

DRAFT Appendix C – Real Estate Plan

Galveston Harbor Channel Extension Validation Report

November 2023



**US Army Corps
of Engineers**

Galveston District

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This Real Estate Plan has been prepared in accordance with ER 405-1-12 dated 1 May 1998.

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List of Acronyms

BCE	Baseline Cost Estimate
EIS	Environmental Impact Statement
ER	Engineering Regulation
FCA	Flood Control Act
FR/EA	Feasibility Report and Environmental Assessment
GHC	Galveston Harbor Channel
GHCE	Galveston Harbor Channel Extension
HTRW	Hazardous, Toxic, and/or Radioactive Waste
LERRD	Lands, Easements, Rights-of-Way, Relocations, and Disposals
MLLW	Mean Lower Low Water
NFS	Non-Federal Sponsor
PA	Placement Area
PDT	Project Delivery Team
PED	Pre-construction, Engineering, and Design
PL	Public Law
PPA	Project Partnership Agreement
REP	Real Estate Plan
USACE	U.S. Army Corps of Engineers
WRDA	Water Resources Development Act

1 General Background

This Real Estate Plan (REP) is the real estate work product of the U.S. Army Corps of Engineers (USACE), Galveston District, Real Estate Division that supports the Validation Report for the Galveston Harbor Channel Extension (GHCE) project. It identifies and describes the lands, easements, rights-of-way, relocations, and disposals (LERRD) required for the construction, operation and maintenance of the proposed project, including those required for relocations (i.e., Public Law 91-646 relocations and utility/facility relocations), borrow material, and dredged or excavated material disposal. Furthermore, the REP describes the estimated LERRD value, together with the estimated administrative and incidental costs attributable to providing LERRD, and the acquisition process.

This report is prepared based on specific data from the USACE, Galveston District Project Delivery Team (PDT) for the GHCE project. However, this plan is tentative in nature and intended for planning purposes only. Modifications to the recommended plan could occur and change the determinations of real property lines, estimates of values, and rights required for the project, etc. as outlined in this plan, even after final report approval. The level of detail provided in this REP is understood to be equivalent to the other PDT disciplines.

2 Project Type, Purpose, and Scope

The original study for improving the deep-draft navigation channels within the Galveston Bay area was authorized by a resolution of the House Committee on Public Works adopted on October 19, 1967. The feasibility study for improving the Houston and Galveston channels was completed in July 1987, and a Report and Supplemental Environmental Impact Statement (EIS) were produced.

The Galveston Channel is subdivided into two reaches: the Offshore Reach and the Galveston Channel Reach. The Galveston Channel Reach is authorized to -46 feet Mean Lower Low Water (MLLW) from Station 0+000 to Station 20+000. From Station 20+000 to Station 22+571, the channel is only authorized to a depth of -41 feet MLLW. As such, the Non-Federal Sponsor (NFS) and facilities at the far end of the channel are not able to receive deeper draft vessels at their facilities without practices such as light-loading.

The Galveston Channel Extension Feasibility Report and Environmental Assessment (FR/EA) was completed and approved by the Chief of Engineers on August 8, 2017. The authorized project includes the deepening of the last 2,571 feet of the channel from -41 to -46 feet MLLW plus advanced maintenance and allowable over-depth. This will allow access by larger vessels to maximize economic efficiency in transportation.

The Validation Report is necessary to address the deepening of an additional channel. A 2019 Ship Simulation study was performed by Locus LLC, the Galveston – Texas City Pilots, and G & H Towing (TXIT Suezmax Extension Simulation Report) and demonstrated that an additional 500 feet of channel length was necessary to allow the pilots to safely and efficiently maneuver the terminal end of the channel and enter and exit the TXIT docks. Based on changed conditions, the Non-Federal Sponsor (NFS), the Board of Trustees of the Galveston Wharves, requested that USACE conduct further engineering and economic analysis to include this additional channel in a rescope plan. The proposed extension consists of 505 feet of the Galveston Harbor Channel (GHC) from Station 22+571 to Station 23+076 that would be dredged to the authorized depth of -46 MLLW plus advanced maintenance and allowable over depth. Figure 1 shows the extension (yellow polygon) to the extents of the authorized plan (red polygon). The addition of the extension increases the overall project footprint by approximately 6.5 acres and results in an increase in project area of approximately 10 percent. The Validation Report verifies whether the proposed change is still justified in accordance with the

authorized project and whether the change falls within the discretionary authority of the Chief of Engineers.

Figure 1: Changes in Scope of the Authorized Project



3 Authority

The existing Galveston Harbor Channel project was authorized by Section 101(a)(30) of WRDA 1996, PL 104-30.

The GHCE study was authorized under Section 216 of the Flood Control Act (FCA) of 1970, Public Law (PL) 91-611, which authorizes the Secretary of the Army to review existing USACE constructed projects due to changes in physical and economic conditions and report to Congress recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest. The 2017 feasibility report presented an evaluation of extending the 46 feet deep Galveston Harbor Channel the remaining 2,571 feet (Station 20+000 to Station 22+571) to reach the west end of the limits of the authorized and currently maintained 41-foot channel.

On 29 February 2016, a new Feasibility Cost Share Agreement was signed between USACE and the NFS to resume investigations on deepening the remaining 2,571 feet of the GHCE from 41 feet to 46 feet under the 2017 feasibility study.

The Validation Report seeks to approve minor design changes to the project authorized in the Water Resources Development Act (WRDA) 2018 as described in the Chief's Report dated August 8, 2017, Galveston Harbor Channel Extension Project, Houston-Galveston Navigation Channels, Texas.

4 Study Area and Project Location

Located on the upper Texas coast on the eastern end of Galveston Island (Figure 2), the Port of Galveston is 9.4 miles from the opening of the Gulf of Mexico (Figure 3). The Port of Galveston consists of the GHC, the south side of Pelican Island, the north side of Galveston Island, and the entrance to Galveston Bay.

Figure 2: Project Location



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Figure 3: Project Location Zoom



5 Non-Federal Sponsors and Acquisition Responsibilities

5.1 Non-Federal Sponsor

The NFS for this project is the Board of Trustees of the Galveston Wharves, also known as the Port of Galveston. The Port of Galveston is municipally owned by the City of Galveston and managed by the Board of Trustees.

5.2 NFS Acquisition Responsibilities and Capabilities

The NFS is responsible for providing all LERRD required for the project. However, no acquisition is anticipated to accomplish the dredging or placement for the GHCE deepening or additional channel deepening. An assessment of the NFS's acquisition capabilities was not completed as part of the original feasibility study but was completed as part of the Validation Report. Should land acquisition become necessary later, the NFS does have the authority and capability to furnish LERRD as shown in Exhibit A.

6 NFS Notification of Risk

There is no acquisition anticipated for this project. However, Real Estate notified the NFS of the risks in acquiring land prior to the signing of the Project Partnership Agreement (PPA). A copy of the risk letter that was sent to the NFS is shown in Exhibit B.

7 Recommended Plan

The sections below describe the originally authorized recommended plan, as well as the additional dredging for the extension prompting the need for the Validation Report.

7.1 Recommended and Authorized Plan

The Galveston Channel Reach is authorized to -46 feet MLLW from Station 0+000 to Station 20+000. The prior feasibility study identified the recommended plan as a deepening of the channel extension from Station 20+000 westward toward the Pelican Island Bridge to Station 22+571. The depth would be increased from -41 feet to -46 feet MLLW to be consistent with the rest of the channel (Figure 4). The depth does not include advanced maintenance of 4 feet and allowable over-depth of 1 foot, for a maximum channel depth following periodic maintenance of -51 feet MLLW.

The new work dredged material and all maintenance material will be placed in the federally-owned Pelican Island Placement Area (PA).

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Figure 4: Recommended Plan



7.2 Modified Plan: Additional Dredging for the Extension

The adjustment in channel design is designed to allow for increased safety as ships maneuver into the docks on the far western end of the channel. The request is to extend the deepening to -46 feet MLLW from Station 22+571 (original end point) to Station 23+076 (Figure 5). This proposed additional channel was coordinated with the terminal owners as well as the Galveston/Texas City Pilots Association.

The additional new work dredged material and all maintenance material for the extension will also be placed in the Pelican Island PA. The project will utilize existing pipeline routes to transport the dredged material (as shown in Figure 8).

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Figure 5: Modified Plan – Addition of Extension



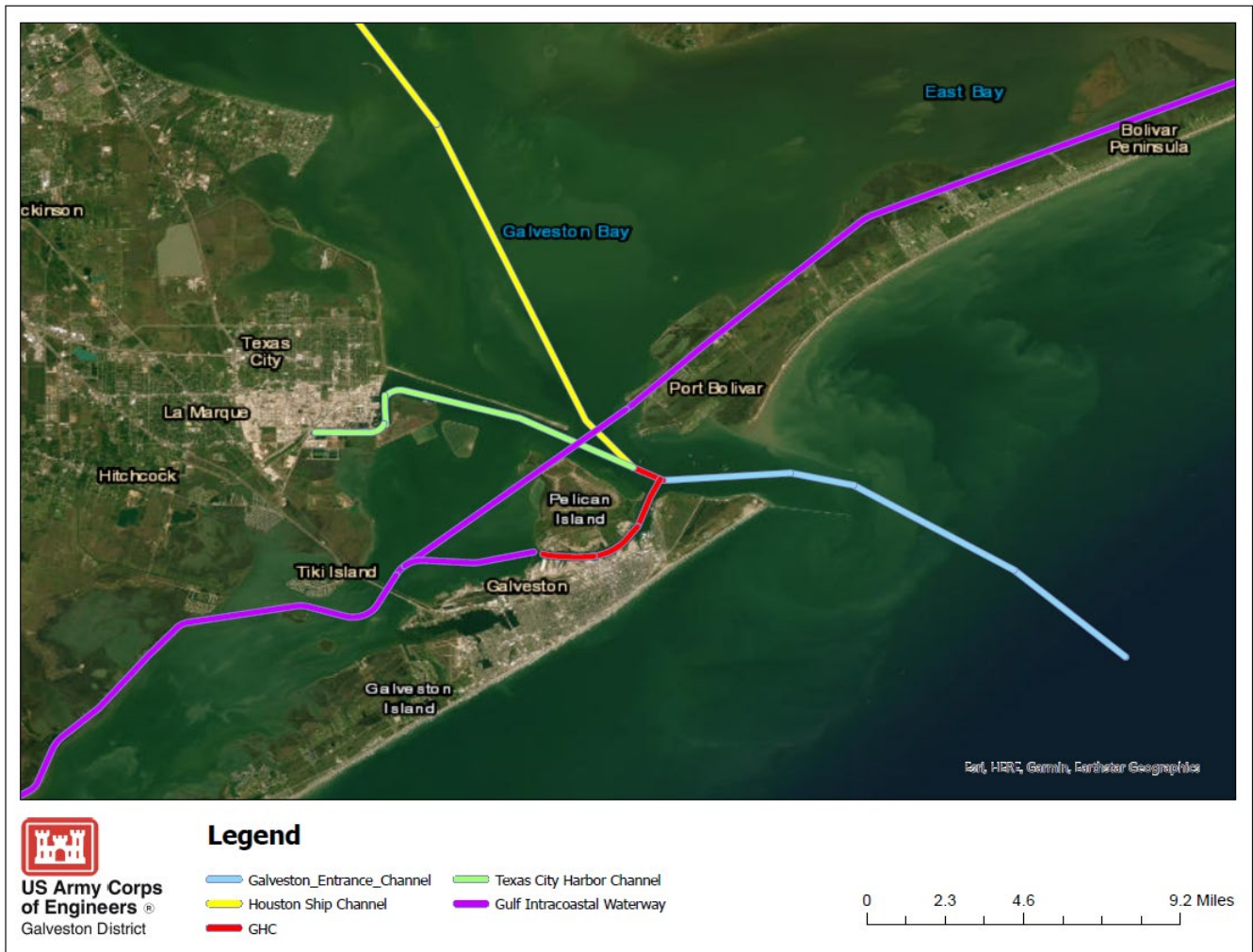
8 Existing Real Estate Interests

Existing federal real estate interests and projects in the project vicinity, along with existing non-federal sponsor real estate interests are outlined below.

8.1 Existing Federal Projects in the Project Vicinity

The Galveston Entrance Channel serves as the entry from the Gulf of Mexico to three major ship channels and existing federal projects (Figure 6). Between Bolivar Peninsula and Galveston Island, the Galveston Entrance Channel branches off to serve the GHC to the southwest, the Texas City Harbor Channel to the west, and the Houston Ship Channel to the north. The nearby Gulf Intracoastal Waterway intersects the Texas City Harbor Channel and the Houston Ship Channel. The proposed work for the GHCE project is not expected to impact the other federal projects in the vicinity.

Figure 6: Federal Navigation Channels



8.2 Existing Federal Real Estate Interests

Federal interests in the project vicinity are outlined below in Table 1 and Table 2, and shown in Figure 7 and Figure 8.

8.2.1 Existing Placement Areas

Table 1 outlines the known active PAs in the project vicinity.

Table 1: USACE PAs in the Project Vicinity

Tract	Type	Tract	Acreage
PA45 (Pelican Split)	Upland	Tract 301	56.45
PA46	Open Water	N/A	96.42
PA47	Open Water	N/A	137.74

PA48	Open Water	N/A	82.65
PA49	Open Water	N/A	82.65
PA50	Open Water	N/A	191.11
PA51	Open Water	N/A	167.86
SPPA4	Open Water	301	186.37
Pelican Island Cell A*	Upland	Tracts A, 301, 303E	505.22
Pelican Island Cell B*	Upland	Tract 301	354.14
Pelican Island Cell C	Upland	Tracts 301, 305E-1	208.55
San Jacinto Cell A	Upland	Tracts C, 4	340.77
San Jacinto Cell B	Upland	Tract 4	113.18
*Placement Areas proposed for this project.			

Among the active PA's, Pelican Island Cells A and B will be used for this project. Pelican Island PA is fee-owned by the United States Government and known as tract 301 and tract A. Tract 301 was acquired through General Warranty Deed granted by Mitchell Development Corporation of the Southwest to the United States of America dated 28 June 1974 filed on Book 2517 Page 595 of the Real Property Official Records at the Galveston County Clerk's Office. Tract A was acquired from the City of Galveston on 23 April 1859 and is recorded in Volume P, Page 37 of the Deed Records of Galveston County, Texas (Table 2). The controlling agency is USACE. These areas are currently in use for the existing Project.

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Figure 7: USACE Placement Areas



8.2.2 Existing Tracts

Table 2 outlines the real estate tracts with federal interests in the project vicinity (excluding disposals).

As stated in section 8.2.1 above, Pelican Island Cells A and B on Tracts 301 and A will be used for placement. Additionally, tracts 302E-3, 302E-4, and 303E will be used as pipeline routes for the project in addition to an open water pipeline route along the eastern edge of Pelican Island.

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Table 2: Existing USACE Tracts

Location	Tract	Landowner	Remarks	Acreage
Pelican Island	301*	USACE	Deed dated 28 June 1974	1,219.33
Pelican Island	302E-1	Mitchell Development Corporation	Perpetual Pipeline Easement Deed Dated 28 June 1974	3.90
Pelican Island	302E-2	Mitchell Development Corporation	Perpetual Road Easement Deed Dated 28 June 1974	7.26
Pelican Island	302E-3*	Mitchell Development Corporation	Perpetual Pipeline Easement Deed Dated 28 June 1974	1.83
Pelican Island	302E-4*	Mitchell Development Corporation	Perpetual Pipeline Easement Deed Dated 28 June 1974	2.74
Pelican Island	303E*	City of Galveston	Perpetual Pipeline Easement Deed Dated 13 May 1974 (Reserved in Fee Disposal of Part of Tract A)	1.84
Pelican Island	304E	City of Galveston	Revocable Spoil Easement dated 23 JUNE 1965	304.67
Pelican Island	305E-1	Galveston Wharves of Galveston County	Perpetual Spoil Disposal & ROW Easement Deed Dated 13 August 1993	18.03
Pelican Island	305E-2	Galveston Wharves of Galveston County	Perpetual Spillway, Drainage Ditch, and ROW Easement Deed Dated 13 August 1993	4.11
Pelican Island	A*	USACE		939.1
Pelican Island	A-100E-1	City of Galveston	Easement Dated 25 November 1953	32.98
Galveston Island	100E	Hutchings-Sealy National Bank Galveston	Perpetual ROW Easement for Road Dated 30 August 1944	0.42
Galveston Island	4	USACE	Deed dated 11 May 1917	600
Galveston Island	C	USACE	Deed dated 6 January 1959	1,066.02
*Tracts impacted by the proposed project.				

Figure 8: USACE Existing Tracts and Pipeline Easements



8.3 Existing NFS Real Estate Interests

The City of Galveston and the City of Galveston-Wharves own property in the vicinity of the project adjacent to the channel, but use of the adjacent properties are not required for the project.

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9 Real Estate Requirements

The real estate requirements are outlined below.

9.1 Recommended Plan & Modified Plan

The new work dredging will take place from Station 20+000 (beginning of the extension) to Station 23+076 (end of the extension) and is shown in Figure 9. The dredging will be conducted under navigational servitude. New work dredged material and all maintenance material will be placed in the confined Pelican Island PA. This area is fee-owned by the United States Government and managed by USACE (Figure 10). This placement area is currently in use for the existing project.

The project will utilize an open water pipeline route along the eastern edge of Pelican Island as well as three additional established pipeline routes running from the southern edge of Pelican Island across Seawolf Parkway to the Pelican Island PA. Tracts 302E-3, 302E-4, and 303E are perpetual pipeline easements conveyed to USACE from Mitchell Development Corps in 1974.

There are no new lands, easements, rights-of-way, relocations, and/or disposal areas (LERRDs) required for the construction or maintenance of the recommended plan for the GHCE or the modified plan to include the extension.

Figure 9: Zoomed View of Dredging within Navigation Servitude

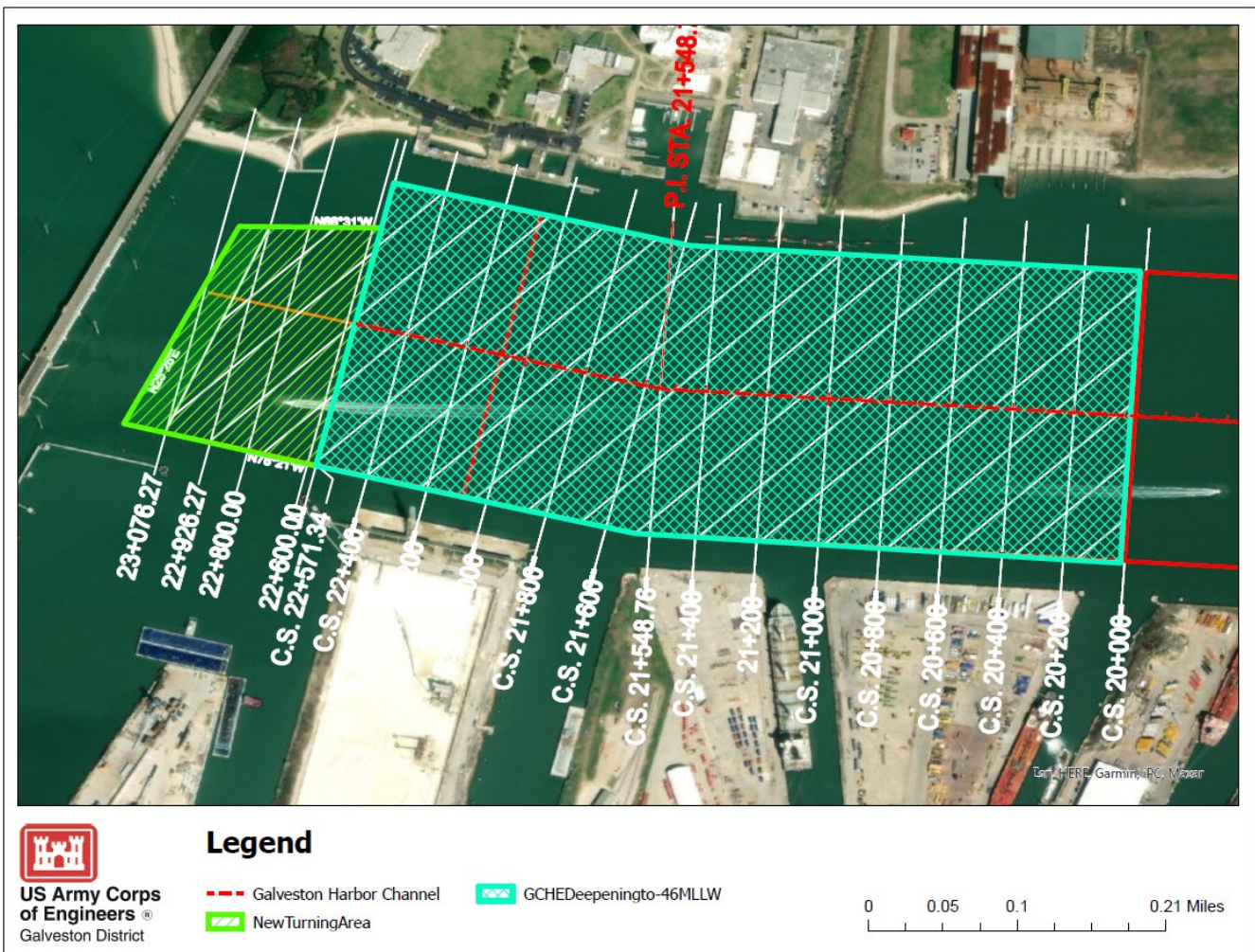


Figure 10: Zoomed View of USACE Placement Areas



9.2 Access/Staging Areas

The assumption is that no access and/or staging areas beyond the limits of the project footprint will be required. Access to the Pelican Island PA will be accomplished through the existing perpetual easements.

9.3 Mitigation

There is no mitigation required for this project.

9.4 Estates

Engineering Regulation (ER) 405-1-12 section 9 outlines the estates required for the project and the project's activities (Table 3). The dredging of the GHCE and extension will be accomplished under navigational servitude. Placement will take place on USACE fee-owned PA's. There is no change to the estates from the recommended plan to accommodate the modified plan.

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Table 3: Estates Required

Project Feature	Estates Required per ER 405-1-12
Dredging	N/A – Navigational Servitude
Placement	Fee

10 Borrow Material

The proposed project does not require any borrow material.

11 Recreation Features

There are no recreation features proposed for this project.

12 Timber Rights and Mineral/Energy Activity

There is no known timber activity within the project area.

Oil and gas exploration and production activities are prevalent in the southeast Texas area, however there are no wells or pipelines in the vicinity of the project location.

13 Facility/Utility/Pipeline Relocations

There are currently no pipelines in the vicinity of the project location or within the project footprint.

The feasibility report described two pipelines (a 12-inch waterline located at -51 feet MLLW and a 12-inch sewer line located at -41 feet MLLW) located in the vicinity of Station 21+500 and 21+550, respectively. The City of Galveston removed these two pipelines that were in the project area on December 19, 2016. Therefore, there will be no facility/utility/pipeline relocations or removals for the project.

14 Zoning

Zoning ordinances will not be enacted to facilitate acquisition for the proposed project.

15 Hazardous, Toxic, and Radioactive Waste (HTRW) or Other Environmental Contaminants

Sediment sampling and analysis will be completed for the modified plan during the Pre-Construction, Engineering, and Design (PED) phase to confirm sediment quality of the dredged material. At the time of this report, a potential remediation plan has not been developed pending further testing. Please see Appendix D for additional details regarding HTRW and other environmental contaminants. At the time of this report, a Finding of No Significant Impact (FONSI) has been prepared.

16 Navigation Servitude

Navigation Servitude stems from the Commerce Clause of the Constitution of the United States (U.S. CONST. art.I, Sec.8, cl.3), and is defined as the dominant right of the Federal Government to use,

control, and regulate the navigable waters of the United States and submerged lands thereunder for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the mean high-water mark, whereas 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.

All lands required for the proposed channel extension and additional channel area lie below the ordinary high-water mark and are subject to Navigation Servitude.

17 Induced Flooding

There will be no induced flooding by virtue of the construction of the project.

18 Attitudes of the Landowner

The Port of Galveston, privately-owned shipping industry companies, and the Federal Government own the majority of the lands surrounding the project boundaries. Area landowners are supportive of the project and no resistance to the project by other landowners is expected.

19 Public Law 91-646 Relocations

There are no residential, commercial, industrial, or farm properties that would be subject to relocation pursuant to PL 91-646.

20 Real Estate Costs

The baseline cost estimate (BCE) provided in this report (Table 4) is based on feasibility-level design and assumes no land costs. It accounts solely for the Federal administrative costs. The first column represents the estimated real estate costs from the original feasibility. The second column outlines the costs for the current recommended plan. The nominal increase in federal costs is to account for increased labor costs.

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Table 4: Baseline Cost Estimate for Real Estate

FEDERAL COSTS		FEASIBILITY	VALIDATION REPORT	COST DIFFERENCE	% DIFFERENCE
ACCT	Description	Cost	Cost	+/- \$	+/- %
30	Acquisitions (Review RE Planning Documents & Mapping)	\$5,000.00	\$7,000.00	+\$2,000.00	+40%
30	Project Related Administration	\$4,000.00	\$5,500.00	+\$1,500.00	+37.5%
	<i>Total Admin and Payments</i>	<i>\$9,000.00</i>	<i>\$12,500.00</i>	<i>+\$3,500.00</i>	<i>+38.9%</i>
	<i>+ Contingencies (25%)</i>	<i>\$2,250.00</i>	<i>\$3,125.00</i>	<i>+\$875.00</i>	<i>+38.9%</i>
	Non-Federal Total	<u>\$11,250.00</u>	<u>\$15,625.00</u>	<u>+\$4,375.00</u>	<u>+38.9%</u>
NON-FEDERAL COSTS		FEASIBILITY	VALIDATION REPORT	COST DIFFERENCE	% DIFFERENCE
ACCT	Description	Cost	Cost	+/- \$	+/- %
01	Project Related Administration	\$0.00	\$0.00	\$0	0%
	<i>Total Admin and Payments</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>\$0</i>	<i>0%</i>
	<i>+ Contingencies (25%)</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>\$0</i>	<i>0%</i>
	Federal Total	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0</u>	<u>0%</u>
	GRAND TOTAL	<u>\$11,250.00</u>	<u>\$15,625.00</u>	<u>+\$4,375.00</u>	<u>+38.9%</u>

There are no costs associated with the 02 (Relocations) account.

21 Acquisition Schedule

Project requirements are within navigation servitude, the federally-owned Pelican Island PA, and existing federal perpetual pipeline easements. Therefore, no acquisition schedule is presented.

22 Other Real Estate Issues

There are no additional real estate concerns at this time.

Exhibit A: NFS Acquisition Capabilities Assessment

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1299
GALVESTON, TEXAS 77553-1299



REPLY TO
ATTENTION OF: USACE-SWG-RE

**GALVESTON HARBOR CHANNEL EXTENSION PROJECT
BOARD OF TRUSTEES OF THE GALVESTON WHARVES (PORT OF GALVESTON) –
NON FEDERAL SPONSOR**

**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, however no acquisition is expected for this project.

*If yes, include reference to statutory citation providing for these powers. **Texas Transportation Code Section 54.003***

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

Yes, however no acquisition is expected for this project.

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

No, however no acquisition is expected for this project.

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

No.

- e. Are any of the lands/interests in land required for the project unable to be condemned by the sponsor?**

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 Public Law 91-646 (Home Relocation Assistance), as amended?

No – No acquisition is expected for this project.

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

N/A.

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

Yes, however no acquisition is expected for this project.

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

Yes, however no acquisition is expected for this project.

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

Yes, however no acquisition is expected for this project.

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

No – No acquisition is expected for this project.

III. Other Project Variables:

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

Yes.

- 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? (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)

Fully capable.

V. **Coordination:**

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

Yes.

b. **Does the sponsor concur with this assessment?**

Yes.

Accepted by the Non-Federal Sponsor:



(Signature)

Brett Milutin

(Name)

Deputy Port Director

(Title)

6-20-2023

(Date)

Prepared by:

SCHLUND.NICH
OLE.1272245262

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Date: 2023.06.20 14:29:03 -05'00'

Nichole L. Schlund
Realty Specialist, Real Estate Division
Galveston District
US Army Corps of Engineers

Approved by:

NELSON.TIMOTHY
.J.1230372922

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Date: 2023.06.21 08:14:32 -05'00'

Timothy J. Nelson
Chief, Real Estate Division
Galveston District
US Army Corps of Engineers

Exhibit B: NFS Notification of Risk Letter



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

April 13, 2023

Mr. Rodger E. Rees
Port Director & CEO
Galveston Wharves at the Port of Galveston
123 Rosenberg Avenue, 8th Floor
Galveston, TX 77553

Dear Mr. Rees:

The intent of this letter is to formally advise the Board of Trustees of the Galveston Wharves (Port of Galveston), as a potential Non-Federal Sponsor for the proposed Galveston Harbor Channel Extension 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.

Generally, these risks include, but may be 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 Government 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 interests therein, 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 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.

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 PPA execution and the Government's notice to commence acquisition and performance of providing lands, easements, rights-of-way, relocations, and disposals (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 Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PCA as referenced in *ER 405-1-12 (Change 31; 1 May 98) Section 12-31 Acquisition Prior to PCA Execution*.

For any questions, please contact Nichole Schlund, Realty Specialist within the Galveston District Real Estate Division, at Nichole.L.Schlund@usace.army.mil or 409-766-3146.

Sincerely,

NELSON.TIMOTHY
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Timothy Nelson
Chief, Real Estate Division
Galveston District
U.S. Army Corps of Engineers