

ROYAL RIVER, YARMOUTH, MAINE SECTION 206, AQUATIC ECOSYSTEM RESTORATION

APPENDIX D: Draft Real Estate Plan



October 2024



US Army Corps
of Engineers®
New England District



PREPARED BY:

**U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT**

**EFFECTIVE DATE:
OCTOBER 2024**

**ROYAL RIVER, YARMOUTH, MAINE
SECTION 206 AQUATIC ECOSYSTEM RESTORATION
DRAFT INTEGRATED DETAILED PROJECT REPORT
& ENVIRONMENTAL ASSESSMENT**

TABLE OF CONTENTS

1.0	Statement of Purpose	1
1.1	Purpose	1
1.2	Study Authorization	1
1.3	Non-Federal Sponsor	1
2.0	Real Estate Requirements	1
2.1	Tentatively Selected Plan	1
2.2	Required Lands, Easements, and Rights-of-Way	2
2.3	Land Value Estimate	3
3.0	Real Estate Owned by the Non-Federal Sponsor	5
4.0	Non-standard Estates	5
5.0	Existing Federal Projects	5
6.0	Federally Owned Land	5
7.0	Federal Navigational Servitude	6
8.0	Real Estate Mapping	6
9.0	Induced Flooding	6
10.0	Baseline Cost Estimate for Real Estate	6
11.0	Uniform Relocation Assistance (Public Law 91-646)	6
12.0	Minerals and Timber Activity	7
13.0	Non-Federal Sponsor Capability Assessment	7
14.0	Land Use Zoning	7
15.0	Real Estate Acquisition Schedule	7
16.0	Facility and Utility Relocations	7
17.0	Environmental Contamination	7
18.0	Project Public Support	7
19.0	Non-Federal Sponsor Risk Notification	8
20.0	Other Pertinent Information	9

LIST OF FIGURES

Figure 1: The Study Area.....	2
Figure 2: Aerial View of the Bridge Street Dam.....	3
Figure 3: Aerial View of the East Elm Street Dam.....	4
Figure 4: Aerial View of Middle Falls.....	4

LIST OF TABLES

Table 1: Required LERRD.....	2
Table 2: Land Value Estimate.....	3
Table 3: Real Estate Requirement Costs.....	6
Table 4: Project Schedule.....	7

LIST OF EXHIBITS

- Exhibit A:** Real Estate Map
Exhibit B: Non-Federal Sponsor Capability Assessment

LIST OF ACRONYMS

IVE	Informal Value Estimate
LERRD	Lands, Easements, Right- of-Ways, Relocations and Disposal Areas
NFS	Non-Federal Sponsor
REP	Real Estate Plan
TSP	Tentatively Selected Plan
TWAE	Temporary Work Area Easement

1.0 STATEMENT OF PURPOSE

1.1 PURPOSE

The purpose of this Real Estate Plan (REP), prepared in accordance with Engineering Regulation 405-1-12, is to describe the minimum Lands, Easements, Right- of-Ways, Relocations and Disposal Areas (LERRD) required for the construction, operation and maintenance of the proposed project described in the Royal River, Yarmouth, Maine Section 206, Aquatic Ecosystem Restoration Project, Draft Integrated Detailed Project Report & Environmental Assessment (the “main report”). This REP is the first prepared for the main report. This REP was prepared during a feasibility level study at a low-level project design. The LERRD requirements and cost presented herein are preliminary in nature for planning purposes only and may change with plan optimization leading to a final design of the proposed project.

1.2 STUDY AUTHORIZATION

The Royal River, Yarmouth, Maine Section 206, Aquatic Ecosystem Restoration Project, Draft Integrated Detailed Project Report & Environmental Assessment is authorized by Section 206 of the Water Resources Development Act of 1996, Public Law 104-303, as amended. Section 206 provides programmatic authority for the U.S. Army Corps of Engineers to carry out aquatic ecosystem restoration projects that improve environmental quality, are in the public interest, and are cost effective. The project examines the feasibility of restoring riverine fish passage and aquatic habitat on the Royal River. The project area encompasses two low head dams (Bridge Street and East Elm Street Dams) and one natural fall (Middle Falls) on the river.

1.3 NON-FEDERAL SPONSOR

The Non-Federal Sponsor for the project is the Town of Yarmouth, ME, who will perform or ensure the performance of the LERRD requirements outlined in this REP.

2.0 REAL ESTATE REQUIREMENTS

2.1 TENTATIVELY SELECTED PLAN

The Royal River Detailed Project Report recommends Alternative 2: East Elm Street and Bridge Street Dam and Fish Ladder Removal + Middle Falls Side Channel Modification. This recommendation is the National Ecosystem Restoration plan. It is a structural (demolition) plan and has no nonstructural or environmental mitigation elements. The Tentatively Selected Plan (TSP) has the following components:

Bridge Street Dam

- Removal of the dam structure across the entire width of the river (approximately 275 linear feet).
- Removal of the entire fish ladder on the right descending bank (looking downstream towards mouth of river).
- Protection of the penstock and associated intake structure on the left descending bank (looking downstream towards mouth of river).

East Elm Street Dam

- Removal of an approximately 120 linear foot section of the dam.
- Removal of entire fish ladder on the right descending bank (looking downstream towards mouth of river).
- Protection of the dam spillway on the left descending bank (looking downstream towards mouth of river).

Middle Falls Side Channel Modification

- Installation of diversion structure (boulders) at the top of Middle Falls to divert streamflow into the side channel.
- Flow in the side channel will be monitored for capacity to pass fish and additional interventions may be executed as part of an adaptive management plan.

2.2 REQUIRED LANDS, EASEMENTS, AND RIGHTS-OF-WAY

Bridge Street Dam. Two temporary work area easements are required for a period of three years over public and privately owned lands.

East Elm Street Dam. Two temporary work area easements are required for a period of three years over public and privately owned lands. Sponsors parcel 42-51 shares work areas with Middle Falls.

Middle Falls Side Channel Modification. Four temporary work area easements are required for a period of three years over public and privately owned lands. Sponsors parcel 42-51 shares work areas with East Elm Street.

Table 1: Required LERRD*

	Estate Type	Ownership Type	Number of Acres	Number of parcels
Bridge Street Dam	TWAE	Private	0.18	1
	TWAE	Sponsor	0.21	1
Elm Street Dam	TWAE	Private	0.14	1
	TWAE	Sponsor	1.27	1 (parcel divided by river; other portion supports Middle Falls Channel)
Middle Falls Channel	TWAE	Private	0.13	1
	TWAE	Sponsor	1.01	2 (third parcel is also used for Elm St Dam and included there)
Total			2.94	7

**Work will also be conducted in the Royal River for each segment of the project. No easement is required for the work in the river; the State's issuance of a 401(c) Water Quality Permit under the Clean Water Act is sufficient right to conduct the work.*

2.3 LAND VALUE ESTIMATE

A Brief Appraisal incorporating Informal Value Estimate (IVE) guidelines of the required TWAE was completed by a licensed US Army Corps of Engineers staff appraiser and has an effective date of July 15, 2024. The land value estimate is consistent with Real Estate Policy Guidance Letter No. 31 – Real Estate Support to Civil Works Planning.

Table 2: Land Value Estimate

	Estate Type	Estimated Land Value
Bridge St Dam	TWAE	\$250
Elm St Dam	TWAE	\$900
Middle Falls Channel	TWAE	\$750
Total LER Value		\$1900

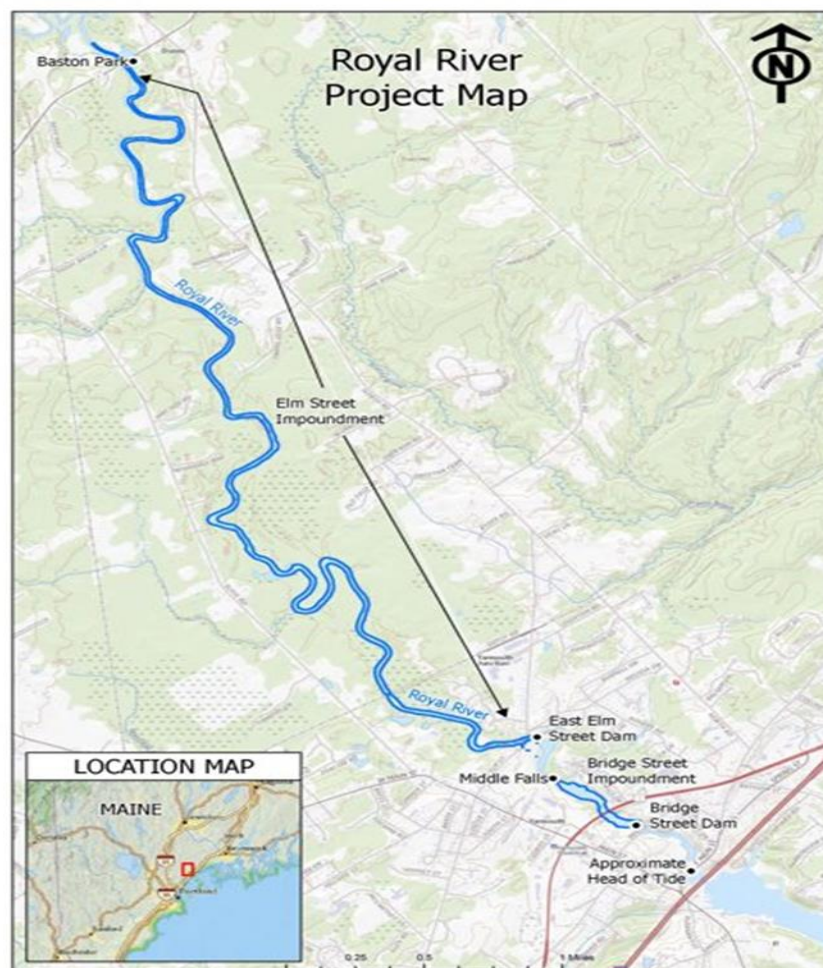


Figure 1: The Study Area



Figure 2: Aerial View of the Bridge Street Dam



Figure 3: Aerial View of the East Elm Street Dam



Figure 4: Aerial View of Middle Falls

3.0 REAL ESTATE OWNED BY THE NON-FEDERAL SPONSOR

The Town of Yarmouth, Maine, the Non-Federal Sponsor (NFS) owns 2.49 acres of lands that are required for the project. The existing ownership is fee, and the required estate is a three-year temporary work area easement, of which 5 out of the 8 proposed estates are owned by the Town. The existing ownership is sufficient and available for the project. New England District Real Estate has discussed the process of acquisition that the NFS must undertake to authorize use of their lands or make them available for the project, and also the process the NFS must undertake to acquire use of lands by private properties identified in the proposed site plans. Currently there are no obstacles expected with conflicting land uses or resistance from private property owners.

4.0 NON-STANDARD ESTATES

There are no non-standard estates proposed for the project.

5.0 EXISTING FEDERAL PROJECTS

There are no existing Federal projects located within the project footprint.

6.0 FEDERALLY OWNED LAND

There are no existing federal lands included within the required LERRD for the proposed project.

7.0 FEDERAL NAVIGATIONAL SERVITUDE

Since the Royal River is not a waterway that facilitates interstate commerce and the proposed project is an ecosystem restoration project with a lack of a nexus to a navigation purpose, the federal navigational servitude is not available for the TSP.

8.0 REAL ESTATE MAPPING

Real Estate Maps are provided in **Exhibit A**. The parcel data set depicted on the map is not intended for use as a tax map. The lot boundaries delineated therein do not represent legal boundaries and should not be used to provide a legal determination of land ownership. The parcels boundaries are not survey data and should not be used as such. There may be boundary discrepancies between what is shown on the real estate map and the property's actual deeded boundary. The GIS tax parcel data obtained is intended for planning purposes only to provide a reasonable representation of parcel boundaries and the LERRD required for the proposed project. Surveys of the final design are needed to determine the Temporary Work Area Easement (TWAE) precise location on properties based on the property's deeded legal description.

9.0 INDUCED FLOODING

There is no evidence from the study that the proposed project will induce flooding in new areas or increase in existing flood prone areas.

10.0 BASELINE COST ESTIMATE FOR REAL ESTATE

The BCERE establishes the estimated financial costs (for both the Government and Sponsor) that are attributed to the proposed project's real estate requirements. It consists of the 01-Lands & Damages, 02-Relocation (utilities/facilities), and 30-Planning, Engineering and Design project cost accounts. The 01-account includes all Sponsor land acquisition administrative expenses. The 02-account includes the cost to relocate any required utility or facility to construct, operate, or maintain the proposed project including any land acquisition cost associated with said relocation, which there are none for the proposed project. The 30-account includes all federal administrative costs. The below table summarizes the real estate costs that has been estimated for the proposed project.

Table 3: Real Estate Requirement Costs

PROJECT COST CATEGORY	COST	CONTGY (%)	CONTGY (\$)	TOTAL COST
01-Land and Damages	\$ 68,000	% 15	\$ 10,000	\$ 78,000
02-Relocation (Utility/Facility)	\$ 0	% 0	\$ 0	\$ 0
30-PED	\$ 18,300	% 15	\$ 2,700	\$ 21,000
TOTAL	\$ 86,300	% 15	\$ 12,700	\$ 99,000

11.0 UNIFORM RELOCATION ASSISTANCE (PUBLIC LAW 91-646)

The proposed project does not require the displacement of residences and/or

businesses.

12.0 MINERALS AND TIMBER ACTIVITY

There is no present or anticipated mining and drilling activity in the vicinity of the project that may affect project purposes and the operation thereof. No timber harvesting activities are anticipated to occur within the proposed project footprint.

13.0 NON-FEDERAL SPONSOR CAPABILITY ASSESSMENT

A copy of the Non-Federal Sponsor Capability Assessment form is provided in **Exhibit B**. It has been coordinated with the Sponsor, who is deemed fully capable of providing the required LERRD for the construction, operation, and maintenance of the project.

14.0 LAND USE ZONING

There are no zoning ordinances currently proposed to be enacted or applied in lieu of or to facilitate acquisition of any LERRD in connection with this project.

15.0 REAL ESTATE ACQUISITION SCHEDULE

A projected schedule has been developed based on the assumption that federal and non-Federal funds will be available. The acquisition schedule has been coordinated with the Sponsor and they approve the schedule. The tentative schedule for project completion is represented as follows.

Table 4: Project Schedule

Milestone	Forecasted Dates
Project Partnership Agreement Executed	August 2025
Notice to Proceed with Acquisition Sent To NFS	Feb 2026
NFS provides Authorization for Entry for Construction	Nov 2026
USACE Certification of Real Estate	Dec 2026
Construction Contract Ready To Advertise Date	Jan 2027
USACE's Award of Construction Contracts	March 2027

16.0 FACILITY AND UTILITY RELOCATIONS

There are no utility or facility relocations anticipated or currently required within the proposed project.

17.0 ENVIRONMENTAL CONTAMINATION

There are no known or suspected presence of Hazardous, Toxic, or Radioactive Waste located in, on, under, or adjacent to the real estate required for the proposed project.

18.0 PROJECT PUBLIC SUPPORT

Landowner attitudes vary within the footprint. While most landowners have expressed support for the general mission of the study, support has varied across the proposed alternatives based on potential effectiveness and property impacts. A Landowner Meeting will be held at the appropriate time and there has been one Public Meeting where Real Estate issues have been discussed with impacted landowners. One landowner abutting the Bridge Street Dam may object to leaving the penstock in place when the dam and fish passage are removed. There are several landowners abutting the East Elm Street Dam and Gooch Island that is located directly downstream of the dam, who have expressed concern about the potential lack of water flow around the back channel of the island, the aesthetic impact on their properties and a perceived loss of recreational opportunities after project completion. The completion of the project may be delayed or not successful if the Town is unable to gain overall public support through effective communication of the general mission of the study and the significance of the overall ecological restoration mission.

19.0 NON-FEDERAL SPONSOR RISK NOTIFICATION

By letter dated June 13, 2024, a formal written notice was provided to the Sponsor on the risks associated with acquiring the real estate for the Recommended Plan in advance of signing a PPA. Those risks include, but may not be limited to, the following:

- a. Congress may not appropriate funds to construct the recommended plan;
- b. The recommended plan may otherwise not be funded or approved for construction;
- c. A PPA mutually agreeable to the NFS and the Federal Government may not be executed and implemented;
- d. The NFS may incur liability and expense by virtue of its ownership of contaminated lands, or interests, whether such liability should arise out of local, state, or Federal laws or regulations, including liability arising out of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended;
- e. The NFS may acquire interests or estates that are later determined by the Federal Government to be inappropriate, insufficient, or otherwise not required for the project;
- f. The NFS may initially acquire insufficient or excessive real property acreage, which may result in additional negotiations and/or benefit payments under Public Law 91-646 (Uniform Relocation Assistance); as well as the payment of additional fair market value to the affected landowners, which could have been avoided by delaying acquisition until after PPA execution and the Federal Government's notice to commence acquisition and performance of LERRD; and
- g. The NFS may incur costs or expenses in connection with its decision to acquire the LERRD in advance of the executed PPA and the Federal Government's notice to proceed with LER acquisition, which may not be creditable under the provisions of

Public Law 99-662 (Water Resources Development Act of 1986) or the Project Partnership Agreement.

20.0 OTHER PERTINENT INFORMATION

No other information to discuss.

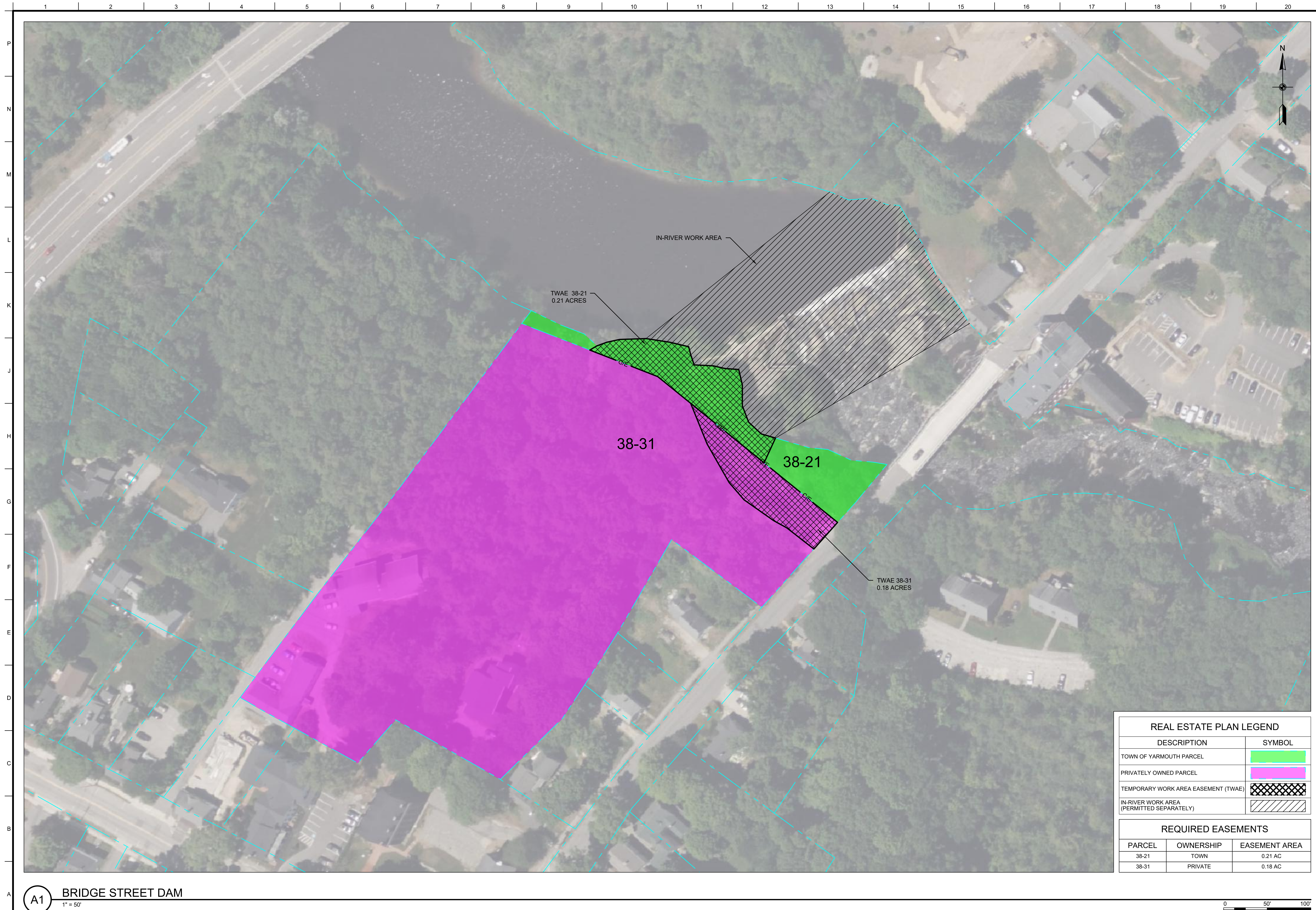
PREPARER:

NAME: William C. Mehr III
TITLE: Realty Specialist

DISTRICT CHIEF OF REAL ESTATE

NAME: Timothy W. Shugert
TITLE: NAE District Chief of Real Estate

Exhibit A: Real Estate Map



**U.S. Army Corps
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DRAWN BY: K. HEBARD CHECKED BY: SUBMITTED BY: DRAWING CODE: ROT-206-20-01 SHEET 1 OF 2	SOLICITATION NO.:
	CONTRACT NO.:
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YARMOUTH, MAINE

BRIDGE STREET DAM

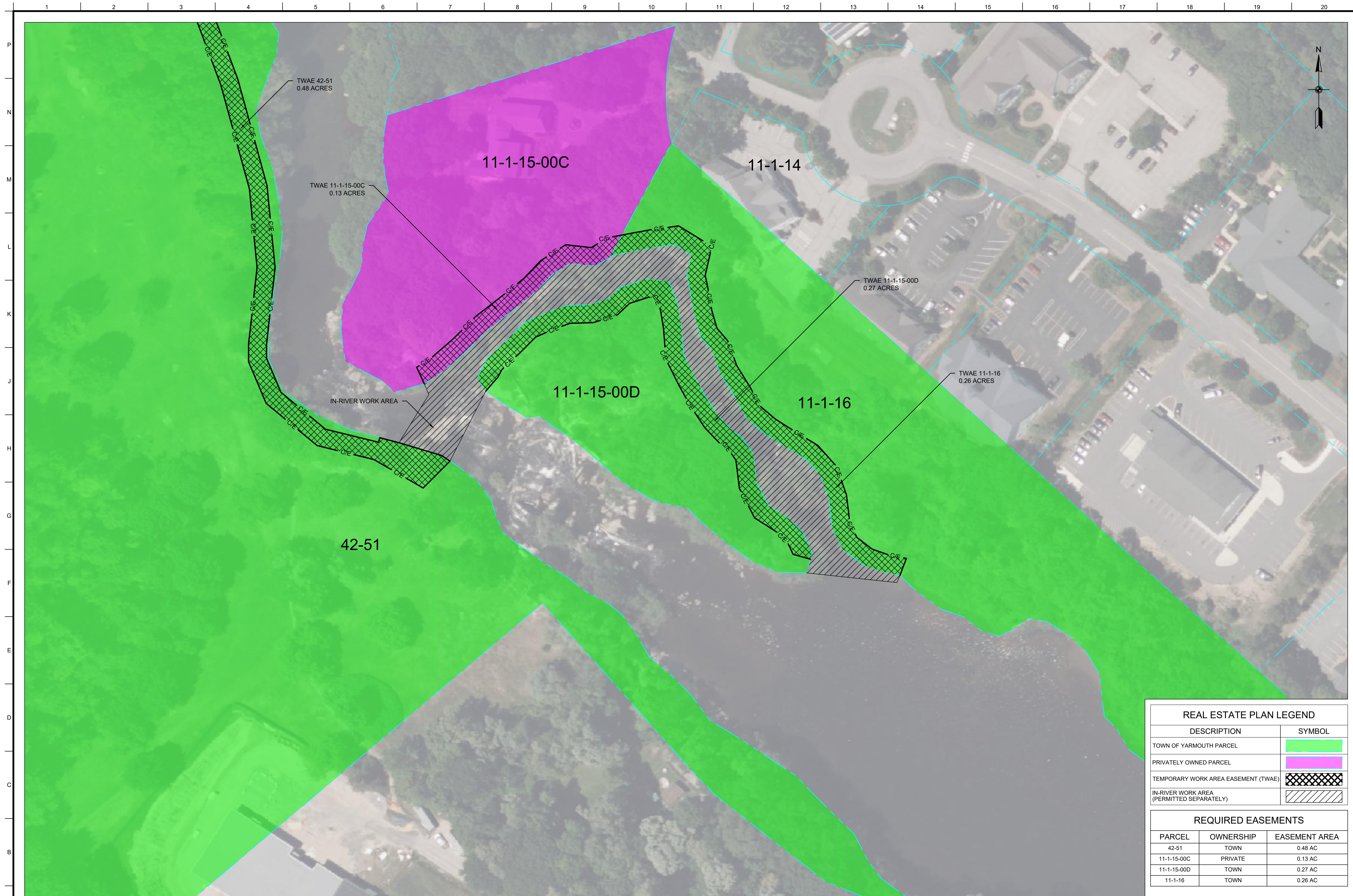
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YARMOUTH, MAINE

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REAL ESTATE PLAN MIDDLE FALLS

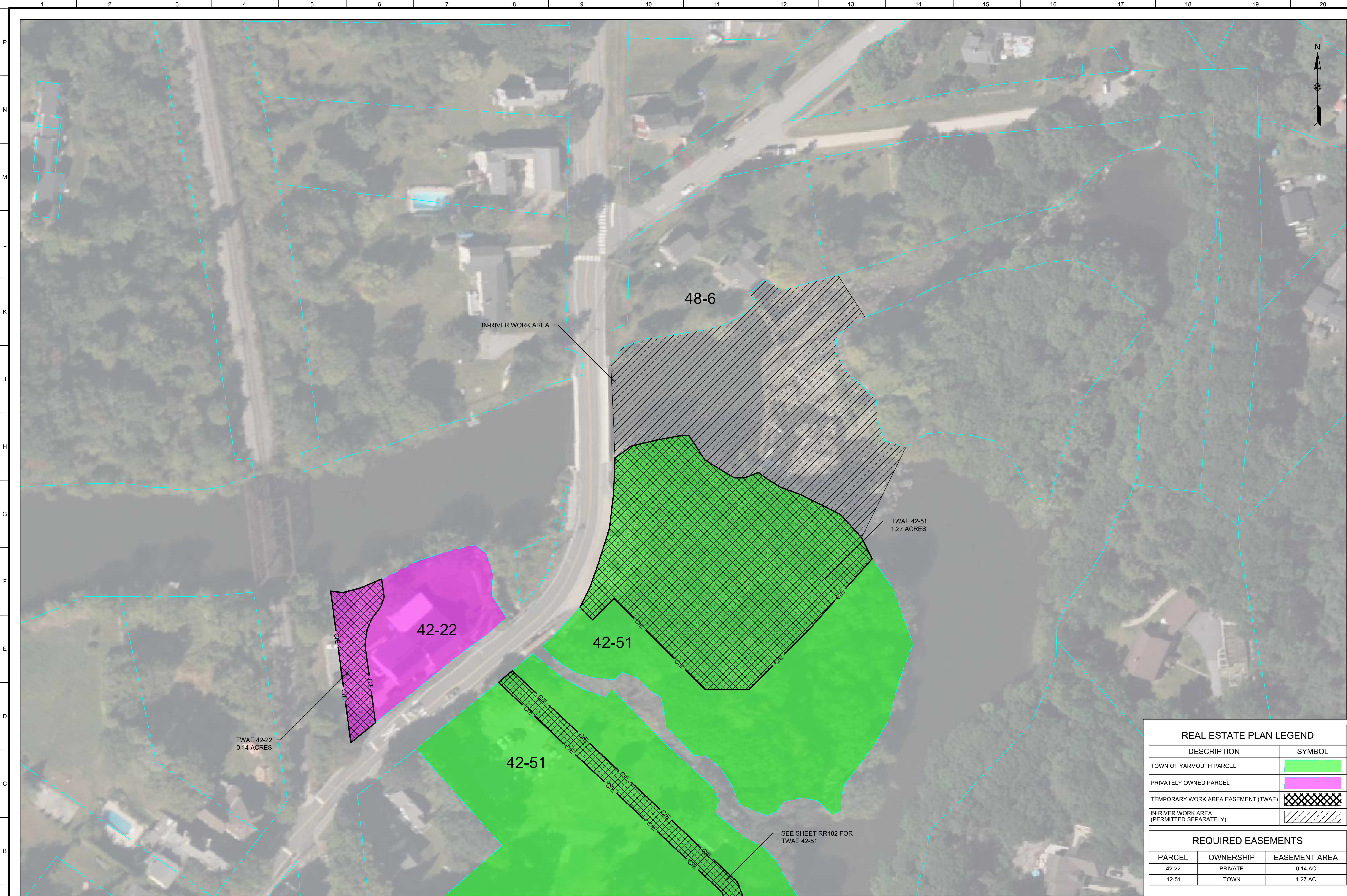
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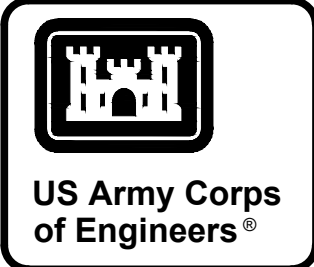
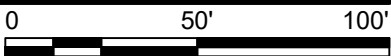
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A1 ELM STREET DAM
1" = 50'

REAL ESTATE PLAN LEGEND		
DESCRIPTION	SYMBOL	
TOWN OF YARMOUTH PARCEL	<div></div>	
PRIVATELY OWNED PARCEL	<div></div>	
TEMPORARY WORK AREA EASEMENT (TWAE)	<div></div>	
IN-RIVER WORK AREA (PERMITTED SEPARATELY)	<div></div>	

REQUIRED EASEMENTS		
PARCEL	OWNERSHIP	EASEMENT AREA
42-22	PRIVATE	0.14 AC
42-51	TOWN	1.27 AC



MARK	DESCRIPTION	DATE

DESIGNED BY: K. HEBARD DRAWN BY: C. HEBARD CHECKED BY: C. HEBARD SUBMITTED BY: C. HEBARD	ISSUE DATE:	
	SOLICITATION NO.:	
	CONTRACT NO.:	
	DRAWING CODE:	
U.S. ARMY CORPS OF ENGINEERS NEW ENGLAND DISTRICT 686 VIRGINIA ROAD CONCORD, MA 01742-2751		ROY-206-20-01
SCALE: 1" = 50'		SHEET 3 OF 3

ROYAL RIVER RESTORATION PROJECT
SECTION 206
YARMOUTH, MAINE

REAL ESTATE PLAN
ELM STREET DAM

SHEET ID
RR103

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Exhibit B: Non-Federal Sponsor Capability Assessment

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

*Royal River, Yarmouth, ME
Section 206 Aquatic Ecosystem Restoration Project*

I. Legal Authority:

a. Does the Town of Yarmouth, ME (the "sponsor") have legal authority to acquire and hold title to real property for project purposes?

Yes. This authority is generally set forth in Article VIII, Part Second, of the Maine Constitution, which establishes the home rule authority of municipalities, and 30-A M.R.S. § 2101-2109, and 30-A M.R.S. § 3001.

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

Yes. Pursuant to 30-A M.R.S.A. § 3101, the Town of Yarmouth can acquire real property through eminent domain.

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

Under 30-A M.R.S. § 3101 (and the process outlined 23 M.R.S. § 3023, which is referenced in Section 3101), title passes to the Town upon service of the order of condemnation and check or upon recording in the Registry, whichever occurs first.

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

No. The properties being evaluated are located within the Town of Yarmouth's political boundary.

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

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?

Although Yarmouth's municipal staff is familiar with federally mandated real estate requirements, we would benefit from additional training.

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

Municipal staff will consult with outside legal counsel.

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

Yes, however, the municipal staff will confer with legal counsel if necessary.

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

Yes, Yarmouth's municipal staff can complete the project objectives.

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

Yes.

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

No.

III. Other Project Variables

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

Yes, Yarmouth's municipal staff is in close proximity to the project site.

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

Yes.

IV. Overall Assessment

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

The sponsor has not had an opportunity to perform on other UACE projects. The Town of Yarmouth has been an active participant throughout the USACE's feasibility study.

b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/ insufficiently capable.

Fully capable.

V. Coordination

a. Has this assessment been coordinated with the sponsor?

Yes, the Town of Yarmouth has worked closely with real estate representatives from USACE.

b. Does the sponsor concur with this assessment?

Yes.

William C. Mehr III
Realty Specialist



Scott LaFlamme
Town Manager, Yarmouth, ME

Timothy W. Shugert
Chief, Real Estate Division