

GULFPORT HARBOR GULFPORT, MS

INTEGRATED FEASIBILITY REPORT WITH ENVIRONMENTAL ASSESSMENT

NEPA ID: EAXX-202-00-SAM-K5P-17340153333

APPENDIX D – REAL ESTATE NOVEMBER 2024



**US Army Corps
of Engineers
Mobile District**



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1. Purpose

This Real Estate Plan (REP) supports the Gulfport Harbor, Gulfport, Mississippi, Navigation Improvement Project Integrated Feasibility Report and Environmental Assessment (IFR/EA). This REP documents the real estate investigations and analyses conducted by the U.S. Army Corps of Engineers (USACE) to identify and acquire the necessary real estate interests for the recommended navigation improvements at Gulfport Harbor, which include channel widening and deepening.

The federal interest in this navigation project is established by the Commerce Clause of the U.S. Constitution, which authorizes projects that support safe, reliable, and efficient waterborne transportation systems. The purpose of the Gulfport Harbor project is to improve navigation access for current and future deep-draft vessels, thereby achieving Transportation Cost Savings (TCS), promoting environmentally sustainable operations, and contributing to National Economic Development (NED). By ensuring unrestricted navigation into and out of Gulfport Harbor, the project seeks to facilitate economic growth at the Port of Gulfport and the surrounding region.

This REP is preliminary and intended for planning purposes only. Final property boundaries and estimated land values are subject to change after REP approval, as adjustments to the project design may occur during the Pre-Construction, Engineering, and Design (PED) phase, potentially altering real estate acquisition areas and associated administrative and land costs.

2. Project and Study Authorization

The Gulfport Harbor Navigation Improvement Project study is authorized by Section 216 of the Flood Control Act of 1970 (Public Law 91-611), codified at 33 U.S. Code § 549a, as follows:

“The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due to significantly

changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest.”

Under this authorization, the U.S. Army Corps of Engineers (USACE), is tasked with evaluating and recommending modifications to existing navigation projects, including the Gulfport Harbor Navigation Project. This review process allows for consideration of new conditions that may impact project performance and ensures that modifications align with environmental and public interest objectives.

3. Project Location and Study Area

The Gulfport Harbor Navigation Project is in Harrison County, Mississippi, south of the City of Gulfport and approximately seven miles from Interstate 10. Gulfport Harbor is strategically positioned about 80 miles equidistant from New Orleans, Louisiana, and Mobile, Alabama. Covering approximately 300 acres on the north shore of the Mississippi Sound, the harbor lies within five miles of the Gulf Intracoastal Waterway (GIWW) and approximately 10 miles from both the Gulf of Mexico and the Gulf Island National Seashore.

The Gulfport Harbor Federal Navigation Channel (FNC) is approximately 21 miles in length and consists of several distinct sections. The Mississippi Sound Channel, maintained at a width of 300 feet and a depth of 36 feet, connects to the Bar Channel, which extends south to the Safety Fairway. The Bar Channel is maintained at a width of 400 feet and a depth of 38 feet. The Inner Harbor is maintained at a depth of 32 feet, while the Outer Harbor and Anchorage Basin—approximately 1,320 feet in width—are maintained at 36 feet deep. The navigation project also includes bend easing of the Gulf Bar channel to a width of 1,400 feet for improved vessel maneuverability, with dredging conducted to a plane of mean lower low water (MLLW).

The existing project includes:

- **Ship Island Bar Channel:** 400 feet wide and 38 feet deep.
- **Mississippi Sound Channel:** 300 feet wide and 36 feet deep

- **Anchorage Basin:** Stepped depths of 32–36 feet
- **Commercial Small-Boat Channel:** 8 feet deep, 100 feet wide, extending approximately 4,300 feet from deep water in the Mississippi Sound to the small-boat basin.

The Port of Gulfport serves as a critical economic hub for the Mississippi Gulf Coast, facilitating imports and exports of poultry, fruit, wood products, metals, and minerals, and handling approximately 2 million tons of commerce annually. Gulfport Harbor is bordered by public beaches to the east and west, with the U.S. Coast Guard Station Gulfport, Gulfport Small Craft Harbor, and Gulfport Yacht Club located nearby. The northern boundary of the harbor is U.S. Highway 90.

4. Project Description

The Gulfport Harbor, Gulfport, Mississippi, Navigation Improvement Project aims to enhance the Gulfport Harbor Federal Navigation Channel (FNC) to support efficient, safe navigation for larger deep-draft vessels. The study objectives include maximizing use of the existing FNC to accommodate future marine commerce demands through deepening and widening efforts.

The Tentatively Selected Plan (TSP) includes deepening the channel by 10 feet and widening it by 100 feet, while maintaining the existing side slopes, allowing for one-way ship traffic of Post-Panamax Generation 3 vessels. The TSP also includes 2 feet of advanced maintenance and an additional 2 feet of allowable overdepth, resulting in a maximum dredging depth of -50 feet relative to Mean Lower Low Water (MLLW)—a tidal datum representing the average height of the lower of two daily low tides—across the Sound Channel South, Sound Channel North, and Anchorage Basin, with a maximum depth of -52 feet MLLW for the Bar Channel.

Additionally, the TSP introduces turn wideners, anchorage basin deepening, and a realignment of the Bar Channel, transitioning from two bends to three bends, extending the channel by approximately 10 miles. A sediment catchment basin near Ship Island, with an additional depth of 6 feet (to -54 feet MLLW) and side slopes of 1V:7H (a slope ratio indicating 1 unit of vertical rise for every 7 units of horizontal run), will also be

constructed to manage high shoaling areas, supporting the channel's long-term operational efficiency.

These planned improvements will enable larger vessels to efficiently access Port of Gulfport terminals, achieving the project's objectives of facilitating enhanced navigation, operational safety, and future economic growth in the Gulfport region.

5. Real Estate Requirements

The proposed deepening and widening improvements to the Gulfport Harbor Federal Navigation Channel (FNC) are located entirely within the navigable waters of the United States. Under the doctrine of navigation servitude, the federal government holds a dominant interest in lands below the ordinary high-water mark of navigable waters, allowing federal use without the need for additional property rights acquisition.

The recommended alternatives for the placement of beneficial use dredged material are anticipated to impact State-owned water bottoms, which will not require additional land acquisition. If future design changes result in impacts to uplands, an *Authorization for Entry for Construction* will be required to be issued by the non-Federal Sponsor in advance of the solicitation for construction. If private lands are impacted, securing a Temporary Work Area Easement (TWAE) would be recommended for beneficial use placement locations.

Several placement sites have been identified for dredged material and are categorized as follows:

- **Traditional Placement Sites:** Designated areas for standard dredged material placement.
- **Beneficial Use Placement Sites:** Designated areas intended for environmentally beneficial uses, such as habitat restoration or shoreline protection.

The following sections, 5.1 and 5.2, provide detailed descriptions of each placement site type and outline the specific real estate requirements for utilizing each site for the placement of dredged material.

5.1 Traditional Placement Sites

Figure 5.1, below, shows the locations of open water thin layer disposal sites adjacent to the channel.

5.2 Beneficial Use Placement Sites

Refer to Figure 5.2 for the locations of potential beneficial use placement sites within the Gulfport Harbor Federal Navigation Project (FNP).



Figure 5.1 Existing Dredged Material Placement Areas

Biloxi Marsh Beneficial Use Placement Site

The Biloxi Marsh site, located in Saint Bernard Parish, Louisiana, at Johnson Bay and Northwest Jack Williams Bay in the Biloxi Marsh Complex, was included in the potential placement site array. It is permitted under Louisiana Department of Natural Resources Permit P20160163 and USACE Permit MVN-0886-EPP, allowing placement of up to 9,000,000 cubic yards (CY) of material at coordinates 30°03'26.00"N, -89°16'04.00"W.

Cat Island South Beneficial Use Placement Site

Located in Harrison County, Mississippi, at the southeastern end of Cat Island in the Mississippi Sound, this site is permitted under USACE Permit SAM-2022-00356-KMN. Approximately 9 miles southeast of Pass Christian, Mississippi, Cat Island South was considered for its beneficial use potential within the coastal barrier island area.

La France Canal Beneficial Use Placement Site

Endorsed by the Mississippi Department of Environmental Quality (MDEQ) and the City of Bay St. Louis, the LaFrance Canal project in Bay St. Louis, Mississippi, is a proposed Section 204 Beneficial Use project. This manmade canal bisects the Hancock County Coastal Preserve, supporting marsh continuity that provides essential ecological benefits, including storm surge protection, fisheries production, and carbon sequestration. The site could accept 300,000 to 400,000 CY of dredged material, supporting marsh habitat by reducing fragmentation, erosion, and storm scouring. No sediment characterization requirements are identified currently.

Pelican Key Beneficial Use Placement Site

Pelican Key, a 900-acre site identified through an MDEQ study, is in the Western Mississippi Sound, approximately 5.5 miles west of Cat Island's western tip and 7 miles south of Pass Christian, Mississippi. The proposed site would create around 820 acres of marsh habitat and 80 acres of containment berms. Initial capacity is anticipated for 13,400,000 CY of dredged material, with potential future placement for operations and maintenance (O&M) dredging. Containment berms are preliminarily designed with a stone-armored sediment core suitable for both fine- and coarse-grained sediments.

Cat Island North Beneficial Use Placement Site

The Cat Island North site, a 1,060-acre beneficial use area, is located roughly 3,000 feet north of Cat Island and 11,500 feet from the GIWW centerline, with water depths between 6 and 14 feet. This site could provide 1,060 acres of marsh habitat. The estimated capacity for initial placement is 26,000,000 CY, with the potential for future O&M dredged material placement depending on settlement within the containment area. The preliminary design includes 18,000 linear feet of sand containment berm with riprap protection and an additional 19,000 linear feet of traditional berms. No sediment characterization requirements are currently identified.

MSPA Pier Expansion Beneficial Use Placement Site

The Mississippi State Port Authority (MSPA) Expansion Project includes expansion of the East Pier (14.5 acres), West Pier (155 acres), North Harbor Fill (9 acres), and Turning Basin (85 acres), with 4,000 feet of breakwater along the FNC's eastern side. Approximately 10,000,000 CY of coarse-grained sediment (primarily sands with less than 10% fines) is required. The MSPA Expansion Project has received permitting approval.

Chandeleur Island Littoral Zone Beneficial Use Placement Site

Adjacent to the Chandeleur Islands within the Breton National Wildlife Refuge, this site in Saint Bernard Parish, Louisiana, supports the island chain by adding sediment to the littoral system. Covering 5,400 acres, placement depths range from 19 to 35 feet, targeting depths of 25 feet or more in the littoral zone. The anticipated placement material is predominantly sand, compatible with the island's sediment needs. Capacity is currently unspecified; however, 3.9 million CY of material was previously placed in depths over 25 feet (USACE, 2017).

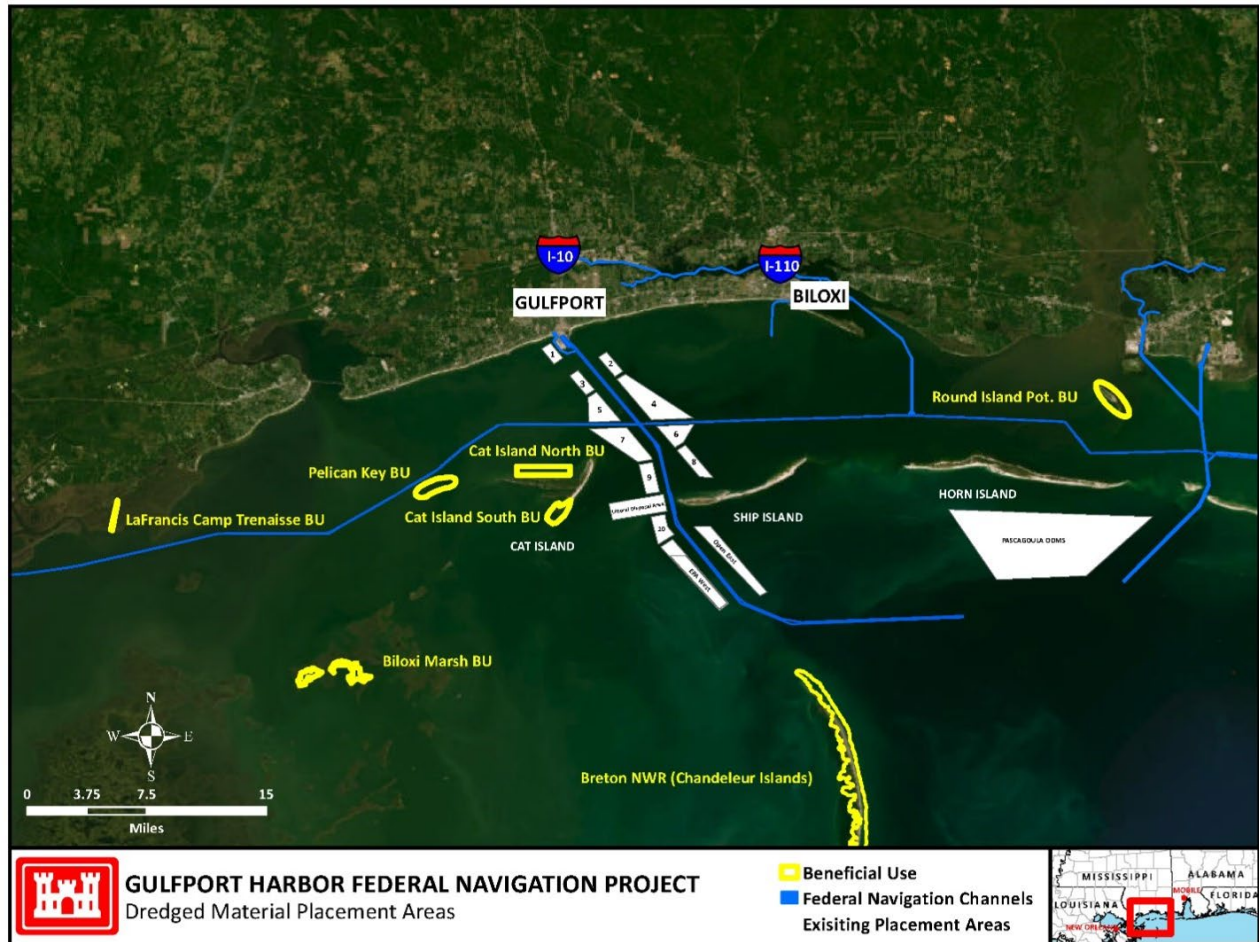


Figure 5.2 Gulfport Harbor Potential Beneficial Use Placement Sites

6. Recommended Estates

For navigation improvement projects, ER 405-1-12 generally recommends acquiring only the minimum necessary property interests to meet project requirements, as full ownership is seldom required. Under the doctrine of navigational servitude, the federal government holds authority over lands below the ordinary high-water mark in navigable waters, allowing project activities without requiring additional property interests.

In areas where project needs extend beyond navigational servitude, such as for staging or beneficial use placement, a standard easement, such as a Temporary Work Area Easement (TWAE), may be recommended.

6.1 Standard Temporary Work Area Easement (Beneficial Use by Others)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period of [enter months of easement term not to exceed five (5) years], beginning with (“the date of this instrument” for purchases) (“the date possession of the land is granted to the United States” for condemnations), for use by the United States, its representatives, agents, and contractors as a dredged material placement area, including the right to deposit dredged material thereon, move, store and remove equipment and supplies, and to perform any other work necessary and incident to the use of the land for placement of dredged material from the [name the federal navigation channel and include river miles or stationing], together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; 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.¹

6.2 Non-Standard Estates

There are no non-standard estates required for this project. All necessary property interests will be acquired through standard estates, such as navigational servitude or easements, which are sufficient to meet the operational and placement requirements of the project.

7. Federally Owned Land

No federally owned lands will be directly impacted by the proposed project. However, the project area is in proximity to barrier islands managed by the National Park Service (NPS), including Ship Island and a significant portion of Cat Island. These areas are protected by the NPS for their diverse natural, cultural, and historical significance.

¹ Example has been drafted to include only those affirmative rights from the standard estate required to support placement of dredged material for beneficial use by others. This is a lesser estate (exception to fee) approved for use in the case of upland placement for beneficial use by others per CEMP-CR Memo dated 23 May 2023.

8. Existing Federal Projects

As previously noted, barrier islands, including Ship Island and portions of Cat Island, are located near the project area. Additionally, the project channel intersects with the Gulf Intracoastal Waterway (GIWW). No real estate issues are anticipated due to the minimal overlap between the two channels, and no impacts to the Lands, Easements, Rights-of-Way, Relocations, and Disposal Sites (LERRDs) supporting existing federal projects are expected.

9. Navigational Servitude

Under U.S. sovereignty and the federal government's authority to regulate commerce, the doctrine of navigational servitude applies to this project, as it involves navigation improvements to the Gulfport Harbor Federal Navigation Channel (FNC). This servitude grants the federal government a dominant right to use, control, and regulate lands below the ordinary high-water mark of navigable waters for navigation purposes, without the need to acquire additional property interests or provide compensation.

The proposed project follows an existing authorized and navigable watercourse, and potential deepening of this channel falls within the jurisdiction of the navigable waters of the United States, defined as the area below the mean high-water mark. Furthermore, the purposes of the proposed project have a clear nexus to navigation.

In accordance with ER 405-1-12, Section 7b, the determination of availability for the real property interests required for this project follows a two-step process:

1. Determine availability through existing rights or servitudes: All lands required for channel deepening, widening, extension, and other improvements fall within the navigable waters of the United States and are available for project use under the doctrine of navigational servitude.
2. Establish the nexus to the navigation mission: The identified lands and in-water placement areas are necessary for the execution of the navigation-related objectives of this project. These project purposes are consistent with the Federal government's authority over navigable waters and do not require acquisition of additional Federal real estate interests.

As a result, the application of the determination of availability two-step process confirms the issue of navigational servitude is fully applicable to this project. This ensures Federal construction and subsequent OPERATION, and maintenance responsibilities can be fully exercised under the doctrine of navigational servitude, without the need for additional Federal real estate interests for lands below the mean high-water mark.

For specific details regarding the applicability of navigational servitude to placement areas, please refer to Section 5, Real Estate Requirements.

10. Support or Opposition of Landowners

This project has received support from both the Non-Federal Sponsor (NFS) and the public. There is no known opposition from adjacent landowners in the project area.

11. Present or Anticipated Mineral Activity

There is no known present or anticipated mineral extraction activity within the project area at Gulfport Harbor or its immediate surroundings that would affect the construction or operation and maintenance (O&M) of the project. The project's location within navigable waters and its proximity to federally managed barrier islands reduce the likelihood of mineral development in this area. No impacts to mineral resources are expected, and no mineral extraction activities are anticipated to interfere with project construction or O&M.

12. Hazardous, Toxic, and Radioactive Waste (HTRW)

No potential issues related to Hazardous, Toxic, and Radioactive Waste (HTRW) have been identified within the study area. Additionally, no sites with potential for HTRW contamination are anticipated to be encountered during the construction of the proposed project. For further details, refer to Appendix C - Environmental, which discusses the HTRW assessment.

13. Induced Flooding

The construction of the proposed project will not cause any induced flooding in the project area or surrounding regions.

14. Enactment of Zoning Ordinances

Zoning ordinances or applications will not be used as a substitute for property acquisition required to support the project.

15. Relocation Assistance (Public Law 91-646 as Amended)

No persons or businesses will be displaced or impacted by the project; therefore, no relocation assistance or benefits are anticipated under Public Law 91-646. This law, codified in U.S.C. Title 42, Chapter 61 – Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs – is implemented through the Uniform Regulations in 49 Code of Federal Regulations, Part 24, as amended.

16. Utility and Facility Relocations, Alterations, Vacations, and Abandonments

Two petroleum pipelines cross under the Gulfport Harbor Federal Navigation Channel (FNC), both owned and managed by Chevron Pipeline Company of Covington, LA. The original 20-inch Cal-Ky pipeline was installed in the early 1960s under USACE permit MS62-00072-U, originating from Chevron's Pascagoula, MS, facility. This line crosses the FNC north of the barrier islands at an approximate depth of 59 feet below the substrate. In 1993, a portion of this pipeline was abandoned in place when a new 20-inch pipeline was installed nearby, approved under USACE permit SAM-2011-293-PAH. The new pipeline segment, installed via horizontal directional drilling (HDD), reaches a depth of over 120 feet below the channel. According to Chevron, the original pipeline was flushed, filled with inert seawater, and abandoned in situ, though procedural records have not been located. See **Exhibit “A”** for additional documentation.

A proposed HyStor pipeline crossing the Gulfport Harbor FNC has been identified by the Regulatory Division; however, this pipeline has not yet been constructed.

Any conclusions or categorizations contained in this report regarding utility or facility relocation to be performed by the NFS as part of its LERRD requirements is preliminary in nature. The federal government will make a final determination of the relocations necessary for the construction, operation, and maintenance of the project after further analysis and completion and approval of a final attorney’s

opinion of compensability for each of the impacted utilities during the project's pre-construction engineering and design (PED) phase.

17. Non-Federal Sponsor's (NFS) Real Estate Acquisition Capability Assessment

USACE-SAM-RE personnel have been in communication with the NFS regarding their legal responsibilities to provide lands, easements, rights-of-way, or relocations determined by the government to be necessary for construction of the project. Further, the NFS shall comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended, in acquiring real estate interests for the project.

A Real Estate Acquisition Capability Assessment is attached hereto as **Exhibit "B"** detailing the sponsor's authority and capability in providing any necessary real estate interests.

18. Real Estate Acquisition Schedule

If any land acquisition becomes necessary for the proposed project, the NFS has indicated they will use their in-house staff to acquire real estate interests required. The NFS, Project Manager and Real Estate Technical Manager will formulate an acquisition schedule if required. For the anticipated removal of the abandoned pipeline and necessary documentation in accordance with that removal, along with the NFS issuance of Authorization for Entry for Construction, we anticipate a 12-month schedule to run concurrently with the final design process.

19. Non-Federal Sponsor (NFS) Risk Notification Letter

The Non-Federal Sponsor's (NFS) Risk Notification Letter has been sent and is attached hereto as **Exhibit "C"**. This letter identifies sponsor risks of acquiring lands prior to signing of the PPA and requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989, as amended. Title to any acquired real estate would be retained by the NFS and no land interest will be conveyed to the United States of America. However, prior to advertisement of any construction contract, the NFS will furnish to the Government an Authorization for Entry for Construction to all LER required for the project. A sample Authorization for Entry is attached hereto as **Exhibit "D"**.

20. Baseline Cost Estimate for Real Estate (BCERE)

The Baseline Cost Estimate for Real Estate (BCERE) provides an overview of projected real estate costs associated with the Gulfport Harbor Navigation Improvement Project. These estimates include costs for acquiring necessary easements, temporary work areas, and any additional real estate interests required to support project construction, operation, and maintenance. All estimates are preliminary and subject to refinement as project planning progresses.

The table below summarizes the estimated real estate costs for this project:

Table 20.1 Estimated summary of projected real estate costs

ESTIMATED SUMMARY OF PROJECTED REAL ESTATE COSTS			
Items Description	Non-Federal	Federal	TOTAL
Lands, Easements, Rights of Way (LER)	\$0.00	\$0.00	\$0.00
LER Admin Costs	\$120,000.00	\$35,000.00	\$155,000.00
Facility/Utility Relocations - Construction Costs	\$5,921,946.00	\$0.00	\$5,921,946.00
Facility/Utility Relocations - Administrative Costs	\$60,000.00	\$0.00	\$60,000.00
Relocation Assistance (PL 91-646)	\$0.00	\$0.00	\$0.00
Other Professional Services	\$0.00	\$0.00	\$0.00
Contingency (24% LER Acquisition Incremental Costs)	\$0.00	\$0.00	\$0.00
Contingency (20% Administrative Costs only)	\$30,000.00	\$8,750.00	\$38,750.00
TOTAL LERRDs			\$6,175,696.00
TOTAL LERRDs (ROUNDED)			\$6,200,000.00
Fed LERRD/P.L. 91-646 Oversight (PED Acct)			\$ 60,000.00

Table 20.2 Chart of accounts

ESTIMATED SUMMARY OF PROJECTED REAL ESTATE COSTS				
01A	INCIDENTAL - REAL ESTATE COSTS	NON- FED	FEDERAL	TOTAL COSTS
01A1A	ACQUISITION (ADMIN COSTS)			
01A1A	By the Non- Federal Sponsor	\$60,000.00	\$35,000.00	\$95,000.00
01AB	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01A1C	Gov't review of the NFS	\$0.00	\$0.00	\$0.00
01A4	TITLE SERVICES AND CLOSING			
01A4A	By the Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01A4B	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01A4C	Gov't review of the NFS	\$0.00	\$0.00	\$0.00
01A6	FACILITY/UTILITY RELOCATIONS			
01A6A	By the Non- Federal Sponsor	\$60,000.00	\$0.00	\$60,000.00
01A6A	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01A6A	Review of the NFS	\$0.00	\$0.00	\$0.00
	Contingencies (25%)	\$30,000.00	\$8,750.00	\$38,750.00
01A	TOTAL INCIDENTAL COSTS	\$150,000.00	\$43,750.00	\$193,750.00
01B	ACQUISITION - REAL ESTATE COSTS	NON- FED	FEDERAL	TOTAL COSTS
01B1	LAND PAYMENTS			
01B1A	By the Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01B1B	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01B2	DAMAGES			
01B2A	By the Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01B2B	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01B3	FACILITY/UTILITY RELOCATIONS			
01B3A	By the Non- Federal Sponsor	\$5,921,946.00	\$0.00	\$5,921,946.00
01B3B	By the Gov't on behalf of Non- Federal Sponsor	\$0.00	\$0.00	\$0.00
01B	TOTAL LANDS AND DAMAGES	\$5,921,946.00	\$0.00	\$5,921,946.00
O1	TOTAL (01A+01B)	\$6,071,946.00	\$43,750.00	\$0.00

21. Other Relevant Real Estate Issues

Currently, no additional real estate issues have been identified.

EXHIBIT A

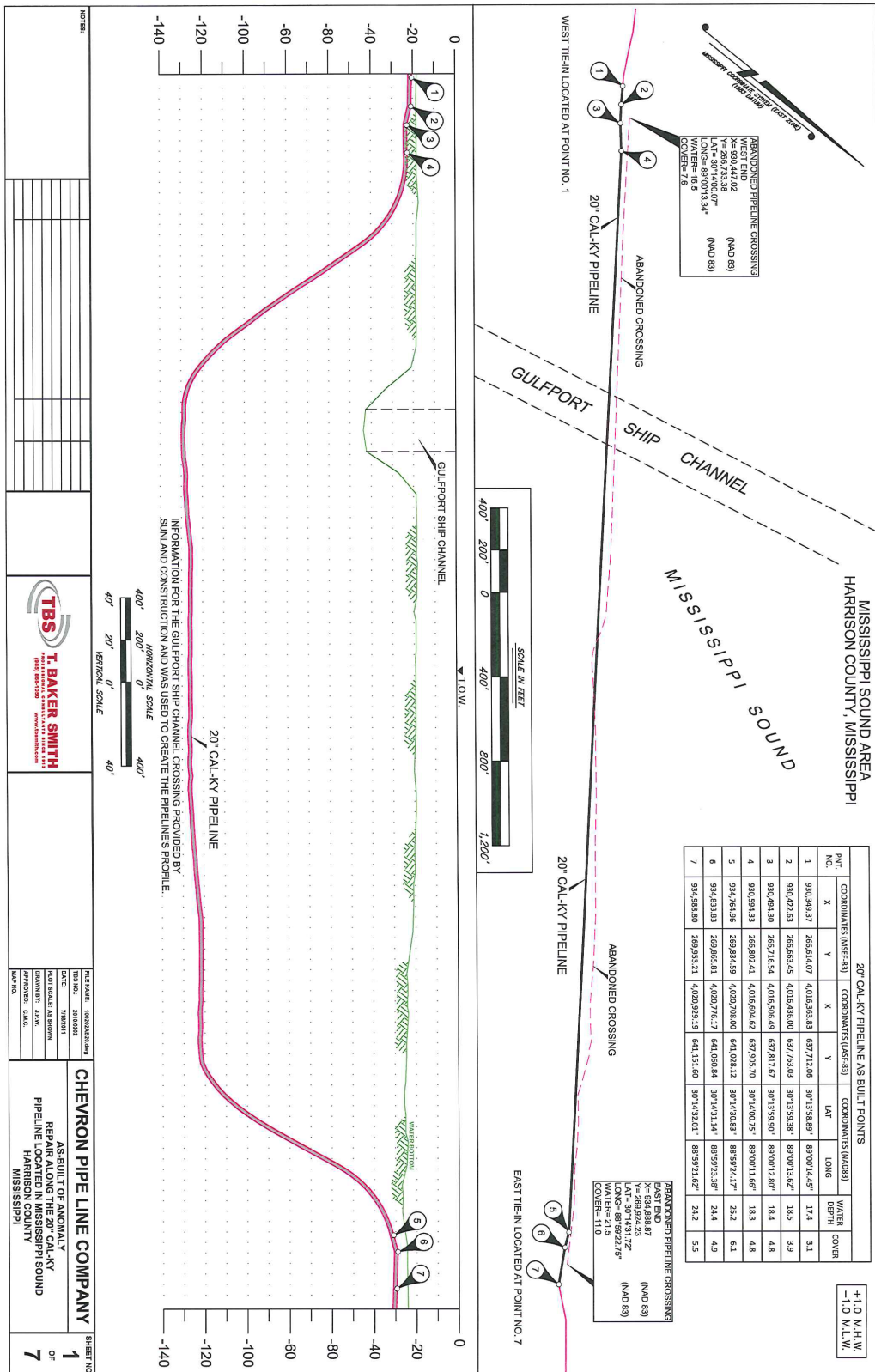


EXHIBIT B, 1 of 3



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

REPLY TO
ATTENTION OF: CESAM-RE-A

GULFPORT HARBOR, MISSISSIPPI

PORT OF GULFPORT, MISSISSIPPI – NON FEDERAL SPONSOR

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

1. LEGAL AUTHORITY:

- a. **Does the sponsor have legal authority to acquire and hold title to real property for project purposes?** Yes. Mississippi Code § 59-5-39 (2020), provides the Port the with the power to acquire real property for authorized project purposes. For the acquiring of rights-of-way, land and property including existing easements, restrictive covenants and reversionary estates necessary for the purposes herein authorized, the board shall have the right and power to acquire the same by purchase, negotiation or condemnation, and should it elect to exercise the right of eminent domain, it may proceed in the manner provided by the general laws of the State of Mississippi for procedure by any county, municipality or corporation organized under the laws of this state, or in any other manner provided by law. The power of eminent domain shall apply not only as to all property of private persons or corporations, but also as to property already devoted to public use including leaseholds, excepting interests in property owned by levee boards, drainage districts, or other flood control agencies. However, the board shall have no authority to acquire without the consent of the owner thereof any property operated and used for port, harbor or industrial purposes or such purposes as the board is authorized to acquire and use property for, unless an actual necessity therefor be alleged and proven. The board is authorized to accept donations of lands, rights therein, monies and materials required for the maintenance or development of any port or harbor. The board may exchange any property or properties acquired under the authority of this chapter for other property or properties usable in carrying out the powers hereby conferred, and also remove from lands needed for its purposes and reconstruct on other locations, buildings, utilities, terminals, railroads or other structures upon the payment of just compensation, if it is necessary so to do in order to carry out any of its plans for port development. The title to all land or property acquired under the authority of this chapter shall vest in the State of Mississippi. Nothing contained in this section shall be construed to authorize the taking by eminent domain of any private property except for necessary public use.
- b. **Does the sponsor have the power of eminent domain for this project?** Yes. Mississippi Code § 59-5-39 (2020) provides the power of eminent domain for the acquiring of rights-of-way, land and property. Per this section, should it elect to exercise the right of eminent domain, it may proceed in the manner provided by the general laws of the State of Mississippi for procedure by any county, municipality or corporation organized under the laws of this state, or in any other manner provided by law.

EXHIBIT B, 2 of 3

- c. **Does the sponsor have “quick-take” condemnation authority for this project? Please cite specific authority (i.e. local/state law).**

No. The State of Mississippi does not authorize “quick take” condemnation in this situation. Mississippi Code, Title 11, Chapter 27 (Eminent Domain) outlines the civil procedure for eminent domain. Mississippi Code § 11-27-85 does provide for an order for immediate possession under very specific circumstances.

- d. **Are any of the lands/interests in land required for the project located outside the sponsor’s political boundary?** No, the channel improvements proposed will be w/in the State’s political and legal boundaries as to allow for any real property interests that might be needed for the project.

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

- i. **Private Property:** No
- ii. **State-Owned Property:** No
 - 1. None known at this time

2. 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?** No
- b. **If the answer to 2(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
- d. **Is the sponsor’s projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?**
Yes
- e. **Can the sponsor obtain contractor support, if required, in a timely fashion?** Yes, if needed.
- f. **Will the sponsor likely request USACE assistance in acquiring real estate? (If “yes”, provide description).** No

EXHIBIT B, 3 of 3

3. 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 (*answer is contingent upon whether the real estate milestones have been defined at this point in the project*)?

An approved project/real estate schedule has yet to be developed.

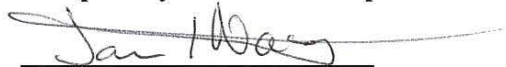
4. OVERALL ASSESSMENT:

- a. Has the sponsor performed satisfactorily on other USACE projects (if 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, please provide explanation).

5. COORDINATION:

- a. Has this assessment been coordinated with the sponsor? Yes, the sponsor has been in coordination w/ the Mobile District RE Division regarding the proposed project.
- b. Does the sponsor concur with this assessment? Yes

Accepted by Non-Federal Sponsor:



(Signature)

9/28/23

(Title)

Prepared by:



RUSSELL W. BLOUNT III
Section Chief
Planning, Purchase & SFO Section
Acquisition Branch
Real Estate Division
USACE, Mobile District

EXHIBIT C, 1 of 2



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

REPLY TO
ATTENTION OF:

USACE-SAM-RE-A

13 September 2023

Mr. Jon Nass
Executive Director & CEO
Mississippi State Port Authority at Gulfport
Post Office Box 40
Gulfport MS 39502

Subject: Gulfport Harbor Navigation Study – Formal Risk Notification Letter to Non-Federal Sponsor

Dear Mr. Nass,

The intent of this letter is to formally advise the Port of Gulfport, Mississippi, as non-Federal Sponsor for the proposed 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.

While we acknowledge that no land acquisition has been determined to date, for the subject project based on the latest engineering designs, we are still required by regulation to notify the non-Federal Sponsor of the inherent risks associated with a cost-shared project of this nature.

Generally, these risks include, but may be not be limited to, the following:

- (1) Congress may not appropriate funds to construct the proposed project;
- (2) The proposed project may otherwise not be funded or approved for construction;
- (3) A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;
- (4) 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 CERCLA, as amended;

EXHIBIT C, 2 of 2

- (5) 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;
- (6) 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 Lands, Easements, Rights-of-way, Relocations, Disposal Areas and/or Borrow Areas (LERRD);
- (7) 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. Reference ER 405-1-12 (Change 31; 1 May 98) Section 12-31 Acquisition Prior to PCA Execution.

Please acknowledge that the Non-Federal Sponsor for the proposed project accepts these terms and conditions.

Accepted on behalf of the Non-Federal
Sponsor:

 (Signature)

CEO/ED (Title)

Prepared by:

John J. Tetreau
Planning & Purchase Section
Acquisition Branch
Real Estate Division
Mobile District
U.S. Army Corps of Engineers

EXHIBIT D

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION AND ATTORNEY'S CERTIFICATE OF AUTHORITY

I, (NAME OF ACCOUNTABLE OFFICIAL), (TITLE OF ACCOUNTABLE OFFICIAL) for (NAME OF NON-FEDERAL SPONSOR), do hereby certify that the (NAME OF NON-FEDERAL SPONSOR) has acquired the real property interests required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction of (PROJECT NAME, SPECIFICALLY IDENTIFIED PROJECT FEATURES, ETC.). Further, I hereby authorize the Department of the Army, its agents, employees, and contractors, to enter upon (IDENTIFYING SITE #'S) to construct (PROJECT NAME, SPECIFICALLY IDENTIFIED PROJECT FEATURES, ETC.) as set forth in the plans and specifications held in the U. S. Army Corps Engineers' Mobile District Office, Mobile, Alabama.

WITNESS my signature as ____(TITLE)____ for (NAME OF NON-FEDERAL SPONSOR) this _____ day of _____, 20__.

BY: (SIGNATURE OF ACCOUNTABLE OFFICIAL)
(TITLE)

I, ____(NAME OF LEGAL CERTIFYING OFFICER)____, (TITLE OF LEGAL OFFICER) for (NAME OF NON-FEDERAL SPONSOR), certify that (NAME OF NON-FEDERAL SPONSOR) has authority to grant Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as ____(TITLE)____ for (NAME OF NON-FEDERAL SPONSOR), this _____ day of _____, 20__.

BY: (NAME OF LEGAL CERTIFYING OFFICER)
(TITLE)