This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): JUL 3 1 2017

B. ST PAUL, MN DISTRICT OFFICE, FILE NAME, AND NUMBER: Heartis Village Glendale, MVP-2017-00064-ANM

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
   State: Wisconsin  County/parish/borough: Milwaukee  City: Glendale
   Center coordinates of site (lat/long in degree decimal format): Lat. 43.0981° N, Long. -87.90879° W.
   Universal Transverse Mercator: Zone 16 (426062.800619579, 4772104.03627919)
   Name of nearest waterbody: Milwaukee River
   Name of watershed or Hydrologic Unit Code (HUC): Great Lakes Region (04040003)
   ☑ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
   ☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
   ☑ Office (Desk) Determination. Date: June 30, 2017
   ☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.
   There are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.
   There are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.
   1. Waters of the U.S.: N/A
   2. Non-regulated waters/wetlands (check if applicable):
      ☑ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain: Within the 2.4-acre review area, three waterfilled depressions (W-1, W-2, and W-3) were created in upland incidental to construction activity and are not waters of the U.S. This was confirmed by reviewing the 2016 TRC wetland delineation, WWI, NRCS Soil Survey data, and aerial photographs dated 1937, 1951, 1970, 1975, 1976, 1980, 1985, 1990, 1995, 2000, 2005, 2010, 2013, and 2015. The 2016 wetland delineation identified each of the wetlands as shallow depressions remnant of construction/grading activities. Two of the depressions (W-1 and W-3) are mapped as emergent/wet meadow within the Wisconsin Wetland Inventory map and all of the depressions are located within an "unmapped area" according to the NRCS Soil Survey map. Aerial photography from 1937, 1951, 1970, 1975, 1976, 1980, and 1985 show no wet signatures in the review area. An access road and several buildings are present throughout aerals from 1951-1970. Additional grading appears to have been done between 1985-1990 and additional buildings or structures appear in the 1990 aerial. None of the structures are present in the 1995 aerial, however, and additional grading and stockpiling of material occurs from 2000-2005. A copy of the 1999 plan survey from HNTB provided by the applicant identifies an area in the northeast corner of the review area to be excavated. Additional details, provided from the HNTB November 3, 2000 Site Closure Report, indicate that grading occurred across the entire site following excavation activities that left areas several feet lower in grade. This activity appears to have created the waterfilled depressions. The non-jurisdictional determination for these waterfilled depressions is in accordance with the preamble to the 1986 Corps Regulations (33 CFR Parts 320-330), which states that the Corps does not generally consider the following to be waters of the U.S.; waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States (see 33 CFR 328.3(a)).

1 Supporting documentation is presented in Section III.F.
SECTION III: CWA ANALYSIS
A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
   □ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
   □ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
   □ Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).
   □ Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
   ☒ Other (explain, if not covered above): The waterfilled depressions (W-1, W-2, and W-3) are not waters of the U.S. pursuant to the preamble to the Corps 1986 regulations (33 CFR Parts 320-330).

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
□ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
□ Lakes/ponds:
  acres. List type of aquatic resource:
□ Wetlands:
  acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):
□ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
□ Lakes/ponds:
  acres. List type of aquatic resource:
□ Wetlands:
  acres.

SECTION IV: DATA SOURCES.
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
  ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: 2016 TRC wetland delineation
  ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  □ Office concurs with data sheets/delineation report.
  □ Office does not concur with data sheets/delineation report.
□ Data sheets prepared by the Corps:
□ Corps navigable waters’ study:
□ U.S. Geological Survey Hydrologic Atlas:
□ USGS NHD data.
□ USGS 8 and 12 digit HUC maps.
  ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Quad WI-Milwaukee
□ USDA Natural Resources Conservation Service Soil Survey. Citation: Milwaukee County
□ National wetlands inventory map(s). Cite name:
□ State/Local wetland inventory map(s): WWI
□ FEMA/FIRM maps:
□ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
  or □ Other (Name & Date): Ground level photos in delineation
□ Applicable/supporting case law:
B. ADDITIONAL COMMENTS TO SUPPORT JD: The waterfilled depressions (W-1, W-2, W-3) were constructed in uplands and are not waters of the U.S. as detailed in Section II.B.2.
Review area covered by USACE AID