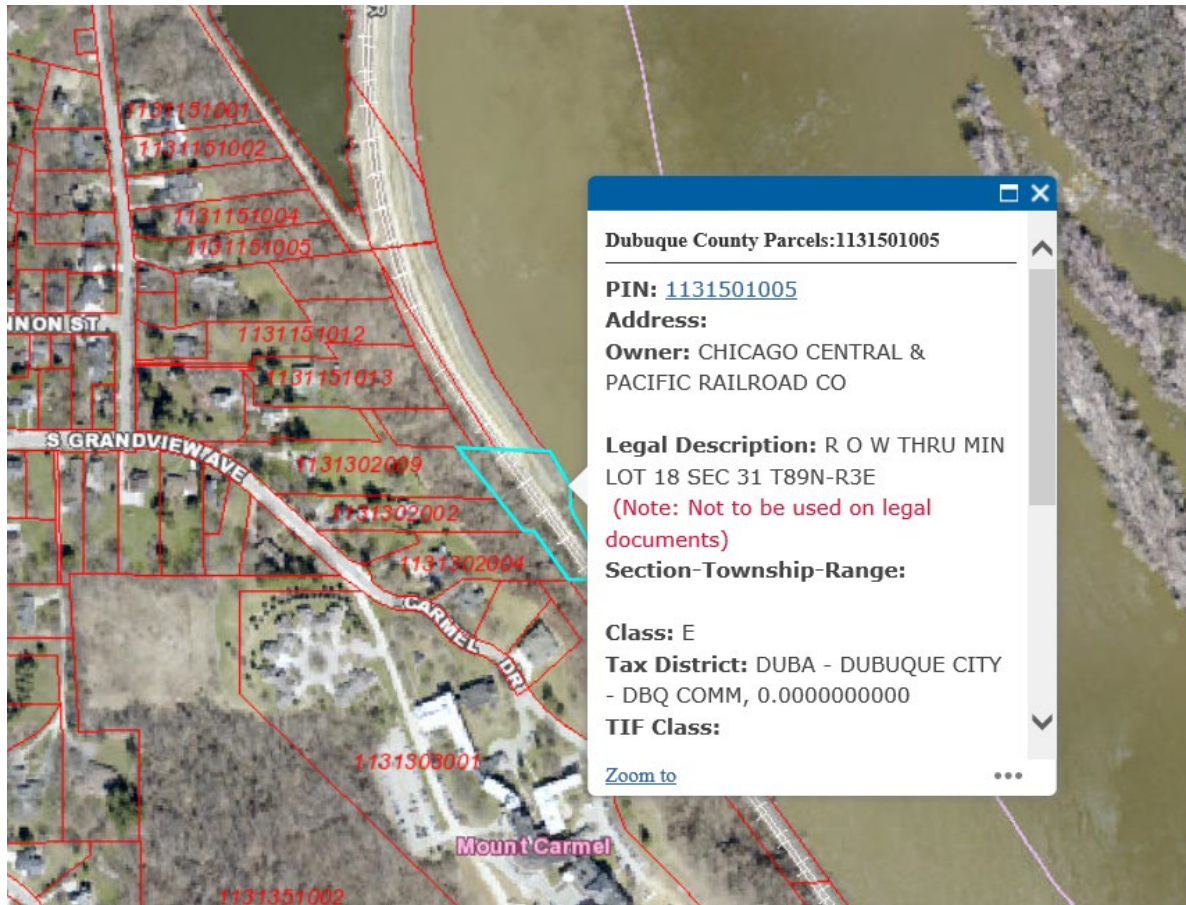


Figure B-2: Dubuque County Parcel 11-31-501-005 Map

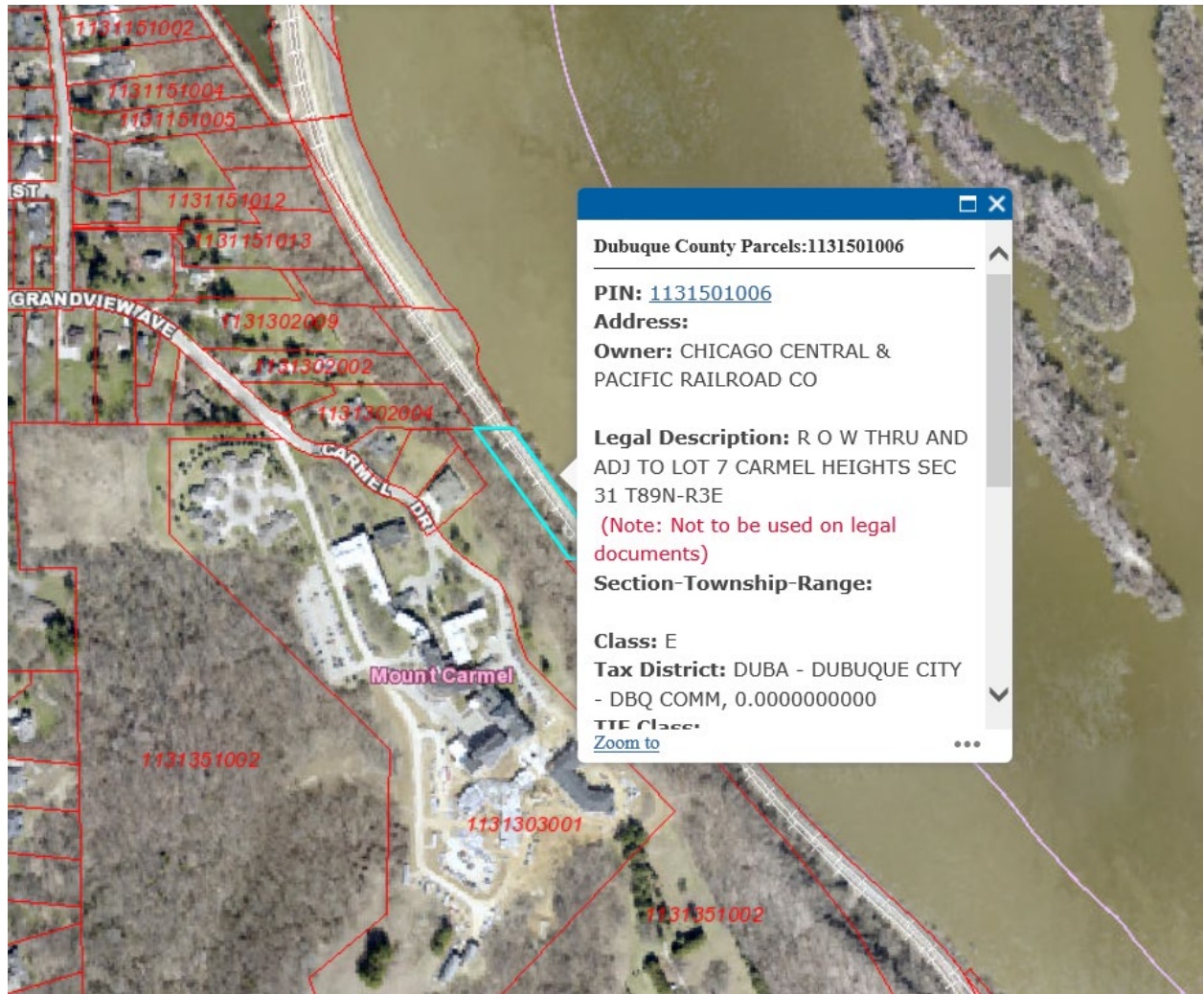


Figure B-3: Dubuque County Parcel 11-31-501-006 Map

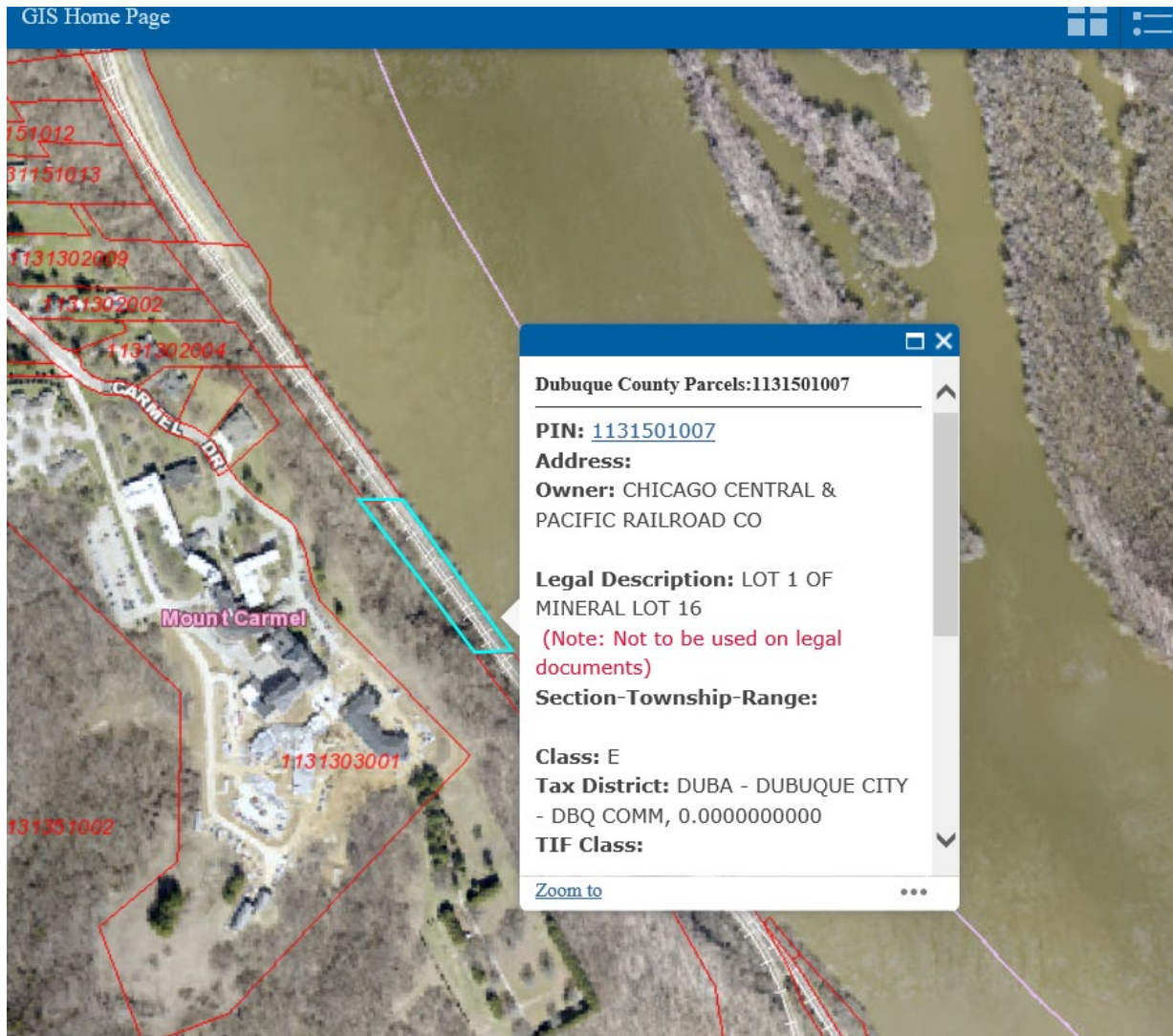


Figure B-4: Dubuque County Parcel 11-31-501-007 Map

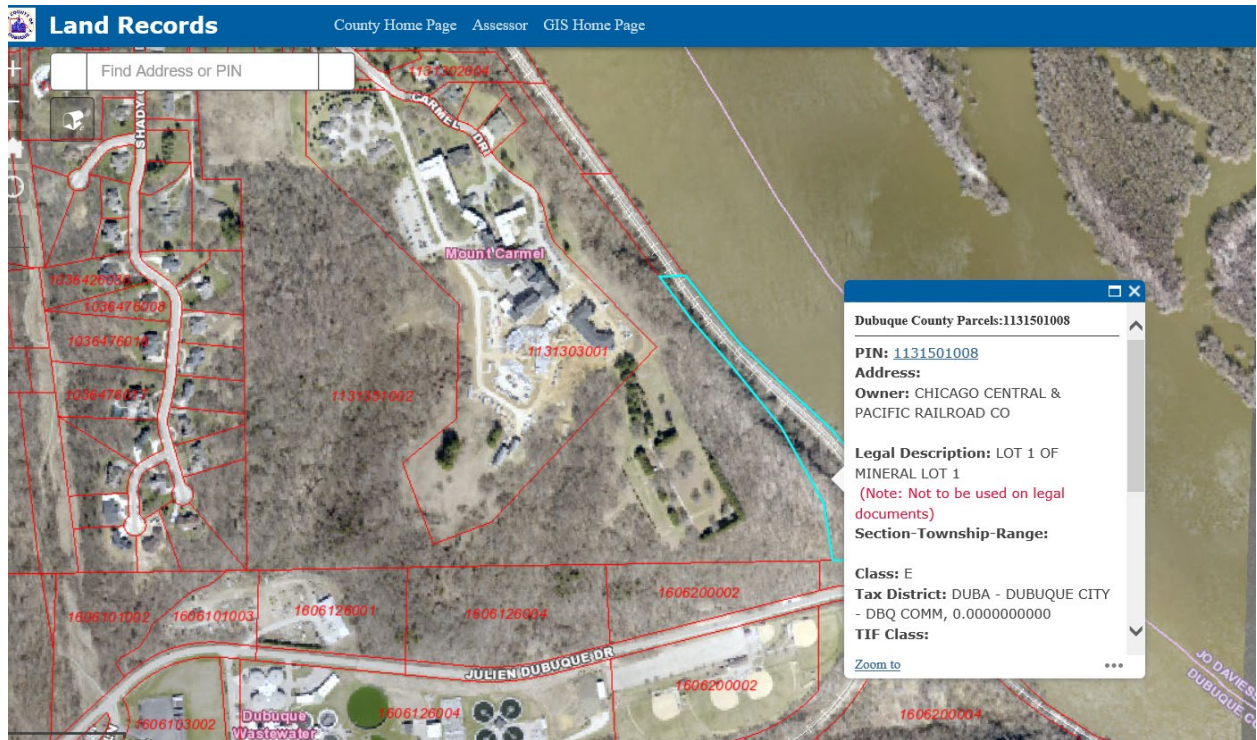


Figure B-5: Dubuque County Parcel 11-31-500-008 Map

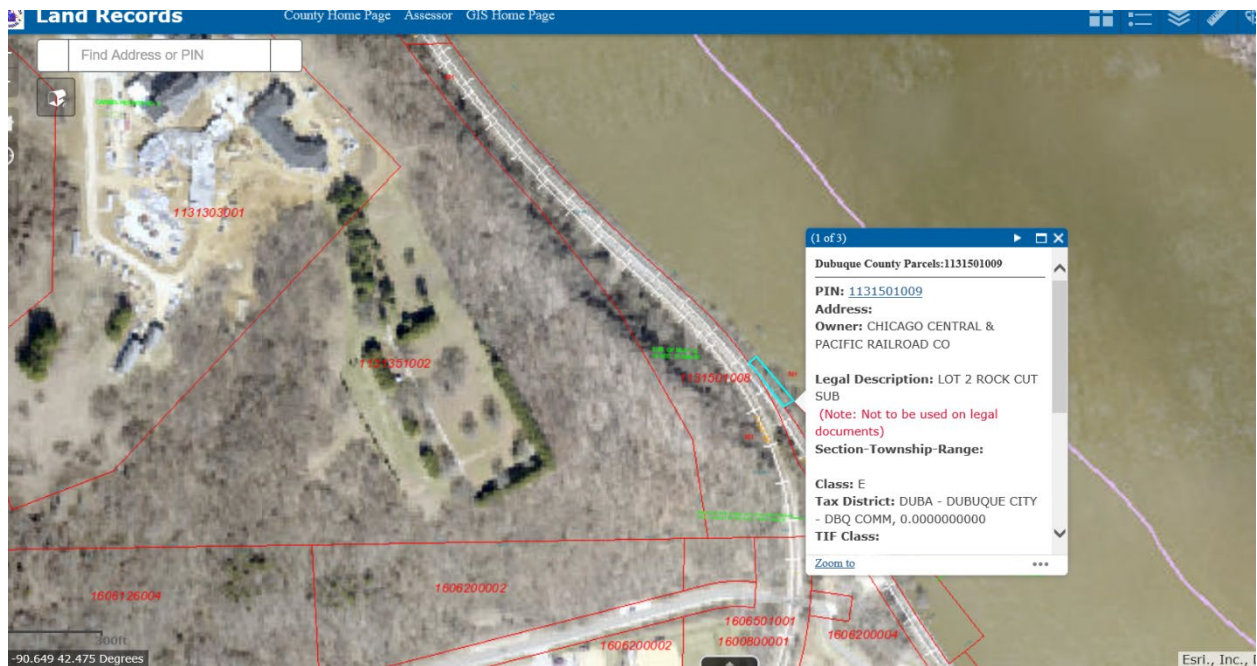


Figure B-6: Dubuque County Parcel 11-31-500-009 Map

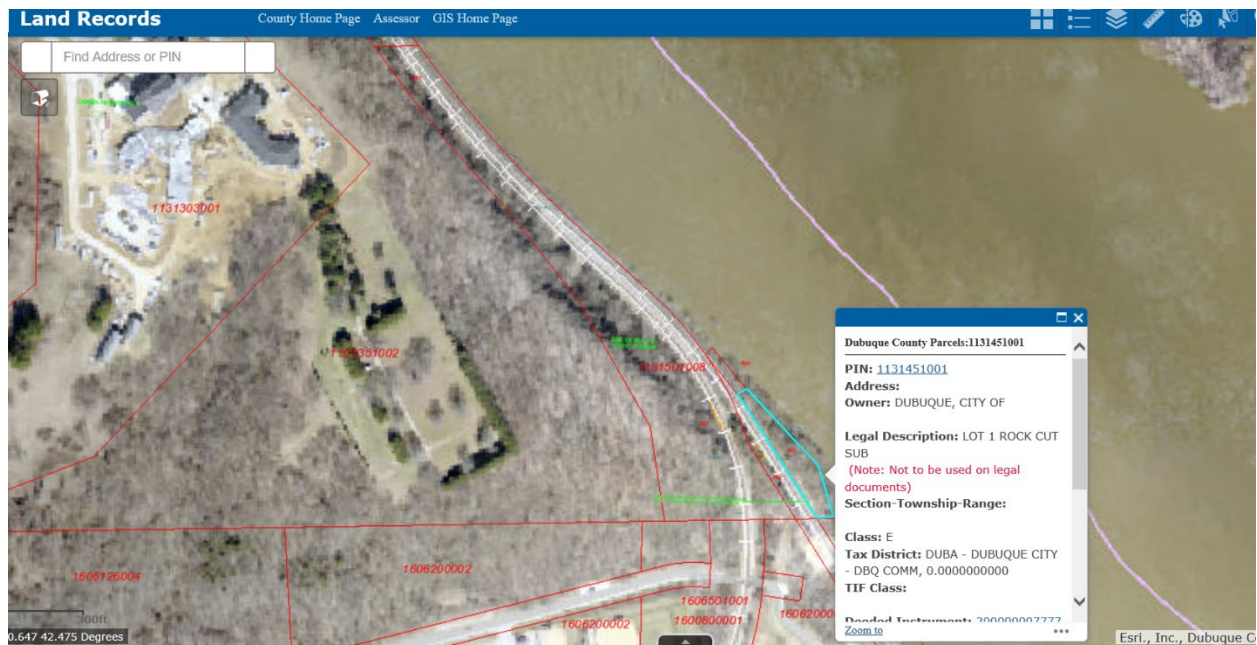


Figure B-7: Dubuque County Parcel: 11-31-451-001 Map

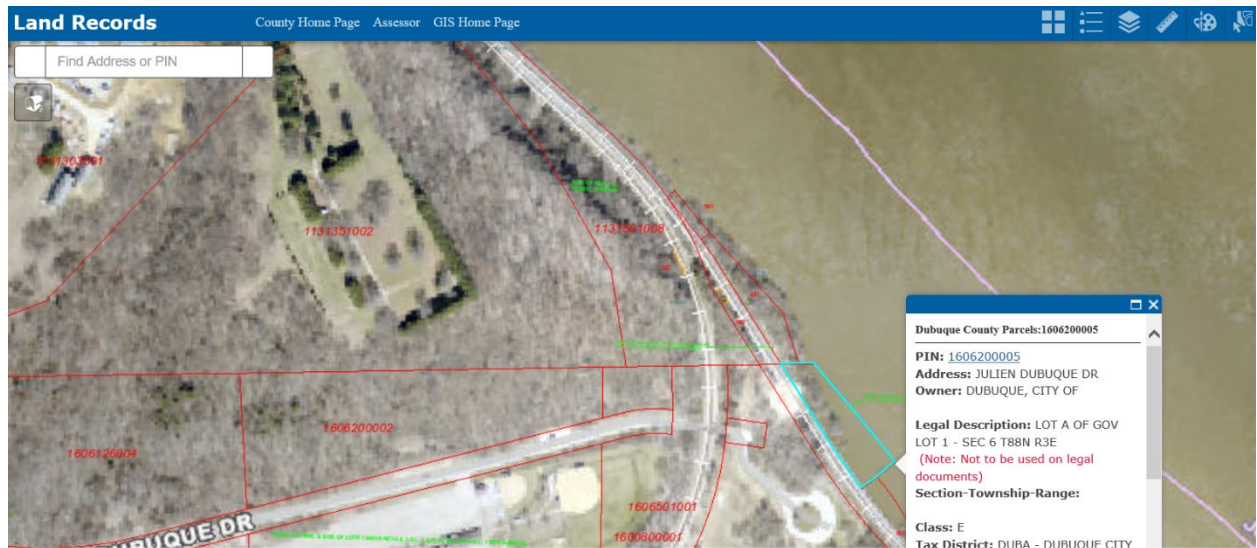


Figure B-8: Dubuque County Parcel: 16-06-200-005 Map

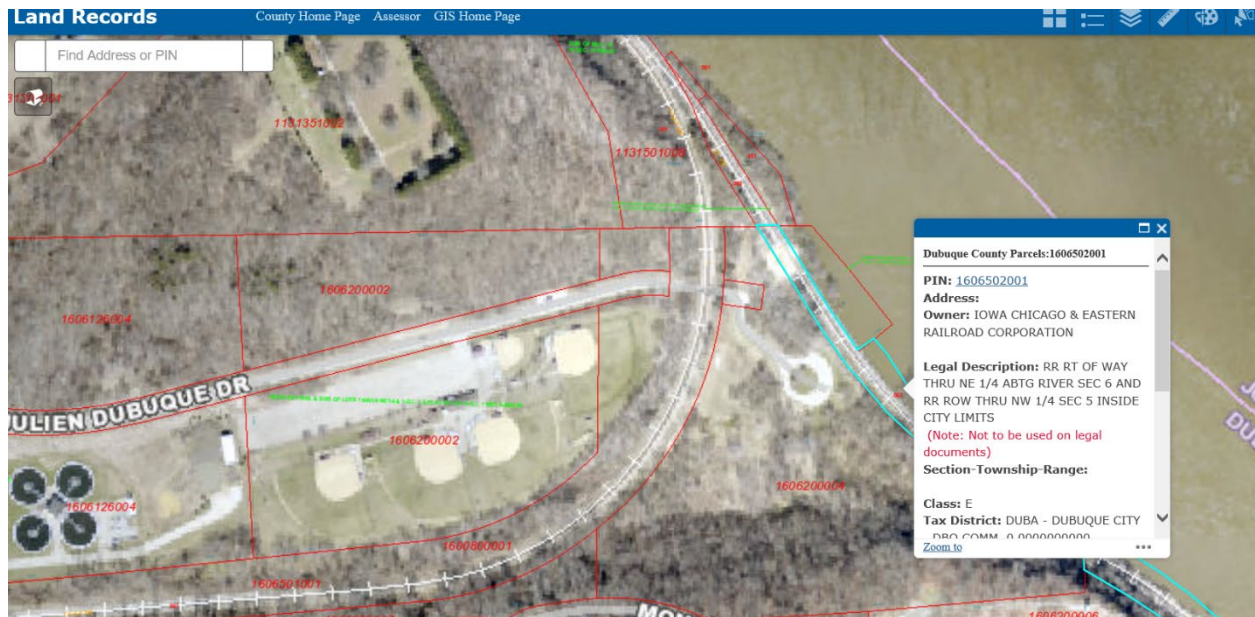


Figure B-9: Dubuque County Parcel 16-06-502-001 Map

Staging and Access. Access to the Project area will be by river with the utilization of barges. Staging has not yet been determined.

2.3. Estates to be Acquired

BANK PROTECTION EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across the land hereinafter described for the location, construction, operation, maintenance, alteration, repair, rehabilitation and replacement of a bank protection works, and for the placement of stone, riprap and other materials for the protection of the bank against erosion; together with the continuing right to trim, cut, fell, remove and dispose therefrom all trees, underbrush, obstructions, and other vegetation; and to remove and dispose of structures or obstructions within the limits of the right-of-way; and to place thereon dredged, excavated or other fill material, to shape and grade said land to desired slopes and contour, and to prevent erosion by structural and vegetative methods and to do any other work necessary and incident to the Project; together with the right of ingress and egress for such work; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however to existing easements for public roads and highways, public utilities, railroads and pipelines.

3. SPONSOR-OWNED LANDS

The non-Federal Sponsor owns two parcels, identified by the assessor as 11-31-451-001 and 16-06-200-005, and depicted in Figure B-7 and B-8.

4. PROPOSED NON-STANDARD ESTATES

It is not anticipated any non-standard estates will be required for this Project.

5. EXISTING FEDERAL OR OVERLAPPING PROJECTS

There are no known Federal projects within the proposed boundaries for this Project.

6. FEDERALLY-OWNED LANDS OR OVERLAPPING PROJECTS

There are no known federally-owned lands or overlapping projects impacted by this Project.

7. NAVIGATION SERVITUDE

The Project plan entails exercise of the Navigation Servitude, insofar as all work will be staged from the river with the use of barges and some placement of riprap will be below the ordinary high water mark. The Navigation Servitude is believed to be available, as this Project element is related to commerce and is to occur below the ordinary highwater mark of the Mississippi River, a navigable watercourse.

8. PROJECT MAP

See Figure B-1.

9. INDUCED FLOODING

No induced flooding will occur as a result of this Project that exists along the Mississippi River.

10. BASELINE COST ESTIMATE FOR REAL ESTATE

The total estimated cost for real estate, rounded to the nearest thousand, is \$129,600.00.

Cost Estimates are not appraisals. Value conclusions from Cost Estimates are not intended to be utilized in approval decision, Project authorization, or funding documents, except CAP projects. If Cost Estimates are used in decision or funding documents, the Program Managers, Realty Specialists, or other decision makers doing so **need to confirm in writing** that they understand the **increased risks** associated with using Cost Estimates in this manner. (ER 405-1-04, Real Estate, Appraisal, 29 Jan 2016, Paragraph 4-17, Pages 4-10).

11. RELOCATION ASSISTANCE BENEFITS, PUBLIC LAW 91-646

The Project does not require any relocation of persons, farms, or businesses. Even though there are no relocation assistance benefits for the Project, the real property acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (P.L. 91-646) are still applicable and must be followed by the non-Federal Sponsor.

12. MINERAL OR TIMBER ACTIVITY OR HARVESTING

There is no known mineral activity occurring or anticipated in the vicinity of the proposed Project that may affect construction, operation, or maintenance of the Project. There is no known timber harvesting activity anticipated for the Project.

13. NON-FEDERAL SPONSOR'S LEGAL AND PROFESSIONAL ACQUISITION CAPABILITY TO ACQUIRE LANDS, EASEMENTS AND RIGHT-OF-WAYS

For the Project, the City of Dubuque is acting as the non-Federal Sponsor. The non-Federal Sponsor does have eminent domain authority for the Project pursuant to Iowa Code Section 6A.4. The non-Federal Sponsor does not have quick-take authority.

The Uniform Act requirements, the crediting requirements, and the ability of the non-Federal Sponsor to do the acquisition have been discussed with the non-Federal Sponsor. The non-Federal Sponsor is versed in acquisition work. The non-Federal Sponsor's in-house staff does have sufficient real estate acquisition experience to meet the responsibilities of the Project based upon the City's responses to the non-Federal Sponsor Acquisition Capabilities Form. The City is in contact with an attorney who may do the acquisitions on the City's behalf.

The non-Federal Sponsor Acquisition Capability Form is attached as Exhibit A.

14. ZONING ORDINANCE REQUIREMENTS

No application or enactment of zoning ordinances is anticipated.

15. ACQUISITION SCHEDULE

The non-Federal Sponsor is working on acquiring permanent easements. As of the date of the Real Estate Plan, it is anticipated it will take the non-Federal Sponsor 6-12 months or longer to complete the land acquisition process with the Canadian National Railway.

16. PUBLIC UTILITY OR FACILITIES RELOCATIONS, ALTERATIONS OR REPLACEMENTS

There are not currently any planned facility or utility relocations.

17. HAZARDOUS, TOXIC AND RADIOACTIVE WASTE (HTRW)

The Environmental Report concluded that no evidence of Recognized Environmental Conditions has been revealed that could potentially affect the Study Area. See Appendix E.

18. LANDOWNER OPPOSITION OR PUBLIC CONCERNS

The Canadian National Railway has been identified by the non-Federal Sponsor as current property owner that has parcels impacted by the Project. Although, the Chicago, Milwaukee St. Paul and Pacific Railroad Company granted a license to the City of Dubuque in 1956 and the Illinois Central Railroad Company granted licenses to the City of Dubuque in 1957 and 1969 when the sewer mains were installed, the licenses do not provide for the necessary rights to operate, maintain, repair, replace and rehabilitate the City's sanitary sewer main. Therefore, the non-Federal Sponsor has enlisted the assistance of an attorney to work on the acquisition of the needed Bank Protection Easements from the Canadian National Railway. However, there are uncertainties associated with real estate acquisitions from railroads, which could lead to potential challenges to meet Project deadlines.

Public meetings will be occurring in the future to determine any public concerns.

19. NOTIFICATION OF RISKS OF ACQUIRING LANDS BEFORE EXECUTION OF THE PROJECT PARTNERSHIP AGREEMENT

The Official Risk Letter regarding acquisition of lands prior to the execution of the Project Partnership Agreement was sent to the City on June 3, 2021. A copy of the letter is attached as Exhibit B.

20. OTHER RELEVANT REAL ESTATE ISSUES

None.

Date: _____

Prepared by:

Martha L. Cox, Realty Specialist
Planning & Acquisition Branch,
Real Estate Division
USACE Rock Island District

Date: _____

Approved by:

Steven W. Stickle
Chief, Acquisition Branch
Real Estate Contracting Officer
USACE Rock Island District

Date: _____

Approved by:

Brad C. Houzenga
Chief, Real Estate Division

EXHIBIT A

Non-Federal Sponsor Capabilities Assessment Form

**ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY**

I. LEGAL AUTHORITY

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? (yes/no) **Yes**
- b. Does the sponsor have the power of eminent domain for this project?(yes/no) **Yes, per Iowa Code 6A.4 Right conferred. The right to take private property for public use is hereby conferred: 6. Cities. Upon all cities for public purposes which are reasonable and necessary as an incident to the powers and duties conferred upon cities.**
- c. Does the sponsor have "quick-take" authority for this project? (yes/no) **No**
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? (yes/no) **No**
- 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) **No**

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) **No City staff involved have been involved with the acquisition of property following Federal Uniform Relocation Act policies and guidelines.**
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? (yes/no) **N/A**
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?(yes/no) **Yes**
- d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?(yes/no) **Yes**
- e. Can the sponsor obtain contractor support, if required in a timely fashion? (yes/no) **Yes**

Will the City of Dubuque obtain a contractor to work on real estate requirements, or does the City of Dubuque plan on performing the real estate requirements? **The City of Dubuque plans on performing real estate requirements.**

f. Will the sponsor likely request USACE assistance in acquiring real estate? (yes/no) (If "yes," provide description) **No**

If yes, please note that USACE land acquisition on behalf of a NFS usually requires execution of a Memorandum of Understanding containing a detailed scope and cost of the work to be done.

III. OTHER PROJECT VARIABLES

Will the sponsor's staff be located within reasonable proximity to the project site? (yes/no) **Yes**

a. Has the sponsor approved the project/real estate schedule/milestones?(yes/no) **Yes**

IV. OVERALL ASSESSMENT

a. Has the sponsor performed satisfactorily on other USACE projects?(yes/no/not applicable) **Yes**

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

V. COORDINATION

a. Has this assessment been coordinated with the sponsor?(yes/no) **Yes**

b. Does the sponsor concur with this assessment? (yes/no) (If "no," provide explanation.) **Yes.**

Date: _____

Prepared by:

Martha L. Cox, Realty Specialist
Planning & Acquisition Branch,
Real Estate Division
USACE Rock Island District

Date: _____

Approved by:

Matthew A. Quinn
Chief, Acquisition Branch
Real Estate Contracting Officer
USACE Rock Island District

EXHIBIT B

Official Risk Letter



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, ROCK ISLAND DISTRICT
PO BOX 2004 CLOCK TOWER BUILDING
ROCK ISLAND, ILLINOIS 61204-2004

June 2, 2021

Real Estate Division

Mr. Deron Muehring, City of Dubuque Engineer
City of Dubuque City Hall
50 West 13th Street
Dubuque, Iowa 52001
Via email to: Dmuehrin@cityofdubuque.org

SUBJECT: City of Dubuque Forced Sewer Main CAP Sec. 14 Project

Dear Mr. Muehring:

The Rock Island District, Corps of Engineers (Corps) is in partnership with the City of Dubuque, Dubuque County, Iowa regarding the proposed City of Dubuque Forced Sewer Main Sec. 14 Project on the Mississippi River.

The Corps wants to make sure that the City of Dubuque, as the non-Federal sponsor, is aware that the Corps does not encourage land acquisition prior to the execution of a Project Partnership Agreement (PPA) with the intent to use it specifically for the proposed project. There may be instances where the non-Federal sponsor chooses to acquire land it anticipates will be required for the proposed project prior to execution of the PPA or prior to the Corps' formal notice to proceed with acquisition after PPA execution. The non-Federal sponsor should be aware of the risks associated with the pre-PPA acquisitions and that they assume full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort. Generally, these risks include, but may not be limited to, the following:

- a. Congress may not appropriate funds to construct the proposed project;
- b. The proposed project may otherwise not be funded or approved for construction;
- c. A PPA mutually agreeable to the non-Federal sponsor and the Corps may not be executed and implemented;
- d. The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interest therein, whether such liability should arise of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;

SUBJECT: City of Dubuque Forced Sewer Main CAP Sec. 14 Project

- e. The non-Federal sponsor may acquire interest or estates that are later determined by the Corps to be inappropriate, insufficient, or otherwise not required for the project;
- f. 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 the PPA execution and the Corps' notice to proceed with acquisition and performance of LERRD;
- g. 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 Corps' notice to proceed which may not be creditable under the provision of P.L. 99-662 or the PPA.

It is the policy of the Corps to work with the non-Federal sponsor to ensure that all the appropriate LERRD credits are awarded. Should the City of Dubuque decide to acquire any land solely for the proposed Emergency Streambank and Shoreline Protection Project prior to the execution of a PPA, it is strongly advised that they consult with the Corps Rock Island District Real Estate Office.

We look forward to continuing to work with you and your staff on this project and appreciate your cooperation. If additional information or assistance is needed, please feel free to contact Ms. Martha Cox at 309-794-5046 or martha.l.cox@usace.army.mil.

Sincerely,

Matthew A. Quinn,
Chief, Acquisition Branch
Real Estate Contracting Officer
USACE Rock Island District

cc: Todd Irwin, City of Dubuque, Engineering Technician, Tirwin@cityofdubuque.org
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Gus Psihoyos, City of Dubuque, City Engineer, Gpsihoyos@cityofdubuque.org
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