

APPENDIX D
REAL ESTATE

DRAFT

MOBILE HARBOR, MOBILE, ALABAMA
Integrated General Reevaluation Report
With Supplemental Environmental Impact Statement

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1. PURPOSE OF THE REAL ESTATE PLAN

A Real Estate Plan (REP) is required to support decision documents for all types of water resources projects whether full Federal or cost shared, specifically authorized or continuing authority. This REP is tentative in nature and is to be used for planning purposes only in order to support the Mobile Harbor Draft Integrated General Reevaluation Report with Supplemental Environmental Impact Statement (Draft GRR/SEIS). The overall report documents and presents the results of investigations and analyses conducted by the U.S. Army Corps of Engineers (USACE), Mobile District, to evaluate navigation improvements including widening and deepening of Mobile Harbor, Mobile, Alabama.

Although the report is written based on specific data from the USACE, Mobile District Project Delivery Team (PDT), some minor modifications to the plan could occur thus changing the real estate determinations made herein. The level of detail provided herein is understood to be equivalent to the other project disciplines.

The purpose of this REP will further identify potential Lands, Easements, Rights-of-Way, and Relocations (LERR) required, if any, for the proposed project. The Alabama State Port Authority (ASPA) is the non-Federal Sponsor (NFS) for this project.

2. AUTHORITY

The USACE has been involved with the navigation channel at Mobile Harbor since 1826 following the passage of the Rivers and Harbor Act of 1826. Subsequently, the navigation channel has been progressively deepened from a depth of 10 ft to its current dimensions. There have been numerous studies and Congressional Authorizations leading up to this current investigation.

Improvements to the existing Federal project were most recently reauthorized in Section 201 of the Water Resources Development Act (WRDA) of 1986 (Public Law (PL) 99 – 662, Ninety-ninth Congress, Second Session), which was approved 17 November 1986, and subsequently amended by Section 302 of the WRDA of 1996, to read:

- *AUTHORIZATION OF CONSTRUCTION - The following projects for harbors are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:*

The project for navigation, Mobile Harbor, Alabama: Report of the Chief of Engineers, dated November 18, 1981, at a total cost of \$451,000,000, with an estimated first Federal cost of \$255,000,000 and an estimated first non-Federal cost of \$196,000,000. In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after

opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.

The report referenced by this authorization recommended the following improvements to the Federal project: deepening and widening the gulf entrance channel to 57 by 700 feet; deepening and widening the main ship channel to 55 by 550 feet in Mobile Bay, except for the upper 3.6 miles which require a width of 650 feet; deepening the Mobile River Channel to 55 feet to a point about 1 mile below the Interstate 10 highway tunnels; and, constructing turning and anchorage basins near Little Sand Island.

3. PROJECT LOCATION & DESCRIPTION

Mobile Harbor, Alabama, is located in the southwestern part of the state, at the junction of the Mobile River with the head of Mobile Bay. The port is approximately 28 miles north of the bay entrance from the Gulf of Mexico and 170 miles east of New Orleans, Louisiana.

The Mobile River, on which the ASPA facilities are located, is formed some 45 miles north of the city with the joining of the Alabama and Black Warrior/Tombigbee Rivers. The Mobile River also serves as the gateway to international commerce for the Tennessee-Tombigbee Waterway. In the southern region of Mobile Bay, access can be gained to the Gulf Intracoastal Waterway which stretches from St. Marks, Florida, to Brownsville, Texas.

Mobile River separates the mainland on the west from Blakeley Island, Pinto Island, and Little Sand Island on the east. The Mobile Harbor project provides access for deep draft vessel traffic to use terminal facilities located along the Mobile River.

The Mobile Harbor Federal Navigation Project, particularly the main navigation channel, is comprised of three distinct segments: a Bar Channel; a Bay Channel; and, a River Channel. These segments were evaluated for modification with the exception of the upper approximately 3.6 miles of the River Channel (i.e., north of station 226+16) because that portion of the channel is already constructed to its fully authorized dimensions. The Choctaw Pass Turning Basin located near the interface of the Bay and River Channels was also part of this evaluation. Plane of reference is mean low water. Under ordinary conditions mean tidal range at the lower end of the improvement is 1.2 feet and at the upper end 1.5 feet. Extreme tidal range is 3.4 feet at the lower end and 3.6 feet at the upper end.

An overview map of the authorized and existing (i.e. constructed) project area and channel dimensions is provided at Figure 3.1.

- The authorized project dimensions of the navigation channel are:
 - a) 57 feet deep by 700 feet for a distance of 7.4 miles across the bar
 - b) 55 feet deep by 550 feet for a distance of 27.0 miles in the Bay Channel
 - c) 55 feet deep by 650 feet for a distance of 4.2 miles in the bay
 - d) 55-foot deep anchorage and turning basin in vicinity of Little Sand Island.

- The existing constructed project dimensions of the navigation channel are:
 - a) 47 feet deep by 600 feet wide for a distance of 7.4 miles across the bar
 - b) 45 feet deep by 400 feet wide for a distance of 27.0 miles in the Bay Channel
 - c) 45 feet deep in the Mobile River to a point about 1 mile below the Interstate 10 highway tunnels. The channel then becomes 40 feet deep and proceeds north over the Interstate 10 and U.S. 90 highway tunnels to the Cochrane-Africatown Bridge.
 - d) 45 feet deep turning basin in vicinity of Little Sand (Anchorage was never constructed)

- The Tentatively Selected Plan (TSP) for the subject project extends from the Bar Channel through the Bay Channel and up the River Channel to end about 1 mile south of the I-10 tunnels. The plan is divided into four channel reaches, from south to north, for the purposes of this report. The Bar Channel, Bay Channel, Choctaw Pass Turning Basin, and River Channel (from south to north) are illustrated in Figures 3.2 - 3.6. The study did not evaluate modifications to the River Channel segment north of station 226+16 because that portion of the channel is already constructed to its fully authorized dimensions.

The following navigational improvements proposed under the current TSP are as follows:

- Deepen the existing Bar, Bay, and River Channels (below station 226+16) by 5 feet to project depths of 52, 50, and 50 feet, respectively, with an additional 2 feet for advanced maintenance plus 2 feet of allowable overdepth for dredging (total depths of 56, 54, and 54 feet, respectively).
- Incorporate minor bend easing at the double bends (at stations 1857+00 and 1775+26) in the Bar Channel approach to the Bay Channel.
- Widen the Bay Channel from 400 feet to 500 feet from the mouth of Mobile Bay northward for 3 nautical miles to provide a two-way traffic area for passing.

- Expand the Choctaw Pass Turning Basin 250 feet to the south (at a depth of 50 feet) to better accommodate safe turning of the design vessel and other large vessels.
- Placement Areas / Beneficial Use (BU) Areas
 - Ocean Dredged Material Disposal Site (ODMDS): The existing Mobile ODMDS is about 4,000 acre. The Mobile District is pursuing a modification to expand the ODMDS to about 24,000 acres to meet the future needs of O&M and new work material. Coordination with EPA on the expansion is in progress pending a USACE determination on cultural resource survey requirements. Once the expansion is finalized, Section 106 consultation will be conducted and a modification of the WQC will be pursued to include the updated ODMDS.
 - Relic Shell Mined Area: The Shell Mined Area is located to the Northeast of Gaillard Island on the eastern side of the Bay Channel. The proposed placement within this site is the result of beneficial use discussions with the cooperating agencies where it was suggested that Mobile District conduct open bay placement of the dredged material in strategic areas of the bay in an effort to reduce hypoxic conditions.
 - Sand Island Beneficial Use Area (SIBUA) and Sand Island Beneficial Use Area Northwest Extension: In the 1996 WRDA, authority was given to the Corps to modify dredged material placement practices to allow beneficial use of dredge material from the ODMDS. The Mobile District then partnered with the Alabama Department of Environmental Management (ADEM) to designate an area on the western side of the Bar Channel in which suitable material could be placed when any opportunity arose. Designation of the SIBUA was completed in 1998 and placement of the sandy Bar Channel maintenance material at this site became the preferred dredged material placement option.



FIGURE 3.1: EXISTING AND AUTHORIZED CHANNEL DIMENSIONS

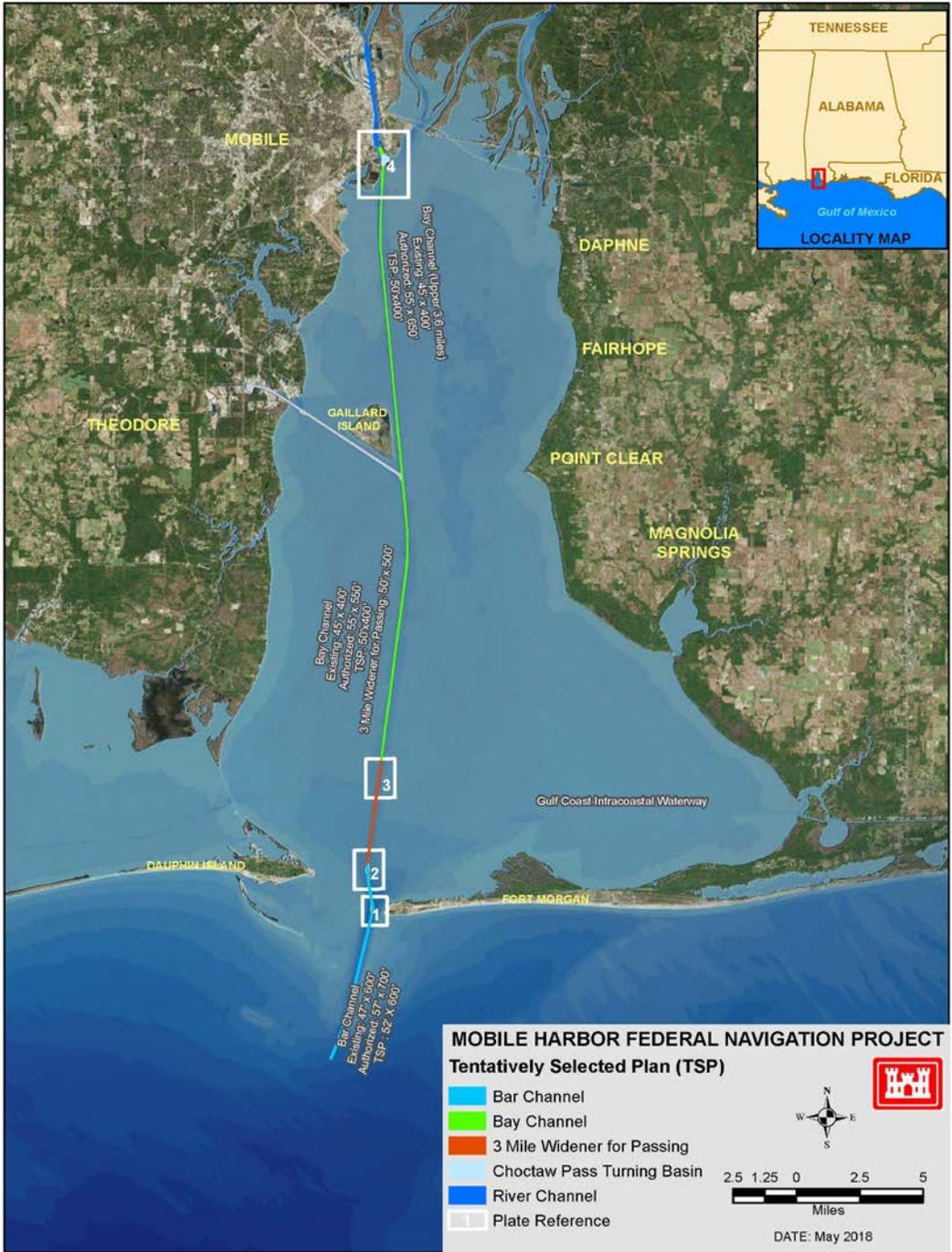


FIGURE 3.2: TENTATIVELY SELECTED PLAN (TSP)

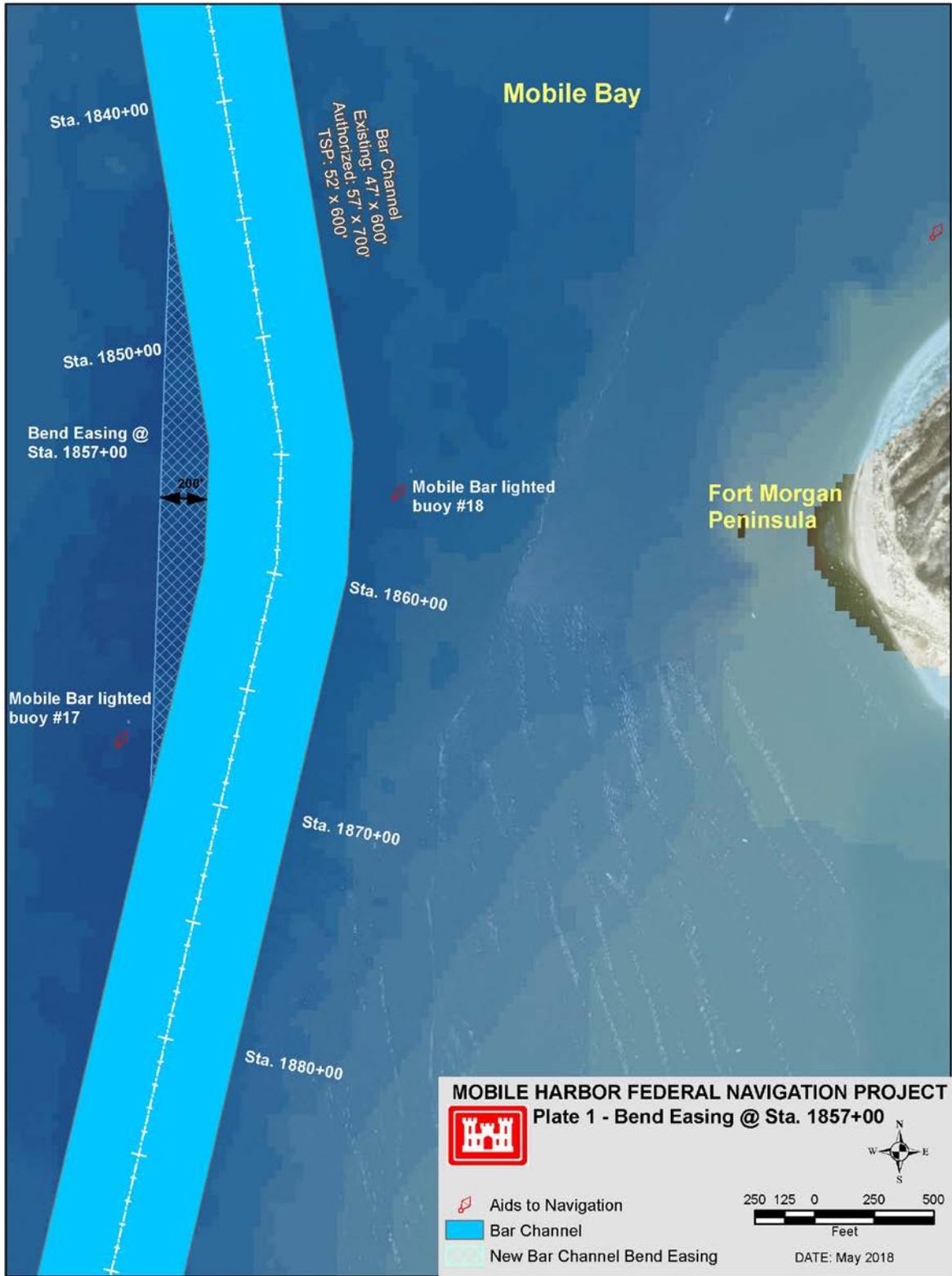


FIGURE 3.3: BEND EASING IN BAR CHANNEL AT STATION 1857+00

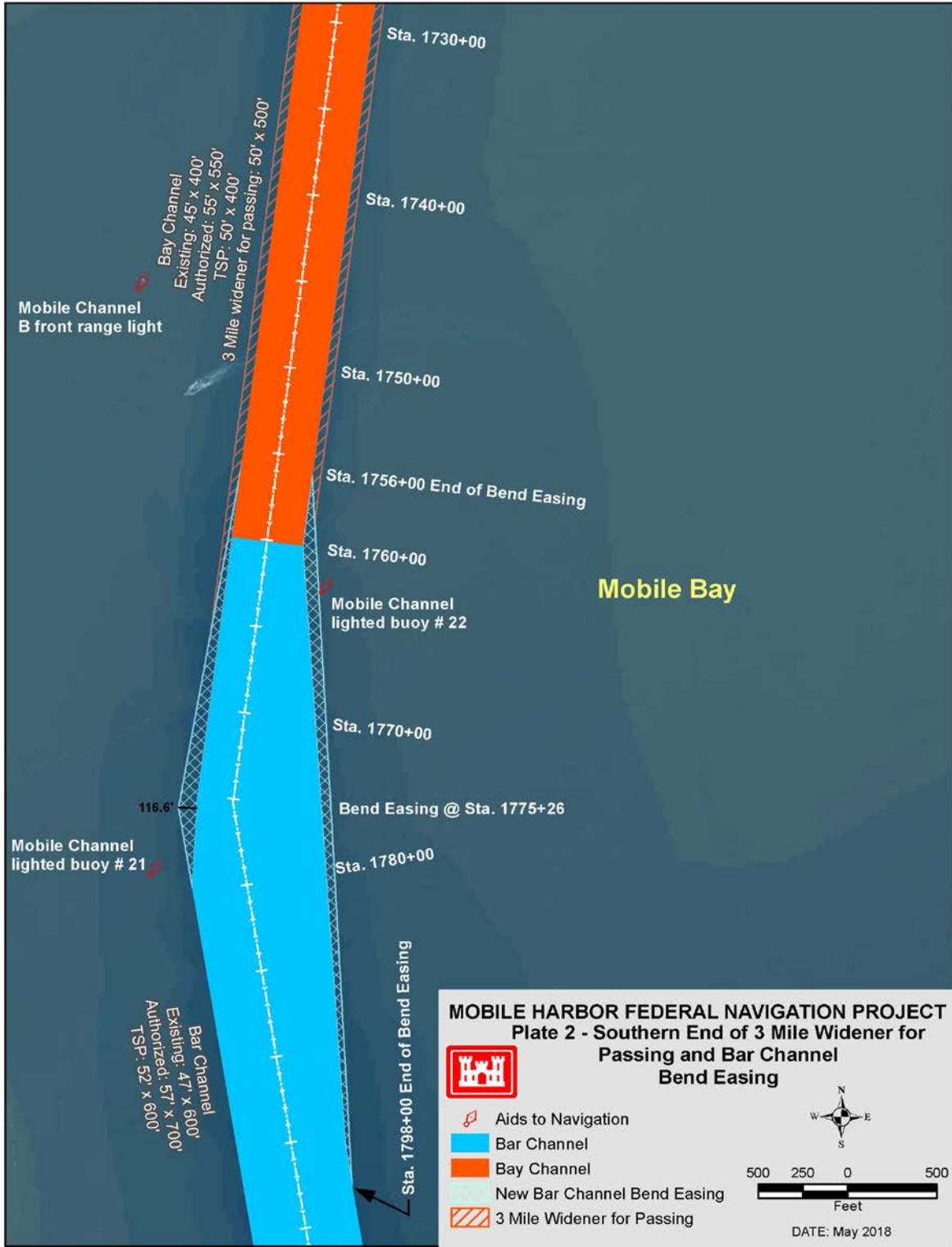


FIGURE 3.4: BEND EASING IN BAR CHANNEL AT STATION 1775+26 AND SOUTHERN END OF 3 MILE CHANNEL WIDENER FOR PASSING IN BAY CHANNEL

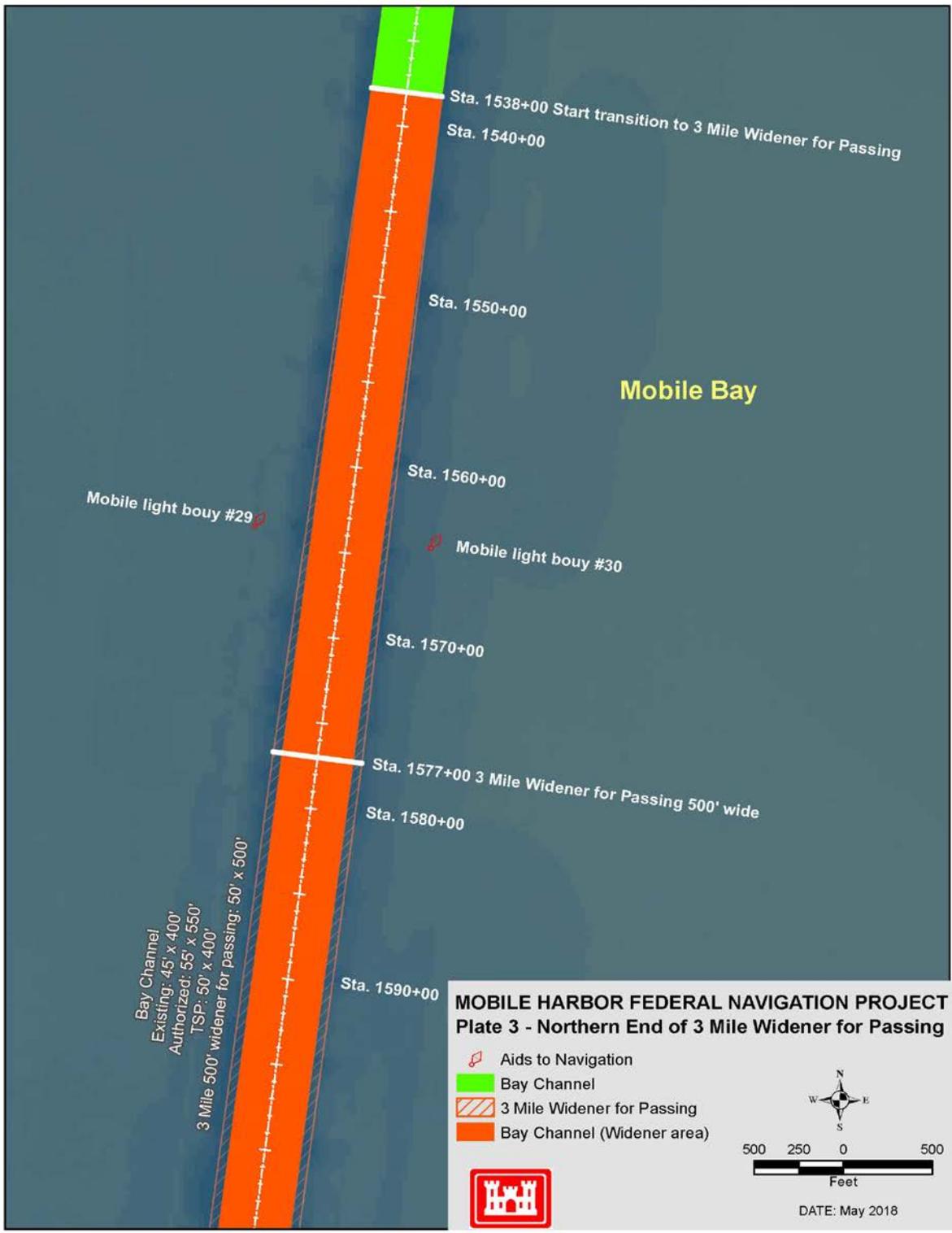


FIGURE 3.5: NORTHERN END OF 3 MILE WIDENER FOR PASSING IN BAY CHANNEL



FIGURE 3.6: CHOCTAW PASS TURNING BASIN EXPANSION

4. DESCRIPTION OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS (LERR)

Deepening and Widening below Station 226+16: Based on the TSP, the requirements for Lands, Easements, Rights-of-way and Relocations (LERR) should include the rights to construct, operate, and maintain channel improvement works in connection with the proposed project. Upon review of the current plan/profile study drawings, no fee or easement acquisition would be required for staging, access, construction, O&M in furtherance of the project because the proposed deepening and widening will take place within the channel from barges impacting only water bottoms of Mobile Bay. Subject water bottoms are the property of the State of Alabama in accordance with Alabama Code § 9-12-22.

The proposed project set out herein 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 which is identified as that area below the ordinary high water mark. Furthermore, it is readily apparent that said purposes of the proposed project have a nexus to navigation. As a result of applying the Determination of Availability two-step process, the issue of navigational servitude is deemed applicable to this project as it relates to the Federal construction and subsequent O&M responsibilities. Therefore, no further Federal real estate interest is required for project construction and O&M in navigable waters below the ordinary high water mark. These project requirements can be fully exercised under the doctrine of navigational servitude.

Staging and Access: There are no requirements identified for staging or access in regards to the TSP.

Choctaw Pass Turning Basin adjacent to Little Sand Island: The Choctaw Pass Turning Basin is currently 45 feet deep by approximately 1,570 feet long (including the 400-foot width of the existing Bay Channel) by 715 feet wide. Additionally, it contains a 100-foot widener/transition section about 3,500 feet in length along the eastern edge of the existing Bay Channel immediately south of the basin to improve basin access, reduce the basin size needed for turning, and increase vessel maneuverability. The authorized dimensions of the turning basin, per Section 201 of WRDA 1986, PL 99-662, were 55 feet deep by 1,500 feet square, located opposite to the McDuffie Coal Terminal; however, it was not constructed with the other project improvements during the late 1980s/early 1990s at the request of the NFS. A General Reevaluation Report (GRR) was later prepared (in May 2007), per a request from the NFS, to re-evaluate the turning basin. The 2007 GRR recommended the turning basin be moved north to Choctaw Pass and deepened to 45 feet to match the adjacent channel dimensions. Construction to the recommended dimensions was completed in 2011. The turning basin is located between stations 244+66 and 273+21 and the widener/transition along the eastern edge of the existing Bay Channel is located between stations 273+21 and 317+73.

The TSP proposes to enlarge the existing turning basin to accommodate larger vessels that are expected to call on the port due to the proposed increase in channel depth. As a result of this enlargement along the southern portion of the turning basin (See Figures 4.1 and 4.2 below), a portion along the northwestern shoreline of Little Sand Island (approximately one acre) will be impacted and excavation of these uplands will occur.

The NFS currently holds fee simple title to Little Sand Island per that Statutory Warranty Deed dated November 10, 2009. Since the impacted land is above the ordinary high water line, the NFS is required to provide this portion of Little Sand Island for the benefit of the project in advance of enlarging the turning basin. The NFS will be entitled to credit against its share of project costs for the value of the land being provided. The amount of credit afforded will directly affect the amount of the NFS cash contribution otherwise required for construction of the project.

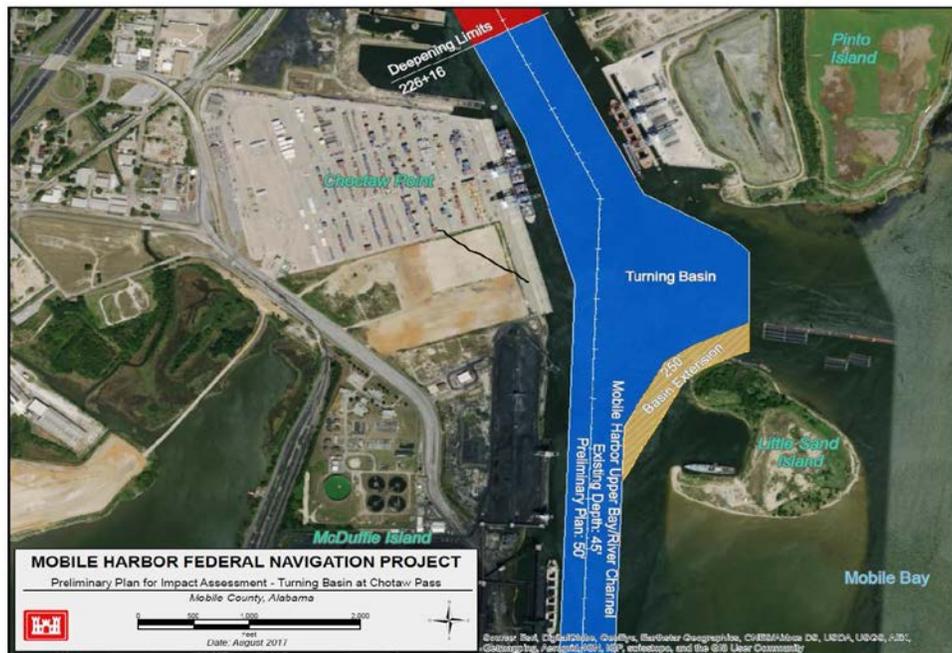


FIGURE 4.1: OVERVIEW MAP OF TURNING BASIN FEATURE AT LITTLE SAND



FIGURE 4.2: DETAILED MAP OF TURNING BASIN FEATURE AT LITTLE SAND

Placement Areas / Beneficial Use (BU) Areas: There are no real estate requirements for upland dredged material placement areas. Moreover, Section 201 of WRDA 96 redefined disposal site preparation costs as being General Navigation Features and not a real estate requirement.

The proposed Placement Areas / Beneficial Use Areas identified in the TSP (see Figure 4.3) below for dredged material are located along the water bottoms and within the jurisdiction of the State of Alabama and are the property of the State of Alabama to be held in trust for the people thereof. If additional options for beneficial uses that meet regulatory and environmental protection requirements are pursued at a later date, then applicable real estate requirements would be re-evaluated at that time.

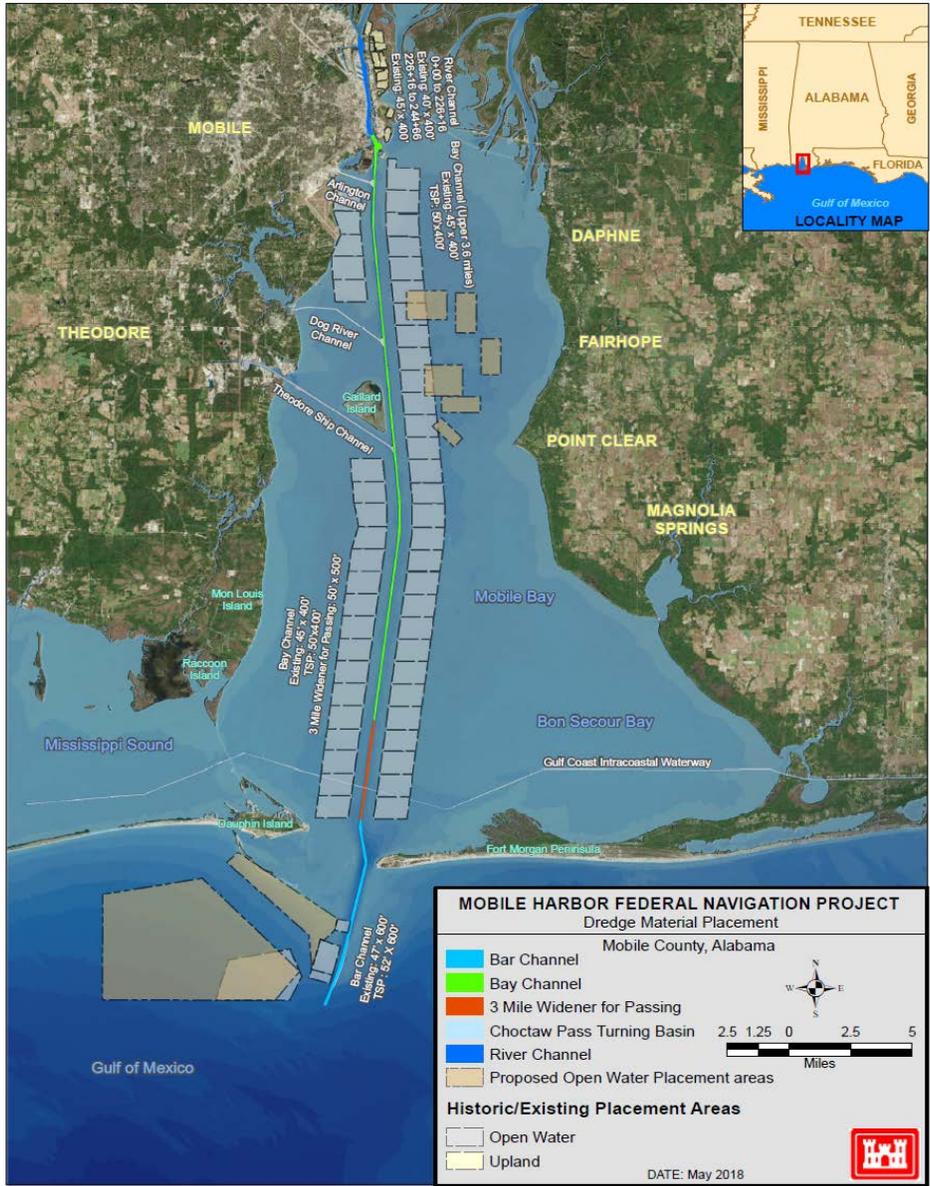


FIGURE 4.3: DREDGE MATERIAL PLACEMENT AREAS

5. LANDS, OR INTERESTS THEREIN, OWNED BY THE NFS

All the beds and bottoms of the rivers, bayous, lagoons, lakes, bays, sounds and inlets within the jurisdiction of the State of Alabama are the property of the State of Alabama to be held in trust for the people thereof in accordance with Alabama Code § 9-12-22. The Alabama Department of Conservation and Natural Resources (ADCNR) manages all submerged lands within the State of Alabama including navigable water bottoms, coastal bays and offshore state waters for a distance of three miles. Activities which would result in significant adverse impacts to state-owned submerged lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed and accomplished (ADCNR Administrative Code, Sections 4-25 through 4-28 of Chapter 220-4). However, it is also noted that ADCNR Code recognizes that all state owned submerged lands shall be subject to navigation priority. In addition, Little Sand Island, as previously discussed, is owned in fee simple by the NFS.

6. STANDARD / NON-STANDARD ESTATES

There are no standard or non-standard estates required for this project.

7. EXISTING FEDERAL PROJECTS

No lands being provided for this project were acquired by the NFS as a requirement of, or with the use of funds from, another Federal program or project.

To date, existing Federal projects within Mobile Harbor are as follows:

- (a) 47-foot by 600-foot channel across Mobile Bar;
- (b) 45-foot by 400-foot channel in Mobile Bay to mouth of Mobile River;
- (c) 40-foot channel in Mobile River to highway bridge, varying from 500 to 775 feet wide;
- (d) 25-foot channel from highway bridge to and up Chickasaw Creek to a point 400 feet south of mouth of Shell Bayou, widths being 500 feet in Mobile River and 250 feet in Chickasaw Creek;
- (e) turning basin 40 feet deep, 2,500 feet long, and 800 to 1,000 feet wide, opposite Alabama State Docks;
- (f) turning basin 40 feet deep, 1,000 feet wide, and 1,600 feet long opposite Magazine Point;

(g) 27-foot by 150-foot channel from Mobile Bay Channel along Arlington Pier to a turning basin 800 feet long and 600 feet wide opposite Brookley Complex Ocean Terminal, and continuing thence a turning basin 250 feet wide and 800 feet long in Garrows Bend, thence a 22-foot by 150-foot channel to the causeway linking McDuffie Island to the mainland;

(h) a channel serving the Theodore Industrial Park 40 feet deep and 400 feet wide from the main ship channel in Mobile Bay and extending northwesterly for about 5.3 miles to the shore of Mobile Bay, including an anchorage basin near the shoreline, thence a land cut 40 feet deep, 300 feet wide and 1.9 miles long to and including a 42-acre trapezoid turning basin 40 feet deep, and a barge channel 12- by 100-feet, extending 6,500 feet and terminating in a 300- by 300-foot turning basin; in addition a placement area located at Gaillard Island is owned in fee by the State of Alabama and was built in 1979 as a requirement of the Mobile Harbor, Theodore Ship Channel Project for the purposes authorized in the Flood Control Act of 1965 (PL 89-298), as modified by the Rivers and Harbors Act approved 22 October 1976 (PL 94-587). Gaillard Island is the primary disposal site for the Theodore Shipping Channel. The United States of America currently holds a perpetual and assignable right and easement to construct operate and maintain channel improvement works on and over that disposal area known as Gaillard Island (Tract 101-E) as recorded in Real Property Book 2725, Page 358, in the Office of the Judge of Probate, Mobile County, Alabama. As a result of this existing land right, no land acquisition will be required for the placement of dredged material at this location if it were ever needed for this proposed project. The aforementioned disposal easement at Gaillard Island is consistent with requirements of the previous cost shared project and there are no restrictions impeding its use for this civil works project. No real estate credits will be provided for this easement as credit was afforded previously;

(i) maintenance of Three Mile Creek by snagging, from its intersection with Industrial Canal to Mobile River.

(j) the existing Federal project provides also for an anchorage area 32 feet deep, 100 feet wide, and 200 feet long opposite site formerly occupied by the U.S. Quarantine Station at McDuffie (Sand) Island. Prior to widening the Mobile Bay Channel as authorized in 1954, the Quarantine Station anchorage area was maintained to a project width of 200 feet. Construction by local interests of a solid-fill causeway across Garrows Bend Channel between McDuffie Island and the mainland is also provided for under existing project.

(k) a turning basin opposite McDuffie Island, between Pinto Island and Little Sand Island, was constructed in 2010.

8. FEDERALLY-OWNED LANDS

There are no Federally fee-owned lands lying fully or partially within the LER for the proposed project. The United States of America, by and through USACE, does hold a perpetual disposal easement over portions of Little Sand Island allowing for the disposal of dredged material. However, from an operational standpoint, this island has not been used for dredge material in many years and does not provide the necessary rights for the purposes of this project.

9. NAVIGATIONAL SERVITUDE

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U.S. CONST. Art. I, §8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands hereunder 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. 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. *United States v. Cress*, 243 U.S. 316, 37 S. Ct. 380, 61 L. Ed. 746 (1917), *Kaiser Aetna v. United States*, 444 U.S. 164, 100 S. Ct. 383, 62 L.Ed.2d 332 (1979). The Government's rights under the navigation servitude exist irrespective of the ownership of the banks and bed of a stream below the ordinary high water mark and irrespective of western water rights under prior appropriation doctrine.

As stated in Section 4 herein, the Federal Government can exercise its right of navigational servitude hereunder for the construction and maintenance improvements being proposed. In addition, USACE will follow proper permitting process for excavating and/or disposing of material in navigable waters as required under Section 10 of the River and Harbor Act of 1899.

The proposed project set out herein 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 which is identified as that area below the ordinary high water mark. Furthermore, it is readily apparent that said purposes of the proposed project have a nexus to navigation. As a result of applying the Determination of Availability two-step process, the issue of navigational servitude is deemed applicable to this project as it relates to the Federal construction and subsequent O&M responsibilities. Therefore, no further Federal real estate interest is required for project construction and O&M in navigable waters below the ordinary high water mark. These project requirements can be fully exercised under the doctrine of navigational servitude.

10. INDUCED FLOODING

There is no flooding which will be induced by the construction or the operation and maintenance of the proposed project. As such, no Physical Takings Analysis is required.

11. BASELINE COST ESTIMATE FOR REAL ESTATE (BCERE)

A Gross Appraisal (June 2018) was prepared in estimating a value for those lands impacted by the project. Federal and non-Federal administrative costs have also been included in the BCERE to account for project coordination, crediting, and miscellaneous expenses that may occur during the planning or implementation of the proposed project. The BCERE may be revisited during the Project Engineering & Design (PED) phase in order to apply additional costs if necessary, especially due to the potential for mitigation or litigation in regards to the project. If land acquisition by the NFS is deemed necessary in the future, additional appraisals will be prepared to offer reasonable support for unit land values which will in turn be used in calculating the BCERE for the proposed project.

TABLE 7.1: BASELINE COST ESTIMATE FOR REAL ESTATE (BCERE)

BASELINE COST ESTIMATE FOR REAL ESTATE (BCERE)	
CATEGORY	COST
A. Lands:	
I. Lands	\$40,000.00
II. Improvements	\$0.00
III. Severance Damages	\$0.00
IV. Minerals	\$0.00
V. Total Lands & Damages	\$40,000.00
B. ADMINISTRATIVE COSTS	
I. Federal Review of Non-Federal Sponsor	
1. Sub-Total:	\$15,000.00
2. Contingency (25%)	\$3,750.00
3. Sub-Total:	\$18,750.00
II. Non-Federal Sponsor Administrative Costs	
1. Sub-Total:	\$15,000.00
2. Contingency (25%)	\$3,750.00
3. Sub-Total:	\$18,750.00
III. Public Law 91-646 Relocation Costs	\$0.00
IV. Total RE Cost Estimate:	\$77,500.00

TABLE 7.2: CHART OF ACCOUNTS

Chart of Accounts				
01A	PROJECT PLANNING	FEDERAL	NON-FEDERAL	TOTALS
	Other			
	Project Partnership Agreement (OC)	\$ -	\$ -	\$ -
01AX	Contingencies (25%)	\$ -	\$ -	\$ -
	Subtotal	\$ -	\$ -	\$ -
01B	LANDS AND DAMAGES			
01B20	Acquisition by non-Federal sponsor	\$ -	\$15,000.00	\$15,000.00
01B40	Acq/Review of non-Federal sponsor	\$15,000.00	\$ -	\$15,000.00
01BX	Contingencies (25%)	\$3,750.00	\$3,750.00	\$7,500.00
01R	RE PAYMENTS	FEDERAL	NON-FEDERAL	TOTALS
01R1	LAND PAYMENTS	\$ -	\$ -	\$ -
01R1A	By Government	\$ -	\$ -	\$ -
01R1B	By non-Federal sponsor	\$ -	\$40,000.00	\$40,000.00
	By Government on behalf of non-Federal sponsor	\$ -	\$ -	\$ -
01R1C	Review of non-Federal sponsor	\$ -	\$ -	\$ -
01R1D	Contingencies (25%)	\$ -	\$ -	\$ -
01R2	PL 91-646 Assistance Payments			
01R2A	By Government	\$ -	\$ -	\$ -
01R2B	By non-Federal sponsor	\$ -	\$ -	\$ -
	By Government on behalf of non-Federal sponsor	\$ -	\$ -	\$ -
01R2C	Review of non-Federal sponsor	\$ -	\$ -	\$ -
01R2D	Contingencies (25%)	\$ -	\$ -	\$ -
	TOTALS	\$18,750.00	\$58,750.00	\$77,500.00

Any potential cost estimate for Federal and/or non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRDs, and other items are coded as delineated in the Cost Work Breakdown Structure (CWBS) are identified in the Chart of Accounts. This real estate cost estimate is then incorporated into the Total Current Working Estimate.

12. PUBLIC LAW 91-646, RELOCATION ASSISTANCE BENEFITS

Public Law 91-646, Uniform Relocation Assistance provides entitlement for various payments associated with Federal participation in acquisition of real property. Title II makes provision for relocation expenses for displaced persons, and Title III provides for reimbursement of certain expenses incidental to transfer of property. There will be no relocations required for this project. As such, no Title II or Title III costs are associated or identified herein.

13. MINERAL ACTIVITY

There are no known mineral activities that would be impacted by the proposed project. The State Oil and Gas Board of Alabama along with the Alabama Public Service Commission, who regulate mineral activity, were notified and those discussions revealed no mineral impacts.

14. PROJECT SPONSOR RESPONSIBILITIES AND CAPABILITIES

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 "A" detailing the NFSs authority and capability in providing any necessary real estate interests. In addition, a Risk Notification Letter is attached hereto as Exhibit "B". This letter identifies NFS risks of acquiring lands prior to signing of the Project Partnership Agreement 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 "C".

15. ZONING ORDINANCES

There is no application or enactment of zoning ordinances proposed in lieu of, or to facilitate, acquisition in connection with the proposed project.

16. 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.

17. FACILITY AND/OR UTILITY RELOCATION

There are no facility or utility relocations or other impacts anticipated, including roads, highways, railroads, pipelines or other public utilities. However, due to the nature of this navigation project and the fact that subject channel traverses an area where pipelines are known to exist, the project Risk Register and the Real Estate Risk Checklist (attached hereto as Exhibit “D”) does identify the potential and inherent risk associated with deepening and/or widening the channel.

Furthermore, due to this inherent risk, it is noted that the NFS shall provide the real property interests, acquire or compel the removal of obstructions, and perform or ensure the performance of relocations required for construction, and O&M of the project. For each relocation of a utility, or portion thereof, located in or under navigable waters of the United States that is required to accommodate a channel depth over 45 feet, the NFS shall pay to the owner of the utility at least one half of the owner’s relocation costs, unless the owner voluntarily agrees to waive all or a portion of the NFS’s contribution. The NFS shall pay an additional 10 percent of construction costs less any credit afforded by the Government for the real property interests and relocations, over a period not to exceed 30 years.

In accordance with ER 405-1-12, “ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REAL ESTATE PLAN, OR ELSEWHERE IN THIS PROJECT REPORT, THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITY IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY’S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.”

18. ENVIRONMENTAL IMPACTS

The Draft Integrated GRR with Supplemental Environmental Impact Statement, Section 4.0, has been prepared describing the environmental effects of alternative actions for the proposed Mobile Harbor Channel modifications. Performing an evaluation of environmental consequences for proposed Federal actions is a requirement of Federal law. Presently, there are no mitigation features expected under the TSP that would require the acquisition of mitigation lands.

In addition, no real estate avoidance is anticipated due to known or suspected HTRW located in, on, under, or adjacent to the LER required for the construction, O&M of the project including LER that is subject to the navigational servitude.

19. ATTITUDE OF PROPERTY OWNERS

Surrounding industrial landowners within Mobile Bay area are characteristically in favor of projects improving navigation throughout the watercourse and no opposition from this faction has been noted to date. However, there is a significant grassroots effort initiated by property owners in the Town of Dauphin Island regarding past dredge material placement practices. During the course of the study, we have received numerous public comments from these landowners living on this barrier island requesting dredged material be placed at locations that would benefit the Dauphin Island shoreline.

20. CULTURAL RESOURCES

No historic properties have been identified within the area of potential effect of either the dredging or disposal areas that would in turn lead to a real estate requirement.

In accordance with section 106 of the National Historic Preservation Act of 1966 (as amended) and its implementing regulations at 36 CFR 800, USACE must consider the potential effects of this project on historic properties (cultural resource sites potentially eligible for or listed on the National Register of Historic Places). Cultural resources both terrestrial and submerged must be investigated within the proposed area. Significant impacts would occur to cultural resources if potential adverse affects to historic properties could not be mitigated. The Area of Potential Effect (APE) for the TSP is confined to previously authorized areas. The APE was the subject of multiple cultural resources assessments conducted during the 1980's (Irion 1983; Irion and Bond 1984; Mistovich and Knight 1983). The most recent cultural resources assessment was conducted in 2007 for the recently created turning basin in Choctaw Pass and the widening of an approximate 7,650 linear foot section Mobile River Navigation Channel located towards the western side of Little Sand Island. The assessments identified no historic properties within the current project APE. The result of the surveys and no effects determinations were coordinated with the Alabama State Historic Preservation Officer (SHPO). Since all proposed work is occurring in previously authorized areas, the activity does not have the potential cause effects to historic properties. The USACE, Mobile District has determined that the proposed project has no potential to cause effects to historic properties as per 36 CFR 800.3(a) (1) and therefore will have no significant impact to cultural resources.

21. OTHER REAL ESTATE ISSUES

A risk analysis was performed for the real estate portion of this project and is attached hereto. It is determined that risk level for project cost and schedule impacts are considered low, likelihood of occurrence is unlikely, and impact/consequence of occurrence is unlikely. However, project risks are limiting factors, such as, environmental mitigation or some other litigation requirement. No further real estate issues have been identified that will impact the proposed project.

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT "C"

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I, _____, _____ for the
(Name of accountable official) (Title)

Alabama State Port Authority (ASPA), do hereby certify that the Alabama State Port Authority (ASPA) has acquired the real property interest required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction for (Mobile Harbor GRR). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon

_____ ;
(Identify tracts)

To construct the subject project as set forth in the plans and specifications held in the U. S. Army Corps of Engineers' (Mobile District, Mobile, AL) to include abiding by all State Historical Preservation Office requirements referenced in the plans and specifications.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name) this _____ day of _____, 20_____

BY: _____
(Name)

(Title)

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, _____ for the
(Name) (Title of legal officer)

(Alabama State Port Authority (ASPA)), certify that _____ has authority to grant
(Name of accountable official)

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 _____ for the
(Title)

Alabama State Port Authority (ASPA), this _____ day of _____, 20_____.

BY: _____
(Name)

(Title)

EXHIBIT “D”

Mobile Harbor GRR Real Estate Risk Checklist

(Risk: Any issue that could cause a cost or schedule variance)

Project Management Risks impacting Real Estate

- Project scope definition unclear, impacting real estate needs – Low Risk
- Project schedule in question (accelerated or protracted) – Low Risk
- Project competing with other projects for funding and resources – Low Risk
- Inexperienced or inadequate staff assigned – Low Risk

Technical Design Risks impacting Real Estate

- Land Surveys late, unclear, in question – Not Applicable to this Project
- Sufficiency / availability of as-built data / base map data & sufficient – Data made available
- Borrow / fill sources identified / secured – Not Applicable to this Project
- Sufficiency / condition of borrow / fill sites – Low Risk
- Project Access has been defined and located water – Yes, low risk b/c via
- Locations for Plants /Equipment /Staging barges – Yes, low risk b/c on

Regulatory and Environmental Risks impacting Real Estate

- Historic/Cultural site, endangered species, or wetlands present – Low Risk
- Hazardous waste preliminary site investigation required – Low Risk
- Mitigation requirements clear – Yes, Low Risk

External Risks impacting Real Estate

- Adequacy of project funding (incremental or full funding) – Low Risk
- Local communities support / opposition – Low Risk
- Political factors change at local, state or federal – Low Risk
- Late surprises, Scope changes – Low Risk
- New stakeholders emerge and demand new work – Low Risk
- Influential stakeholders request additional needs to serve other purposes – Low Risk
- Political opposition / threat of lawsuits – Low Risk

Lands and Damages – Real Estate

- Real Estate plan defined / Study definition – Yes, Low Risk
- Status of real estate / easement acquisition – Low Risk, None
- Age of real estate estimate / potential to change over time – Low Risk
- Potential uneconomic remnants; – Low Risk
- Hidden or unforeseen aspects of property and improvements due to inability to physically inspect the project; – Low Risk
- Potential development pressures in the immediate area; Project – Not Applicable to this
- Potential zoning changes; negotiation latitude beyond estimated market value; Project – Not Applicable to this
- Potential for condemnation awards and interest; and potential natural resources within the project area – Low Risk
- Objections to right-of-way appraisal Project – Not Applicable to this
- Ancillary owner rights, ownerships in question Project – Not Applicable to this

- | | |
|--|----------------------------------|
| <input type="checkbox"/> Other Agency Involvements (freeway, city, railroad, navigation) Project | – Not Applicable to this Project |
| <input type="checkbox"/> Relocations adequately identified | – Not Applicable to this Project |
| <input type="checkbox"/> Relocations may not happen in time | – Not Applicable to this Project |
| <input type="checkbox"/> Records / as-built availability / inaccuracies | – Low Risk |
| <input type="checkbox"/> Known and unknown utility impacts
(Note: utility impacts are a reoccurring risk for deep draft navigation projects. Due diligence was made by SAM-RE in order to research and verify existing utility lines traversing the channel and validate any impacts w/ the proposed TSP) | – Low Risk |
| <input type="checkbox"/> Vagrancy, loitering issues | – Not Applicable to this Project |
| <input type="checkbox"/> Quality of L&D estimates as “most likely” case | – Low Risk |
| <input type="checkbox"/> Appraisal confidence with volatile market over time | – Not Applicable to this Project |
| <input type="checkbox"/> Estimate already includes certain contingencies / Incremental Costs | – Low Risk |

RISK SUMMARY

Based on the above Risk Checklist, which was tailored for real estate use and authorized by South Atlantic Division (SAD), it was determined, after discussions with the cost estimator, that a full-scale Real Estate Risk Register using the crystal ball software was deemed unnecessary. According to the level of real estate involved and the likelihood of occurrence and impact of the aforementioned risk factors, the real estate risk level is considered low. Therefore, real estate defers to the 25% contingency for the administrative expenses detailed in the Baseline Estimate for Real Estate (BCERE). Cost and schedule impacts are considered negligible and very unlikely, respectively, owing to the fact that no acquisition is required. It is noted that this Risk Checklist mirrors the risk numbers (PPM-1 thru RE-21) listed in the authorized Real Estate Risk Register. As such, all potential risk/opportunity events have been addressed.

The accompanying Real Estate Plan (REP) makes the following key assumptions based on the current project scope: 1) No Lands, Easements, Rights-of-Way, Relocations, or Disposal Areas (LERRD) are anticipated to be acquired for the proposed project; 2) No facility/utility relocations will be required for the proposed navigation project.

EXHIBIT “E”