



US Army Corps
of Engineers®

OAKLAND HARBOR TURNING BASINS WIDENING

Navigation Feasibility Study

DRAFT INTEGRATED FEASIBILITY REPORT & ENVIRONMENTAL ASSESSMENT

APPENDIX D: REAL ESTATE PLAN

Revised Draft

Alameda and San Francisco Counties
California

Prepared For The
San Francisco District
South Pacific Division, U.S. Army Corps of Engineers

Prepared By The
Sacramento District
Real Estate Division
South Pacific Division, U.S. Army Corps of Engineers

April 2023

**OAKLAND HARBOR TURNING BASINS WIDENING
NAVIGATION FEASIBILITY STUDY
Real Estate Plan April 2023**

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Section 1 Introduction

1.1 Statement of Purpose

The purpose of this Real Estate Plan (REP) is to describe the minimum Lands, Easements, Rights-of-Way, Relocations, and Disposal Areas (LERRD) requirements for the construction, operation, and maintenance of the Recommended Plan (RP). This REP, prepared in accordance with ER 405-1-12, describes the estimated LERRD values, the cost to acquire LERRD, the types of real estate interests required for the RP, property information, and other pertinent information relative to the real estate acquisition process and schedule. Further, this report identifies and describes the facility and/or utility relocations that are necessary for construction. Since this REP was prepared during a feasibility level study, the size of the required real estate interests presented herein are preliminary estimates based only on existing, readily available Geographic Information System (GIS) data. The LERRD requirements are subject to change with optimization during the Pre-construction, Engineering, and Design (PED) phase when final plans, specifications, and detailed drawings are prepared.

The Draft IFR/EA and this Appendix D REP is a rerelease of the draft report released for public review on 17 December 2021. In response to public comment from that public review, USACE and the Port refined the RP that shifts the proposed footprints of both the inner and outer harbor turning basins. Modifications to the preliminary design due to the shift resulted in the need to rerelease the Draft IFR/EA for public comment.

This REP is tentative in nature; it is for planning purposes only and both the final real property acquisition lines and the real estate cost estimates provided are subject to change even after approval of the Environmental Assessment.

1.2 Project Authorization

The authority for this study is Section 216 of Rivers and Harbors Act of 1970, related to the - 50 Foot Project. The study authority for the 1998 Oakland Harbor Navigation Improvement (-50-foot) Project Study is Section 203 of the Water Resources Development Act (WRDA) of 1986 (Pub. L. No. 99-662, 100 Stat. 4098 (Nov. 17, 1986), 33 U.S.C. § 2231). It reads:

SEC. 203 STUDIES OF PROJECTS BY A NON-FEDERAL INTEREST

1. Submission to Secretary.- A non-Federal interest may on its own undertake a Feasibility Study of a proposed harbor or inland harbor project and submit it to the Secretary. To assist non-Federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for studies of harbors or inland harbors to provide sufficient information for the formulation of studies.
2. Review by Secretary.- The Secretary shall review each study submitted under subsection (a) for the purpose of determining whether such study and the process under which such study was developed comply with Federal laws and regulations applicable to Feasibility Studies of navigation projects for harbors or inland harbors.

3. Submission to Congress.- Not later than 180 days after receiving any study submitted under subsection (a), the Secretary shall transmit to the Congress, in writing, the results of such review and recommendations the Secretary may have concerning the project described in such plan and design.
4. Credit and Reimbursement.- If a project for which a study has been submitted under subsection (a) is authorized by any provision of Federal law enacted after the date of such submission, the Secretary shall credit toward the non-Federal share of the cost of construction of such project an amount equal to the portion of the cost of developing such study that would be the responsibility of the United States if such study were developed by the Secretary.

The study conducted pursuant to Section 203 above resulted in a Chief's Report dated April 21, 1999, recommending a 50-foot deep channel and wider turning basins in the Oakland Harbor based on a design vessel with 1,139 length overall, 140 foot beam, 48 foot draft, and 6,500 twenty-foot equivalent unit (TEU) carrying capacity. The plan was authorized for construction in Section 101(a)(2) of WRDA 1999 (Pub. L. No. 106-53, 113 Stat. 275 (Aug. 17, 1999)), which reads in part:

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS

The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this subsection:

(7) OAKLAND HARBOR, CALIFORNIA

The project for navigation, Oakland Harbor, California: Report of the Chief of Engineers dated April 21, 1999, at a total cost of \$252,290,000, with an estimated federal cost of \$128,081,000 and an estimated non-Federal cost of \$124,209,000.

In October 2018, a Section 216 Initial Appraisal Report, Compliance with Section 216 of Rivers and Harbors Act of 1970, was completed to determine if there is potential federal interest to undertake modifications to the existing -50 Foot Project. The Initial Appraisal Report found that, "based on the data provided, the vessels currently calling on Oakland are not constrained by draft, nor by landside capacity, but by length. An increase in the widths of the turning basins would create a transportation cost savings benefit by allowing future ultra large container vessels (ULCVs) to call at Oakland... The accelerating expansion of the volume of trade that has taken place over the recent past has led to the design vessel in the Oakland Harbor Navigation Improvement (-50-foot) Feasibility Study being superseded in use in the Port much sooner than expected. This has a material effect on the economic conditions and engineering design incurring economic inefficiency associated with ULCV's operations and navigational safety hazards at Project." The Initial Appraisal Report made the recommendation to

“investigate and determine if there is a Federal interest in continuing the project with the preparation of cost-shared feasibility report for analyzing alternatives to address the identified problems through possible modifications of the project.”

The resulting study is called the Oakland Harbor Turning Basins Widening Navigation Feasibility Study (Oakland Harbor Study). Section 216 of the Rivers and Harbors Act of 1970 limits the analysis of this Oakland Harbor Study to the constructed 50-foot Oakland Harbor Navigation Project.

1.3 Non-Federal Sponsor

A Feasibility Cost Sharing Agreement was executed on 01 July 2020 with the Port of Oakland as the Non-Federal Sponsor (NFS). The Oakland Harbor Study is cost shared 50% federal and 50% non-federal.

Section 2 Project Description

The RP includes the expansion of the Inner Harbor Turning Basin and the Outer Harbor Turning Basin. The proposed improvements and construction methods for each turning basin would be the same as those described for the individual turning basin expansion alternatives.

The below subsections are a truncated version of the Recommended Plan found in the Main Report.

2.1 Inner Harbor Turning Basin

The expansion of Inner Harbor Turning Basin consists of widening the existing Inner Harbor Turning Basin from 1,500 feet to 1,834 feet with a depth of -50 feet Mean Lower Low Water (MLLW) consistent with the existing depth of the Inner Harbor Turning Basin. In addition to in-water work to widen the Inner Harbor Turning Basin, land would be impacted in two locations: Howard Terminal and private property located along the Alameda shoreline.

A total area of approximately 800,100 square feet would be impacted by dredging and landside construction activities for the Inner Harbor Turning Basin widening.

2.2 Outer Harbor Turning Basin

The Expansion of Outer Harbor Turning Basin consists of widening the existing Outer Harbor Turning Basin from 1,650 to 1,965 feet. There are no upland impacts under the proposed footprint of the expanded Outer Harbor Turning Basin.

The impacted area is approximately 1,005,000 square feet and involves dredging material to widen the basin to a depth of -50 feet MLLW consistent with the existing depth of the Outer Harbor Turning Basin.

2.3 Electric Dredging Variation

A variation of the RP would involve the use of an electric-powered barge-mounted clamshell/excavator dredge instead of a diesel-powered dredge. Under this variation, the installation of electric infrastructure is required in the Outer Harbor prior to dredging the Outer Harbor.

The power provided at this location would be designed and designated for dredging use only to widen the Outer Harbor Turning Basin.

Section 3 Description of Lands, Easements, Rights-of-Way, Relocations, and Disposal Areas

3.1 Project Location

The Port of Oakland, further referred to as Oakland Harbor, is on the eastern side of San Francisco Bay. It includes the Entrance Channel, the Outer Harbor Channel and its Outer Harbor Turning Basin, and the Inner Harbor Channel and its Inner Harbor Turning Basin. The Outer Harbor Channel is immediately south of the San Francisco-Oakland Bay Bridge and is maintained to a depth of -50 feet MLLW. The Outer Harbor Channel and its Outer Harbor Turning Basin serve the TraPac and Ben E. Nutter operating terminals. The Outer Harbor Channel also serves Berth 10, a dredged material rehandling site, which is located at the eastern end of the Outer Harbor. The Inner Harbor Channel is also maintained to -50 feet MLLW. The Inner Harbor Channel and its Inner Harbor Turning Basin serve the following operating terminals: Oakland International Container Terminal, Matson Terminal, and Schnitzer Steel Terminal.

A map of the project location is in Section 9.

3.2 Lands, Easements, Rights-of-Way, Relocations, and Disposal Areas Requirements

The real estate cost estimate for the RP was developed in accordance with ER 405-1-12 and based upon footprints delineating project requirements developed for feasibility level design by the San Francisco District Engineering Division. The RP was reviewed for LERRD requirements.

The NFS would acquire the minimum interests necessary to support the construction and subsequent operation and maintenance of the proposed USACE project. We are recommending the acquisition of a Channel Improvement Easement standard estate; however, Fee acquisition may be acquired if additional rights are needed for the project.

Once the project partnership agreement (PPA) process is complete, the San Francisco District Engineering Division will prepare the final design for advertisement and construction. During this process, the tract register, and tract maps will be updated to reflect any modifications to include final staging areas, access requirements, construction haul routes, and recreation features. The tract register and tract maps will be used by the NFS to conduct real estate surveys, develop legal descriptions of the acquisition area, and other activities associated with the acquisition of the required LERRD for the Project.

Prior to the solicitation or advertisement for construction, the Chief of Real Estate must certify that the NFS has in fact acquired the necessary real estate interests on behalf of the project in accordance with ER405-1-12. This information will be used for future crediting purposes.

Solicitation or advertisement for construction contracts should not be publicized until the Chief of Real Estate has certified in writing that sufficient real property interests are available to support construction. A decision by Project Management to proceed contrary to this general policy should be made only after a full risk assessment. If Project Management decides to proceed to solicit or advertise a construction contract without the availability of real estate, then the risk assessment should include the District's Real Estate Division's input which would include the status of acquisition, identification of all activities that must occur to complete acquisition, realistic schedules for such activities, and advice on the probability of finalizing acquisition in a timely manner.

3.2.1 Lands, Easements, Rights-of-Way, Relocations, and Disposal Areas Requirements

For the Inner Harbor, nine (9) parcels covering an estimated 29.91 acres would be impacted by the Project. An approximate 28 acres would be within the waterway and 1.91 acres would comprise of fast land (land that is above the high-water mark). A Channel Improvement Easement would be required for all parcels except for the impacted project area with building improvements (two warehouses) of which the recommended standard estate would be Fee.

For the Outer Harbor, 2 parcels covering an estimated 69.53 acres would be impacted by the Project. All impacted parcels are within the waterway and there are no fast land impacts. A Channel Improvement Easement is the recommended standard estate for acquisition.

Below is a summary of the estimated LERRD requirements. The LERRD estimates are not based on survey-grade calculations and may differ during PED and construction:

LERRD Summary					
Inner Harbor					
Required Interest	Required Acres	Number of Parcels		Number of Owners	
		Private	Public	Private	Public
Channel Improvement Easement	28	3	5	3	1
Fee	1.91	1	0	1	0
Outer Harbor					
Required Interest	Required Acres	Number of Parcels		Number of Owners	
		Private	Public	Private	Public
Channel Improvement Easement	69.53	0	2	0	2
Total					
Required Interest	Required Acres	Number of Parcels		Number of Owners	
		Private	Public	Private	Public
Channel Improvement Easement	97.53	3	7	3	3
Fee	1.91	1	0	1	0

3.2.2 Inner Harbor Staging and Access

Construction staging, including a construction trailer, equipment and construction materials storage, and material stockpiles, would occur at Howard Terminal and the Alameda property immediately adjacent to or close to the excavation areas. The use of barges will be used as part of the construction activities and access, and tugboats will be required for positioning the barges.

City of Oakland local truck routes in the Inner Harbor Turning Basin study area include the following roadways:

- 3rd Street between Market Street and Adeline Street
- 5th Street between Union Street and Broadway
- 6th Street between Brush Street and Adeline Street
- 7th Street between Wood Street and the Ben E. Nutter Terminal in the Port of Oakland
- Adeline Street south of 8th Street
- Castro Street between 7th Street and 12th Street
- Market Street between Howard Terminal and 7th Street

City of Alameda truck routes in the Inner Harbor Turning Basin study area include the following roadways (City of Alameda 2009):

- Webster and Posey Tubes
- Marina Village Parkway
- Constitution Way north of Atlantic Avenue
- Atlantic Avenue/Ralph Appenzato Memorial Parkway
- Main Street

City of Oakland truck routes in the Outer Harbor study area include the following roadways:

- Maritime Street between 7th Street and West Grand Avenue
- West Grand Avenue between Maritime Street and Northgate Avenue
- 7th Street west of Wood Street

3.2.3 Outer Harbor Staging and Access

Construction staging would occur at Berth 10, at the eastern end of the Outer Harbor. The use of barges will be used as part of the construction activities and tugboats will be required for positioning the barges.

For construction site access and access route, the outer harbor laydown area can be accessed via 880N/7th Street, 80W/Maritime Street, and 880S/W. Grand Ave.

3.2.4 Disposal Sites

The RP requires the removal and placement of approximately 1,983,000 cubic yards of aquatic dredged and terrestrial excavated material. Material is assumed to be placed at Keller Canyon landfill, Kettleman Hills landfill, and at a beneficial use site for the protection, restoration, or creation of aquatic wetland habitats as either non-cover or cover.

Excavated landside material, removed piles, and debris from warehouse demolition at the Howard Terminal and Alameda sites would be hauled off site for disposal at a landfill or recycling facility as required.

The costs of transportation of dredged or excavated material associated with the construction, operation, or maintenance of the Federal navigation project and the costs of placement of dredged or excavated material in the disposal facilities are not considered to be a part of land based or aquatic disposal facilities cost. These transportation and placement costs are either a part of general navigation features costs for new navigation projects, or project modifications, or are operation and maintenance costs if associated with operation and maintenance dredging of a federal navigation project. At the time of this report, there are no plans to construct any land based or aquatic dredged material disposal facilities; hence, *Policy Guidance Letter No. 47 Cost Sharing for Dredged Material Disposal Facilities and Dredged Material Disposal Facility Partnerships* (“PGL 47”) would not apply. If this should change at a later date or during PED, then applicable sections of PGL 47 would need to be applied regarding the cost sharing for construction of dredged material disposal facilities associated with the construction and operation and maintenance of Federal navigation projects for harbors and inland harbors.

Section 4 Non-Federal Sponsor Owned Lands, Easements, Rights-of-Ways, Relocations, and Disposal Areas

The project proposes to widen the existing turning basins to relieve inefficiencies currently experienced by vessels in the harbor, specifically the turning basins where the current fleet exceeds the maximum dimensions of the constructed -50-foot Oakland Harbor Navigation Project. The NFS has ownership for the lands located at Howard Terminal through the City of Oakland. Below is a list of Assessor Parcel Numbers owned by the Non-Federal Sponsor through the City of Oakland:

Non-Federal Sponsor Owned LERRD	
APN	Owner
18-395-2	City of Oakland
18-405-1	City of Oakland
18-405-2	City of Oakland
18-410-1-5	City of Oakland
18-320-1-2	City of Oakland

Credit will only be applied to LERRD owned and/or held by the Non-Federal Sponsor that fall within the “project footprint,” namely the LERRD required for the RP. LERRD outside of the project

requirements and that may be acquired for the NFS's own purposes which do not support the minimum interests necessary to construct or operate and maintain the Project would not be creditable LERRD. Only land deemed necessary to construct, operate and maintain the plan would be creditable. The value of potentially creditable lands owned by the NFS is included in the RP's cost estimate. The USACE Sacramento District, Real Estate Division's records do not indicate that the land and real estate interests required for the proposed Project in this report includes lands or rights provided under either the -42-foot project or the -50-foot project which the Non-Federal Sponsor would receive credit.

A request from the USACE Sacramento District, Real Estate Division to the Non-Federal Sponsor for written statement that subject lands have not been previously credited will be sent prior to the Final Report. That written statement will be included as an exhibit of the Final Report.

Section 5 Recommended Estates

The NFS will be required to acquire the minimum interest in real estate that will support the construction and subsequent operation and maintenance of the proposed USACE project.

The following standard estates (with definitions) are identified as required for the project:

Temporary Work Area Easement (TWAE)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and ____), for a period not to exceed __, beginning with date possession of the land is granted to the United States, Sonoma County Water Agency, for use by the United States, State Coastal Conservancy and/or Santa Clara Valley Water District, its representatives, Non-Federal Sponsors, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project, 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.

Road Easement

A (perpetual [exclusive] [non-exclusive] and assignable) (temporary) easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the location, construction, operation, maintenance, alteration replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); ¹ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Channel Improvement Easement

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement

works on, over and across (the land described in Schedule A) (Tracts Nos. __, ____, and __) for the purposes as authorized by the Act of Congress approved _____, including the right clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate; dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such purposes as may be required in connection with said work of improvement; reserving, however, to the owners, 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.

Fee

The fee simple title to (the land described in Schedule A) (Tracts Nos. _____ and ____), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Section 6 Existing Federal Projects

Construction of both the Oakland Harbor Navigation Improvement -42 -project and the -50-foot project were completed in 1998 and 2016, respectively. The USACE Sacramento District, Real Estate Division's records do not indicate that the land and real estate interests required for the proposed Project in this report includes lands or rights provided under either the -42-foot project or the -50-foot project which the Non-Federal Sponsor would receive credit.

A request from the USACE Sacramento District, Real Estate Division to the Non-Federal Sponsor for written statement that subject lands have not been previously provided for another federal project will be sent prior to the Final Report.

Section 7 Federally Owned Land Required for the Project

One parcel within the Outer Harbor is federally owned. All records indicate that this property is held and managed by the U.S. General Services Administration (GSA). The intended use of the federally owned parcel would be part of the expansion of Outer Harbor Turning Basin, which consists of widening the existing Outer Harbor Turning Basin from 1,650 to 1,965 feet and involves dredging material to widen the basin to a depth of -50 feet MLLW consistent with the existing depth of the Outer Harbor Turning Basin.

USACE Sacramento District, Real Estate Division sent request to GSA for the agency's confirmation of ownership/management, the agency's views of the proposed use of the property for the Project, and for an acquisition plan for acquiring the required real property interests.

Federally Owned LERRD				
APN	Managing Agency	Parcel Acres	Estate Required for Project	Project Acres
18-335-2-2	GSA	155.97	Channel Improvement Easement	5.15

Per ER 405-1-12, the Non-Federal Sponsor would not be required to provide a real property interest regarding the federally owned land.

Section 8 Availability of Navigation Servitude

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (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.

The USACE San Francisco District, Office of Counsel has confirmed that the exercise of the navigation servitude for this project is appropriate.

Dredging will take place below the Mean High-Water Mark (MHW) within the Inner and Outer Harbors of the Project; therefore, the Government will invoke the navigation servitude for dredging within the waterways.

As in the past, determinations made by legal analyses showed that buildings/structures affected by construction in this area are above the (MHW) and therefore do not fall within the rights of Navigation Servitude, these structures are subject to relocation assistance.

An assessment of the project was completed with these criteria, and it was determined that fee simple would provide sufficient real estate interests to successfully construct and maintain the project while protecting the Federal investment.

A formal determination of which project areas fall within the navigation servitude will be made no later than the PED phase.

Section 9 Project Maps

Figure 1: Study Area

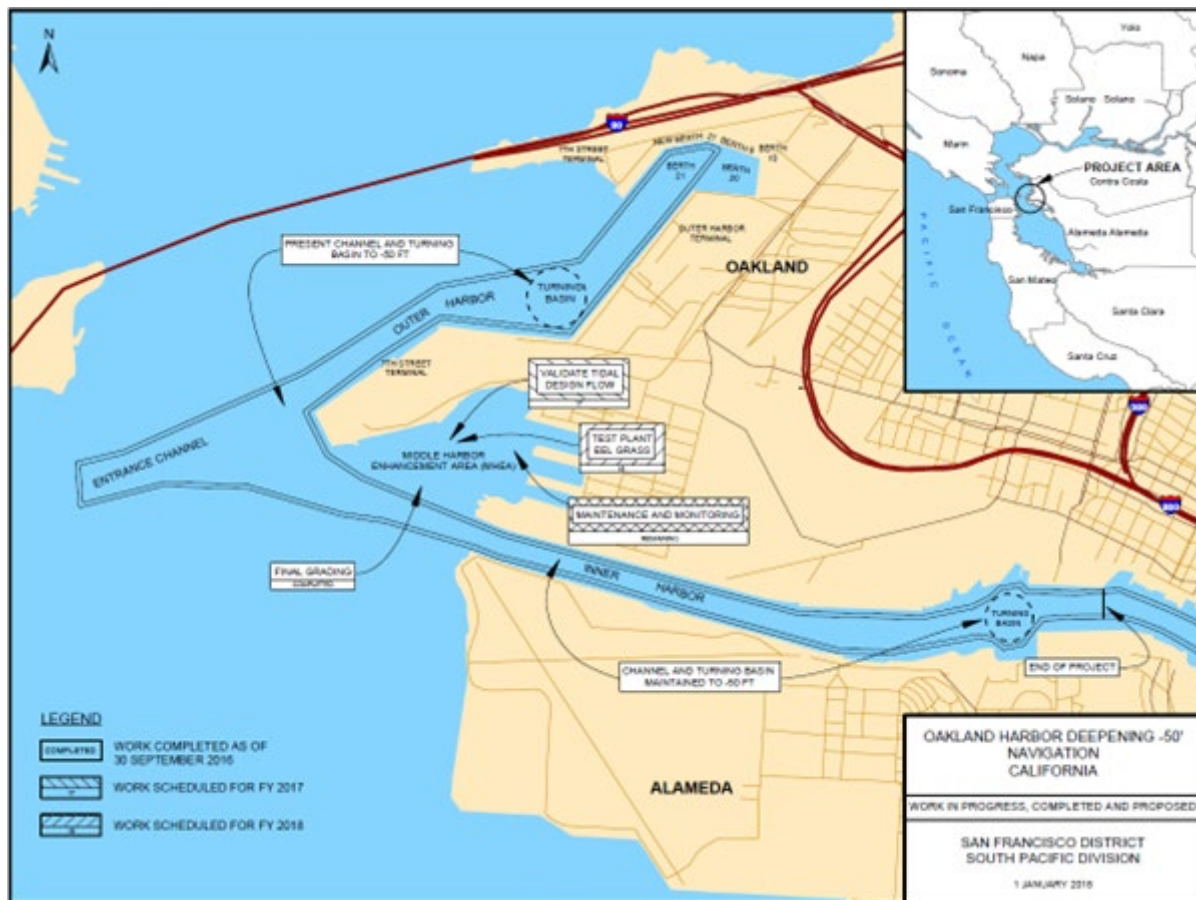
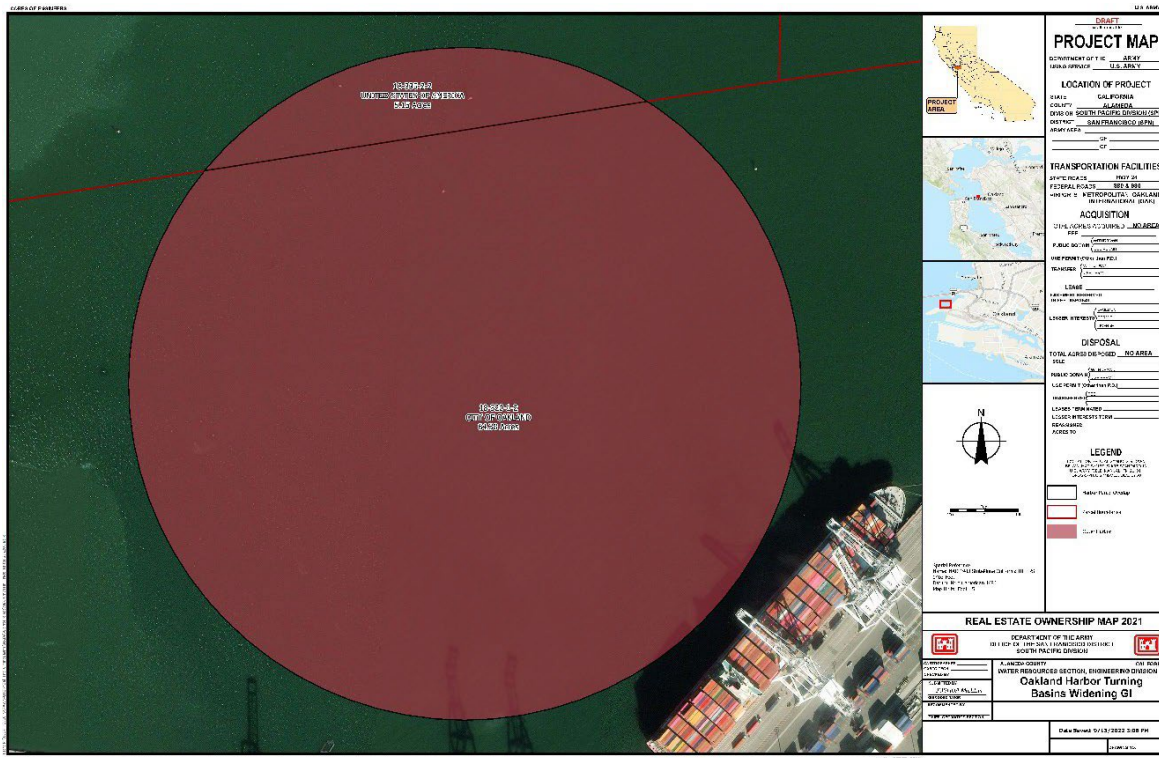


Figure 4 Real Estate Footprint – Outer Harbor



Section 10 Potential for Induced Flooding

There are no known anticipated flooding impacts. Any updates to H&H modeling will be included prior to completion of the final feasibility report.

Section 11 Mineral / Timber Activity

There are no valuable minerals impacted by this project based on an examination of title documents. No enhancement for mineral deposits are included in the cost estimate.

Section 12 Non-Federal Sponsor's Ability to Acquire

The Non-Federal Sponsor has real estate staff to acquire the necessary real estate. Most of the real estate required for the project is already owned by the NFS, through the City of Oakland, excluding the privately owned parcels within the Project's footprint.

The fully executed Capability Assessment Checklist ("Exhibit A") of the Real Estate Plan supports the assertion of the Non-Federal Sponsor's ability to acquire the necessary real property interests of the Project by detailing the sponsor's authority and capability in providing any necessary real estate interests.

A Risk Notification Letter dated March 31, 2022 (“Exhibit B”) was sent to the NFS and identified the 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. The NFS provided a signed acknowledgement of that letter on July 11, 2022 (“Exhibit C”).

Section 13 Zoning in Lieu of Acquisition

No application or enactment of local zoning ordinances is anticipated in lieu of, or to facilitate, the acquisition of LERRD in connection with the Project.

Section 14 Real Estate Acquisition Schedule

The below table shows the tentative real estate acquisition schedule:

Draft Recommended Plan Real Estate Acquisition Schedule	
Task	Date
Project Partnership Agreement Execution	March 2027
Sponsor’s Notice to Proceed with Acquisition	April 2027
Authorization for Entry for Construction	July 2028
Certification of Real Estate	August 2028
Sponsor Submits LERRD Crediting Package	TBD (Based on PPA terms)
Review and Approval of Applicable LERRD Credit	TBD (Based on PPA terms)

The following table serves as the construction/implementation schedule for the project from which the real estate acquisition schedule is based:

Draft Recommended Plan Implementation Schedule	
Task	Date
Chief of Engineering Report Approval	May 2024
Design Agreement	January 2025
Pre-Construction Engineering & Design	January 2025 – January 2027
Project Partnership Agreement Execution	March 2027
Real Estate Acquisition	March 2027 – March 2029
Construction	April 2029 – October 2031

The above real estate timelines are subject to change due to unforeseen factors or factors outside of the control of USACE, USACE-Real Estate, or the NFS prior to the award of the construction contract.

Section 15 Cost Estimate

On November 19, 2021, the Regional Appraisal Center at USACE, Sacramento District completed a Gross Appraisal in conformance with ER 405-1-04, and the Gross Appraisal is considered exempt from the Uniform Standards of Professional Appraisal Practice (USPAP). Therefore, the Gross Appraisal does not comply with USPAP Standards One and Two; however, the Gross Appraisal is considered a product that falls within Appraisal Practice as defined by USPAP. As such, the report conforms with the Ethics Rule, Record Keeping Rule, Competency Rule, and Scope of Work Rule, and considers ER-405-1-04 as the authority when applying the Jurisdictional Exception Rule within USPAP. The values provided in the Gross Appraisal are for budgetary planning purposes only and are not intended for acquisition use.

At the time of the Gross Appraisal, the Project affected 10 total parcels (8 total parcels in the Inner Harbor and 2 total parcels in the Outer Harbor). An incremental cost of 30% was applied to the estimated value of the LERRD. Incremental costs represent anticipated costs above the estimated market value of the tracts themselves (but not administrative acquisition costs such as title reports and surveys). The Gross Appraisal also identified potential damages caused by the construction of the Project. For the privately held parcel with affected warehouses, the Gross Appraisal compared the cost of a full acquisition versus the cost of curative work. It was determined that curative work was financially feasible. An additional benefit not mentioned in the Gross Appraisal is that curative work would allow the affected landowner to continue operations after the construction of the Project. Furthermore, the Gross Appraisal identified potential loss of income for certain parcels related to dockage, wharfage, storage, and marina uses.

The estimates below are rounded up to the nearest thousand dollar and were completed prior to the project footprint shift in this rerelease of the draft report released for public review on 17 December 2021. The concluded values do not include administrative and relocation costs:

Gross Appraisal – Dated November 19, 2021 <i>PRIOR</i> to Project Shift				
Location	Area	# of Parcels	Estate	Estimated LERRD Cost
Inner Harbor	40.611 ACRES	8	Channel Improvement Easement	\$ 11,000
Inner Harbor	2,529 SQFT	1	Full Acquisition	\$ 212,000
Inner Harbor	115,000 SQFT	1	Partial Acquisition	\$ 26,910,000
Outer Harbor	58.26 ACRES	2	Channel Improvement Easement	\$ 15,000
<i>Estimated LERRD Subtotal</i>				<i>\$ 27,148,000*</i>
Estimated Cost of Damages				
Curative Cost Work (Impacted Structures)				\$ 5,070,000
Lost Income				\$ 66,280,000
<i>Estimated Damages Subtotal</i>				<i>\$ 71,350,000*</i>
ESTIMATED TOTAL				\$ 98,500,000*
* Concluded values do not include administrative and relocation costs				

Public comments on the original Draft IFR/EA suggested major operational impacts to businesses. The Project Delivery Team (PDT) took the public comments into consideration and proposed a project

shift to minimize the operational impacts to businesses affected by the Project. This project shift provided additional benefits to the project shift included minimizing the risk of encountering HTRW on a privately held parcel, avoiding impacting an electrical conduit at a privately held parcel, and satisfying the public request for unrestricted water access on the Alameda side to allow business operations to continue. The number of affected parcels remained the same the post-shift.

Utilizing the estimated price per square acre (\$/ACRE) or the price per square foot (\$/SQFT) from the Gross Appraisal, the estimated LERRD costs for the Project (post-shift) are in the below table. The estimated damages from the Gross Appraisal would remain the same based on the methodology used in the Gross Appraisal to determine the curative cost and loss of income costs. Please note, the estimates below are rounded up to the nearest thousand dollar:

Estimated Cost <i>AFTER</i> Project Shift				
Location	Area	# of Parcels	Estate	Estimated LERRD Cost
Inner Harbor	28 ACRES	8	Channel Improvement Easement	\$ 8,000
Inner Harbor	83,199.6 SQFT	1	Partial Acquisition	\$ 19,469,000
Outer Harbor	69.53 ACRES	2	Channel Improvement Easement	\$ 19,000
<i>Estimated LERRD Subtotal</i>				<i>\$ 19,496,000*</i>
Estimated Cost of Damages				
Curative Cost Work (Impacted Structures)				\$ 5,070,000
Lost Income				\$ 66,280,000
<i>Estimated Damages Subtotal</i>				<i>\$ 71,350,000*</i>
Administrative Costs W/5% Contingency Embedded in Value				
Non-Federal				\$ 240,000
Federal				\$ 190,000
<i>Estimated Administrative Cost</i>				<i>\$ 430,000</i>
ESTIMATED TOTAL				\$91,276,000
* Concluded values do not include administrative and relocation costs				

Section 16 Relocation Assistance Benefits

The Non-Federal sponsor must comply with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 et seq. (P.L. 91-646, “the Uniform Act”) and provide relocation assistance to qualifying residences and businesses within the project area that are displaced, as defined in the Uniform Act, because of USACE project implementation. Possible displacements will be required for the RP.

Two warehouses located on a privately owned parcel are impacted by the Project and may require business relocations or partial business relocations. Additionally, income loss and damages are part of the cost estimate (above Section 15) although additional activities related to business relocations, partial business relocations, and incidental relocation costs may impact cost and schedule during the acquisition phase of the Project that cannot be predicted at this time.

The sponsor has also been advised of PL 91-646 requirements to pay Fair Market Value for property as part of the acquisition necessary for the project and the requirements for documenting expenses for credit purposes.

Section 17 Description of Facility and/or Utility Relocations

Cost engineering provided the following lists for potential facility and/or utility relocations and estimated costs associated with those relocations. The Port of Oakland owns parcels on Howard Terminal and received separate consideration from the other lands within the RP for tracking purposes. The cost estimates assume new pipes and structures for the relocated utilities. Additional survey work may need to be completed to identify all facility and utility relocations required for the project.

Any conclusion or categorization contained in this report that an item is a utility and/or facility relocation to be performed by the NFS as part of its LERRD responsibilities 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 facilities and utilities.

As of the date of this report, none of the identified facility and/or utility relocations traverse Oakland Harbor, and relocation impacts are strictly on the uplands or fast lands. If prior to or during construction facilities and/or utilities are identified within the channel and require relocation, then the application of pertinent sections of *Policy Guidance Letter 44 Revisions - Relocation of Utilities at Navigation Projects Under Section 101 of the Water Resources Development Act (WRDA) of 1986, as Amended* ("PGL 44") would be implemented based on the policy.

Howard Terminal Facility and/or Utility Cost Estimate		
Activity	Qty	UOM
6" Sanitary Pipe Removal	575	LF
8" Sanitary Pipe Removal	350	LF
Sanitary Manhole Removal	4	EA
3" Water Pipe Removal	250	LF
4" Water Pipe Removal	650	LF
6" Water Pipe Removal	200	LF
8" Water Pipe Removal	650	LF
Fire Hydrant Removal	10	EA
12" Storm Pipe Removal	350	LF
15" Storm Pipe Removal	310	LF
18" Storm Pipe Removal	430	LF
72" Storm Pipe Removal	270	LF
Catch Basin/Storm Structure Removal	5	EA
Light Pole Removal and Relocate	2	EA
TOTAL \$246,700		

Other Lands within the Recommended Selected Plan Facility/Utility Cost Estimate		
Activity	Qty	UOM
6" Sanitary Pipe Removal	775	LF
Sanitary Manhole Removal	5	EA
6" Sanitary Pipe Removal and Relocate	1110	LF
Sanitary Manhole Removal and Relocate	6	EA
2" Gas with Valve Removal	775	LF
2" Gas with Valve Removal and Relocate	1110	LF
Electrical Conduit with 4.16 KV Cable Removal	775	LF
Electrical Manhole Removal	5	EA
Electrical Conduit with 4.16 KV Cable Removal and Relocate	1110	LF
Electrical Manhole Removal and Relocate	6	EA
10" Water Line Removal	1160	LF
Valve Removal	7	EA
Fire Hydrant Removal	4	EA
10" Water Line Removal and Relocate	1660	LF
Valve Removal and Relocate	9	EA
Fire Hydrant Removal and Relocate	5	EA
6"-10" Storm Drain Pipe Removal	760	LF
Storm Inlet Removal	10	EA
10" Storm Drain Pipe Removal	610	LF
8" Storm Drain Pipe Removal	440	LF
Catch Basin/Storm Structure Removal	5	EA
TOTAL \$1,458,900		

The total estimated costs for facility and/or utility relocations are described in the below table (rounded to the nearest hundredth dollar):

Total Facility and/or Utility Cost Estimate	
Total Utility Relocation Cost W / 0% Contingencies	\$1,705,600
Total Utility Relocation Cost W / 34% Contingencies	\$2,285,400

Section 18 Summary of Real Estate Costs

The total estimated costs for the RP are as follows (rounded to the nearest hundred dollar):

Draft Recommended Plan Total LERRD Cost Estimate			
Account		Activity	Estimated Cost
01	Lands and Damages	LERRD	\$ 19,496,000
01	Lands and Damages	Damages	\$ 71,350,000
01	Lands and Damages	Disposals	\$ 0
01	Lands and Damages	Administrative	\$ 430,000
02	Relocations	Relocations	\$ 2,285,400
TOTAL			\$ 93,561,400

The estimated LERRD costs (and subsequent estimated total LERRD costs) may change based on various unseen or unknown factors during PED and construction.

Section 19 Hazardous, Toxic, and Radioactive Waste (HTRW)

Hazardous materials are present at the Port as part of normal operations. As part of regular shipping operations, cargo containing hazardous materials may be shipped into and out of the Port. The Port can only require that shippers follow applicable laws and regulations in shipping their cargo. A material can be classified as a hazardous waste only after it is generated, i.e., after it has been designated as a waste by its owner. The Resource Conservation and Recovery Act defines hazardous wastes as those wastes classified as ignitable, corrosive, reactive, or toxic. Any materials that meet the statutory definition of hazardous wastes generated at the Port are taken off Port property for treatment or disposal, as appropriate.

Terrestrial soils on land adjacent to the Inner Harbor Turning Basin, as well as associated groundwater, have previously been found to contain hazardous, toxic, radioactive waste (HTRW). A number of industrial lands uses in the vicinity are likely to have historically contributed to this existing contamination. There are no terrestrial lands or soils in the proposed expansion area for the Outer Harbor Turning Basin.

19.1 Inner Harbor (Howard Terminal)

The entire 50-acre Howard Terminal site is under Department of Toxic Substances Control and has land use restrictions applied to the entire site. The land use covenant restrictions require notice and prior approval before any excavation or changes in land use. An underground waste oil storage tank was previously removed from the general area proposed for excavation for the Inner Harbor Turning Basin expansion. Monitoring of various hydrocarbons through the fill is ongoing. The most likely source of site contamination is movement of liquid contaminants through the fill into groundwater. Ongoing data collections by the Port indicate low levels of hydrocarbons in the fill at or near the range of groundwater tidal movement (ENGEO 2019a). Low concentrations of total petroleum hydrocarbons (TPH) in the diesel range, TPH in the motor oil range, and low levels of benzene were detected, but not above regional beneficial reuse criteria as non-residential fill or as wetland non-cover. Various Polycyclic Aromatic Hydrocarbons (PAHs) were also detected, but at generally low concentrations (ENGEO 2019a). In addition, metals have been detected in soils from the ground surface to the groundwater interface; however, they are present at concentrations consistent with Merritt/Posey soil formation sands that were likely mined for fill (Apex 2021).

19.2 Inner Harbor (Schnitzer Steel)

The Schnitzer Steel site is currently under a Cleanup and Abatement Order issued by the Department of Toxic Substances Control. A variety of contaminants have been detected at various levels on the site, including dioxin PAHs, polychlorinated biphenyls (PCBs), heavy metals, benzene, and asbestos (Apex 2021). Soil evaluations completed for the facility concluded that given the shallow depths to groundwater, it is reasonable to assume that TPH and metals (specifically nickel) detected in groundwater are from the fill materials beneath the Schnitzer Steel facility (City of Oakland 2021). Schnitzer Steel installed a cap and a water treatment system as part of their site remediation. The removal of soil and the repair of the cap and water treatment system would require Department of Toxic Substances Control approval (Apex 2021).

19.3 Inner Harbor (Alameda)

The -50-Foot Project previously removed a corner of the Alameda property to expand the Inner Harbor Turning Basin to its current dimension. Sampling conducted for that project is directly relevant to the current potential expansion of the Inner Harbor Turning Basin, with samples collected very near the current potential expansion area. Testing of the material for the -50-Foot Project indicated that fill material from ground surface to 3 feet below ground surface contained elevated levels of PAHs (EVS 1998). Based on sampling conducted for the -50-Foot Project there is no indication of contamination above regulatory thresholds in material below 3 feet below ground surface to groundwater (11.2 feet below ground surface). This material has no known additional or new sources of contamination, and therefore should be similar to the material removed for the -50-Foot Project.

Section 20 Landowner Concerns

In March 2022, a draft version of the Plan went out to for public review. Some private landowners and/or their representatives impacted by the project have come forward expressing their concerns over the impacts the Project would have on their land and businesses. Public concerns regarding traffic control, noise control, air quality control, and other environmental concerns were raised. As a response, the PDT reevaluated certain aspects of the Project footprint and shifted the Project to what is being evaluated today in the Main Report. The shift in the footprint seems to have addressed many concerns from landowners and locals about the original footprint. Further public review will allow landowners and local stakeholders additional opportunities to voice concerns regarding the Project.

The NFS is supportive of the RP.

Section 21 Recommendation

This real estate plan has been prepared in accordance with ER405-1-12, Chapter 12 and is recommended for approval.

PREPARED BY:

Pamela Fischer
Realty Specialist
Sacramento District

REVIEWED AND RECOMMENDED BY:

Adam Olson
Chief, Real Estate Division
Sacramento District

Date

Exhibit A

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

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

Instructions for Non-Federal Sponsors: Fill out the assessment as much possible and provide specifics when answering the below questions (e.g., statutory citations, detailed explanations, additional relevant information, etc.). When completed return the form to:

_____ LeAnne Jett _____ at _____ leanne.i.jett@usace.army.mil _____

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes?

Yes, as authorized by California Government Code Section 37350 and Article VII, Section 706 of the Charter of the City of Oakland.

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

Yes, as authorized by the California Government Code Section 37350.5 and Article VII, Section 705 of the Charter of the City of Oakland.

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

Yes, as authorized by California Code of Civil Procedure Section 1255.410 - 1255.480.

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

Yes, City of Alameda.

Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability

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

No

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91- 646, as amended?

Yes

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

No

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

Yes. Sponsor plans to complement its staff with additional consultant professionals.

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

Yes. Sponsor plans to complement its staff with additional consultant professionals.

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

Yes

Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability

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

No

III. Other Project Variables:

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

Yes

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

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

Highly Capable

Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability

V. Coordination:

a. Has this assessment been coordinated with the sponsor?

Yes

b. Does the sponsor concur with this assessment?

Yes

Prepared by (Non-Federal Sponsor):

Prepared and reviewed by (USACE):

Signature

Name: Bryan Brandes
Agency: Port of Oakland
Title: Director of Maritime
Date: March 3, 2022

LeAnne Jett
Realty Specialist

Date: 07-Mar-2022

Reviewed and approved by (USACE):

NG.LISA.M.1174
499329

Digitally signed by
NG.LISA.M.1174499329
Date: 2022.05.10 14:14:16
+07'00'

Lisa M. Ng
Deputy Chief, Real Estate Division

Date: _____

Exhibit B
NOTICE OF RISK



DEPARTMENT OF THE ARMY
U. S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO, CA 95814-2922

Real Estate Division

March 31, 2022

SUBJECT: Notice of Risks Associated with Acquisitions Prior to the Execution of the Project Partnership Agreement (PPA) for the Oakland Harbor Turning Basins Widening Feasibility Study

Port of Oakland
Attention: Danny Wan, Executive Director
530 Water St
Oakland, CA 94607

Dear Mr. Wan:

Pursuant to USACE Real Estate Handbook, Engineering Regulation (ER) 405-1-12 Chapter 12, Section VI, the Government must formally advise the Port of Oakland, as the Non-Federal Sponsor of the Oakland Harbor Turning Basins Widening, CA Navigation Study, of the many risks associated with land acquisitions prior to the execution of the Project Partnership Agreement (PPA) or prior to the Government's formal notice to proceed with acquisition after the execution of the PPA. Should the Port of Oakland acquire land in anticipation of what may be required of the project, the Port of Oakland will assume full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort. Generally, these risks include, but may 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 Port of Oakland and the Government may not be executed and implemented.
- d. The Port of Oakland 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.
- e. The Port of Oakland may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the

SUBJECT: Notice of Risks Associated with Acquisitions Prior to the Execution of the Project Partnership Agreement (PPA) for the Oakland Harbor Turning Basins Widening Feasibility Study

f. The Port of Oakland 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 LERRD.

g. The Port of Oakland 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 PPA.

To ensure adequate record keeping, please fill out the enclosed notice acknowledgement form and return the completed form by email or mail.

If you have any questions related to the overall project management, you may contact Erika Powell, Senior Project Manager, at (415) 793-1515 and Erika.Powell@usace.army.mil.

For questions regarding this real estate matter, you may contact LeAnne Jett of my staff at (916) 557-6829 and LeAnne.J.Jett@usace.army.mil.

Sincerely,



Adam B. Olson
Chief of Real Estate

Enclosure

cc:
Bryan Brandes, Director of Maritime
Catrina Fobian, Deputy Port Attorney
Justin Taschek, Project Manager

SUBJECT: Notice of Risks Associated with Acquisitions Prior to the Execution of the Project Partnership Agreement (PPA) for the Oakland Harbor Turning Basins Widening Feasibility Study

Enclosure 1: Notice Acknowledgement Form

Please acknowledge your receipt of this notice by placing your initials below and return by email to LeAnne.J.Jett@usace.army.mil or mail to:

U.S. Army Corps of Engineers
ATTN: LeAnne Jett
1325 J Street, Real Estate Division
Sacramento, CA 95814

Signatory's Name (Print): _____

Signatory's Position: _____

Date: _____

By placing my initials below, I acknowledge that:

_____ Congress may not appropriate funds to construct the proposed project.

_____ The proposed project may otherwise not be funded or approved for construction.

_____ A PPA mutually agreeable to the Port of Oakland and the Government may not be executed and implemented.

_____ The Port of Oakland 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.

_____ The Port of Oakland may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project.

_____ The Port of Oakland 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 LERRD.

_____ The Port of Oakland 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 PPA.

Exhibit C
Acknowledgement of Receipt of Notice of Risk

Real Estate Division

March 31, 2022

SUBJECT: Notice of Risks Associated with Acquisitions Prior to the Execution of the Project Partnership Agreement (PPA) for the Oakland Harbor Turning Basins Widening Feasibility Study

Enclosure 1: Notice Acknowledgement Form

Please acknowledge your receipt of this notice by placing your initials below and return by email to LeAnne.J.Jett@usace.army.mil or mail to:

U.S. Army Corps of Engineers
ATTN: LeAnne Jett
1325 J Street, Real Estate Division
Sacramento, CA 95814

Signatory's Name (Print): Bryan Browder

Signatory's Position: Maritime Director

Date: 6/30/22

By placing my initials below, I acknowledge that:

BB Congress may not appropriate funds to construct the proposed project.

DD The proposed project may otherwise not be funded or approved for construction.

DD A PPA mutually agreeable to the Port of Oakland and the Government may not be executed and implemented.

DD The Port of Oakland 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.

DD The Port of Oakland may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project.

DD The Port of Oakland 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 LERRD.

DD The Port of Oakland 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 PPA.