US Army Corps of Engineers®

OAKLAND HARBOR TURNING BASINS WIDENING
Integrated Feasibility Report and Environmental Assessment

Appendix D:
Real Estate Plan
Final

Alameda County
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

January 2024

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Section 1 Purpose

1.1 Statement of Purpose

The purpose of this Real Estate Plan (REP), prepared during the feasibility study phase, is to describe the minimum Lands, Easements, Rights-of-Way, Relocations, and Disposal (LERRD) requirements for the construction and operation and maintenance of the Recommended Plan (RP) of the Oakland Harbor Turning Basins Widening Integrated Feasibility Report and Environmental Assessment. This REP, prepared in accordance with ER 405-1-12, is Appendix D of the Integrated Feasibility Report and Environmental Assessment (IFR/EA) and describes the estimated LERRD values, the cost to acquire LERRD, the types of real estate interests required to construct the RP, property information, and other pertinent data relative to the real estate acquisition process and schedule. Further, this report identifies and describes the facility/utility relocations that are necessary for construction. The required real estate interests presented herein are preliminary estimates based only on existing, readily available Geographic Information System 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 Oakland Harbor Navigation Improvement -50-foot (minus fifty) Project Final Feasibility Study of May 1998 was authorized by the Water Resources Development Act (WRDA) of 1986 and the resulting Chief's Report recommended a 50-foot-deep channel in the Oakland Harbor and was authorized for construction and completed in 2009. The completed channels are maintained at -50 foot mean lower low water (MLLW).

In October 2018, a Section 216 Initial Appraisal Report was conducted to determine potential federal interest in modifications to the existing -50-foot Project, specifically the existing turning basins. The initial draft IFR/EA was published in December 2021. In response to public comments received from that public review, U S Army Corps of Engineers (USACE) and the Port of Oakland (Port) refined the RP with modifications that shifted the preliminary design's proposed footprints of both the inner and outer harbor turning basins. Due to these modifications, a rereleased (revised) draft of the IFR/EA was published in April 2023 that included the shift in the study footprint. This IFR/EA and this Appendix D REP represents the final report.

This REP, prepared by Sacramento District's Real Estate Division in support of the San Francisco District, 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. A full description of the project purpose is included in the main report.

1.2 Recommended Plan Description

The Recommended Plan, Alternative D-2, Inner and Outer Harbor Modifications with electric dredges and additional beneficial placement of dredged material, includes the expansion (widening) of the Inner Harbor Turning Basin and the Outer Harbor Turning Basin to increase navigation efficiencies and improve the efficiency and safety of operations of container ships within the harbor with electric dredges and beneficial placement of dredged material. The RP would also require removal and placement

of approximately 2.7 million cubic yards of aquatic dredged and excavated, land-based material. Approximately 2.2 million cubic yards of the total dredged and excavated material could be suitable for beneficial use.

- Inner Harbor Turning Basin - The expansion of the Inner Harbor Turning Basin consists of widening the existing Inner Harbor Turning Basin with a depth of -50 foot MLLW consistent with the existing depth of the Inner Harbor Turning Basin. The RP also requires the installation of an estimated 2,380 linear feet of bulkhead, impacting approximately 4.6 acres of fast land (land above the high-water mark) in Alameda and 2.8 acres of fast land at Howard Terminal. The RP would require an in-water retaining feature adjacent to the Schnitzer Steel property (no fast land required at Schnitzer Steel), an in-water fill of rock replacement, and pile driving. In Alameda, four warehouse bays would be impacted by the construction of the RP.

- Outer Harbor Turning Basin - The Expansion of the Outer Harbor Turning Basin consists of widening the existing Outer Harbor Turning Basin with no upland impacts under the proposed footprint. The impacted area involves dredging material to widen the basin to a depth of -50 foot MLLW consistent with the existing depth of the Outer Harbor Turning Basin. Temporary work area easements (TWAE) for staging would be facilitated at Berth 10.

- Beneficial Placement of Dredged Material – Material is assumed to be placed at the Kettleman Hills landfill, Keller-Canyon landfill, and at a beneficial use site for the protection, restoration, or creation of aquatic wetland habitats as either non-cover (foundation) or cover material. The Non-Federal Sponsor (NFS), The Port of Oakland, supports the beneficial placement of dredged material and is willing to share in the incremental cost above the Base Plan.

- Electric Dredging Variation (Outer Harbor Turning Basin) - The electric dredge variation involves the use of an electric-powered barge-mounted clamshell/excavator dredge instead of a diesel-powered dredge. Under this variation, the use of existing (electric dredge) infrastructure is required for the Outer Harbor to provide power at this location. The use of electric dredges is included in the RP as requested by the NFS but is classified as a locally preferred mitigation measure at full non-Federal cost. The NFS assumes these additional costs as a betterment.

1.3 Study Authorization

The authority for this study is Section 216 of Rivers and Harbors Act of 1970 (33 U.S.C. 549a), 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 WRDA of 1986 (Pub. L. No. 99-662, 100 Stat. 4098 (Nov. 17, 1986), 33 U.S.C. § 2231).

Today, vessels with nearly triple the capacity of the original design vessel call at the Port. The study conducted pursuant to Section 203 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)(7) of WRDA 1999 (Pub. L. No. 106-53, 113 Stat. 275 (Aug. 17, 1999)). Construction of the project channels were completed in 2009 and are maintained at -50 foot MLLW.

In October 2018 a Section 216 Initial Appraisal Report was completed to determine if there is potential federal interest to undertake modifications to the existing -50 Foot Project. The need for this investigation arises from inefficiencies experienced by vessels in the Harbor, specifically the turning basins, where the current fleet exceeds the maximum dimensions of the constructed -50-foot Project. These inefficiencies are projected to continue as vessel sizes increase to meet needs for operational efficiency and environmental compliance requirements.

The resulting Navigation Feasibility Study is called the Oakland Harbor Turning Basins Widening (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.

See the main report for a full listing and description of all authorities for this study.

1.4 Non-Federal Sponsor

The Port of Oakland is not a state agency, but a part of the City of Oakland with its own Board of Commissioners being an independent department. Additional information on the Port is included in Section 3, Non-Federal Sponsor Owned Lands, Easements, Rights-of-Way, Relocations, and Disposal and Section 13, Non-Federal Sponsor's Acquisition Capability.

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

Section 2 Description of Lands, Easements, Rights-of-Way, Relocations, and Disposal

2.1 Project Location

The Port of Oakland, also referred to as Oakland Harbor, is on the eastern side of San Francisco Bay in Alameda County, California. 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. See below Figure 2-1: Map of Oakland (inset) and Port of Oakland Terminal Facilities. This location map and additional maps showing the study footprint are in Section 8.

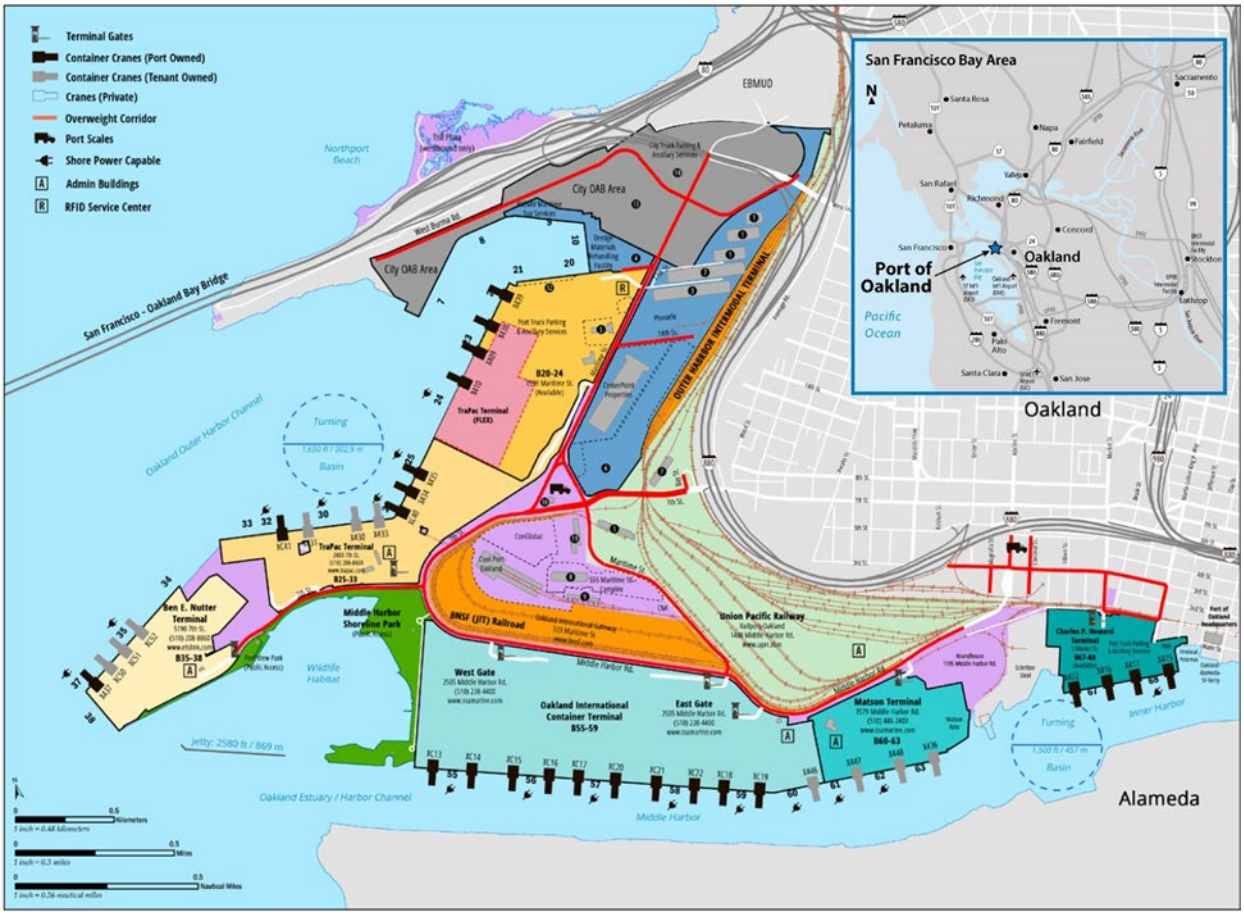

Figure 2-1: Map of Oakland (inset) and Port of Oakland Terminal Facilities

The Inner Harbor Channel, also maintained to -50 foot MLLW, and its Inner Harbor Turning Basin serve the Oakland International Container Terminal, Matson Terminal, and Schnitzer Steel Terminal. The Inner Harbor is bordered to the north by the Port (in the City of Oakland) and to the south by the City of Alameda. Schnitzer Steel owns an approximately 29-acre property that abuts the northwestern side of the existing Inner Harbor Turning Basin and includes a large wharf crane near the shoreline. The western edge of the Howard Terminal abuts the northeastern side of the Inner Harbor Turning Basin. The City of Alameda's Estuary Park, created in 2017, is adjacent to and south of the maritime industrial operations on the southwestern side of the Inner Harbor Turning Basin. A portion of the San

Francisco Bay Trail is located along the Main Street Dog Park to the Main Street Alameda Ferry Terminal, adjacent to the Inner Harbor Channel from the Alameda Ferry Terminal to the western end of the Bay Ship & Yacht Company. A proposed trail would run along the Inner Harbor Channel extending to the Northwest Territories Regional Shoreline Park. See Figure 2-2 that includes the Alameda area.

The Outer Harbor Channel is immediately south of the San Francisco-Oakland Bay Bridge and is maintained to a depth of -50 foot MLLW. The Outer Harbor Channel and its Outer Harbor Turning Basin serve the TraPac and Ben E. Nutter operating terminals and includes 14 berths for various ship lengths, mechanized cranes, container storage areas, and large paved parking lots for employees. One of the 14 berths, Berth 10, is a rehandling site for dredged material located at the eastern end of the Outer Harbor and is heavy industrial in nature, consisting of shipping containers, soil stockpiles, industrial buildings, warehouses, metal fencing, paved roadways, construction and container-moving equipment, gravel equipment yards, truck parking, and high-mast light standards. A portion of the San Francisco Bay Trail is located in the vicinity of the Outer Harbor Turning Basin along the San Francisco-Oakland Bay Bridge, traveling along the Judge John Sutter Regional Shoreline Park, past the Bridge Yard Building Event Center and Observation Deck, following along Maritime Street past the Middle Harbor Shoreline Park, extending to Port View Park and the Port View Park Fishing Pier near the Port of Oakland Ben E. Nutter Terminal.

2.2 Lands, Easements, Rights-of-Way, Relocations, and Disposal Requirements

The real estate cost estimate for the RP was developed in accordance with ER 405-1-12 and based on footprints delineating project requirements developed for feasibility level design by the San Francisco District Engineering Division. The NFS would acquire the minimum interests necessary to support the construction and subsequent operation and maintenance of the proposed USACE project.

Inner Harbor Turning Basin

For the Inner Harbor Turning Basin widening, eight parcels owned by the City of Oakland and private landowners would be impacted by the proposed project. Approximately 7.4 acres are fast lands including building improvements (warehouses) that would be impacted by the construction of the turning basin. The recommended standard "Fee" estate would be acquired by the NFS from the private landowner. Four warehouse bays would be impacted in Alameda where the turning basin feature would be constructed. Information regarding Relocation Assistance is further discussed below in Section 11.

A TWAE estate would be acquired for work/staging areas within the project footprint from private landowners within the City of Alameda. Staging areas within parcels owned by the City of Oakland at Howard Terminal would also be facilitated. City roads outside of the project footprint would be utilized for access.

For expansion of the Inner Harbor Turning Basin, sediments would be dredged from submerged lands within the current Inner Harbor waterway and from depths below -5 foot MLLW at the Howard Terminal and Alameda sites. Soil above -5 foot MLLW, which is approximately 15 feet below existing ground surface, would be excavated from land. The City of Alameda Parcel 74-1368-1 includes a portion of the existing turning basin. No acquisition of this parcel is needed for the

proposed RP as the area needed for the expansion of the turning basin in this parcel is within the channel and not on land above the high-water mark.

Below is a summary of the estimated LERRD requirements for the Inner Harbor footprint portion needed to construct the RP (Table 2-1) including the assessor parcel number (APN).

Table 2-1: LERRD Required for Inner Harbor

APN	Owner	Assessor Acreage	TWAE Staging /Access	Fee Turning Basin (Bldg/land) Agency-Owned	Fee Turning Basin (Bldg /land) Privately-Owned	Nav Serv Turning Basin/Wall /Slope (Waterway) Construct	Channel Improv. Easement Slope/Wall (Water) O & M	Privately Owned
18-395-1	Schnitzer Steel Products of CA Inc	33.2				1.1	.6	Yes
18-395-2	City of Oakland	37.29				2.7	.4	No
18-405-1	City of Oakland	16.12	5.6	.3		.1		No
18-405-2	City of Oakland	16.24	.9	2.5		7. 8		No
18-410-1-5	City of Oakland	46.09				2.7		No
74-1373-2-5	FIC Alameda 365 LLC	22.12			4.6	1.7		Yes
74-905-1-7	Alameda Commercial Properties	18.72	.2			1.2		Yes
74-905-1-8	Alameda Commercial Properties	3.48	1.4			N/A		Yes
N/A	Waterway					6.0		No
	TOTAL		**8.1**	**2.8**	**4.6**	**23.3**	**1**	

A larger version of the map below (Figure 2-2) showing the Inner Harbor proposed turning basin footprint is included in Section 8, Maps.

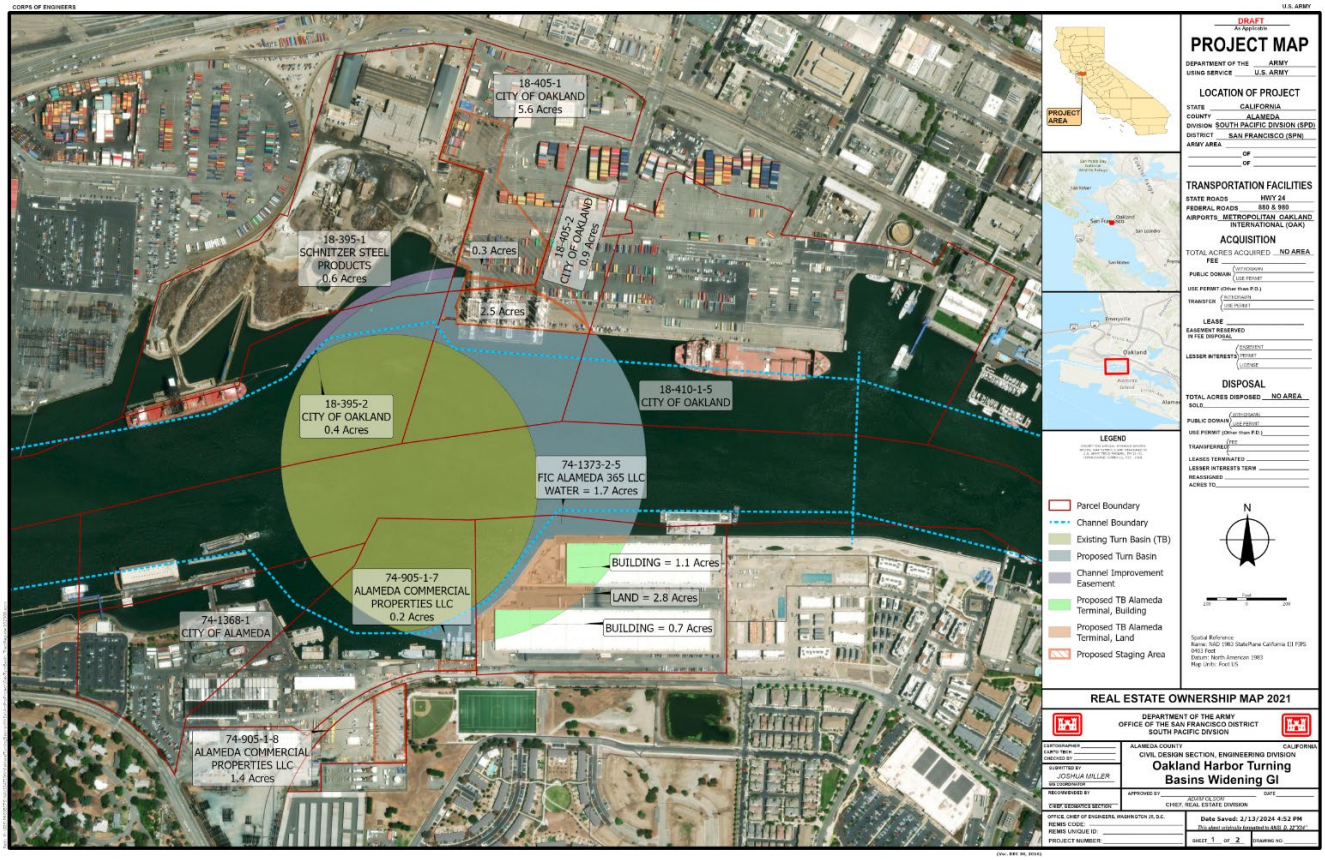

Figure 2-2: Map of Inner Harbor Turning Basin Recommended Plan Proposed Footprint

Outer Harbor Turning Basin

For the Outer Harbor Turning Basin, two parcels would be impacted by constructing the proposed turning basin. These parcels are within the waterway below the MLLW.

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

Expansion of the Outer Harbor Turning Basin would involve dredging submerged lands within and adjacent to the Outer Harbor Channel. The electric dredge feature would facilitate use of an existing structure and would include an electric line crossing upland and submerged City of Oakland lands. The electric dredge feature is considered a betterment and is 100% non-federal cost.

The Table below (2-2) is a summary of the estimated LERRD requirements for the Outer Harbor footprint portion needed to construction the RP.

Table 2-2: LERRD Required for Outer Harbor

APN	Assessor Acreage	Owner	TWAE Staging /Access	Nav Serv Turning Basin (Water) Construct
18-320-1-2	210.64	City of Oakland	5.6	22.6
18-335-2-2	155.97	United States of America		10.4
		TOTAL ACRES	**5.6**	**33.0**

These estimates may change during PED and construction, as they are not based on survey-grade calculations.

A larger version of the below photo (Figure 2-3) and map (Figure 2-4) showing the Outer Harbor proposed turning basin footprint is included in Section 8, Maps.

Figure 2-3: View of the Outer Harbor Turning Basin from the Bay Bridge Looking East

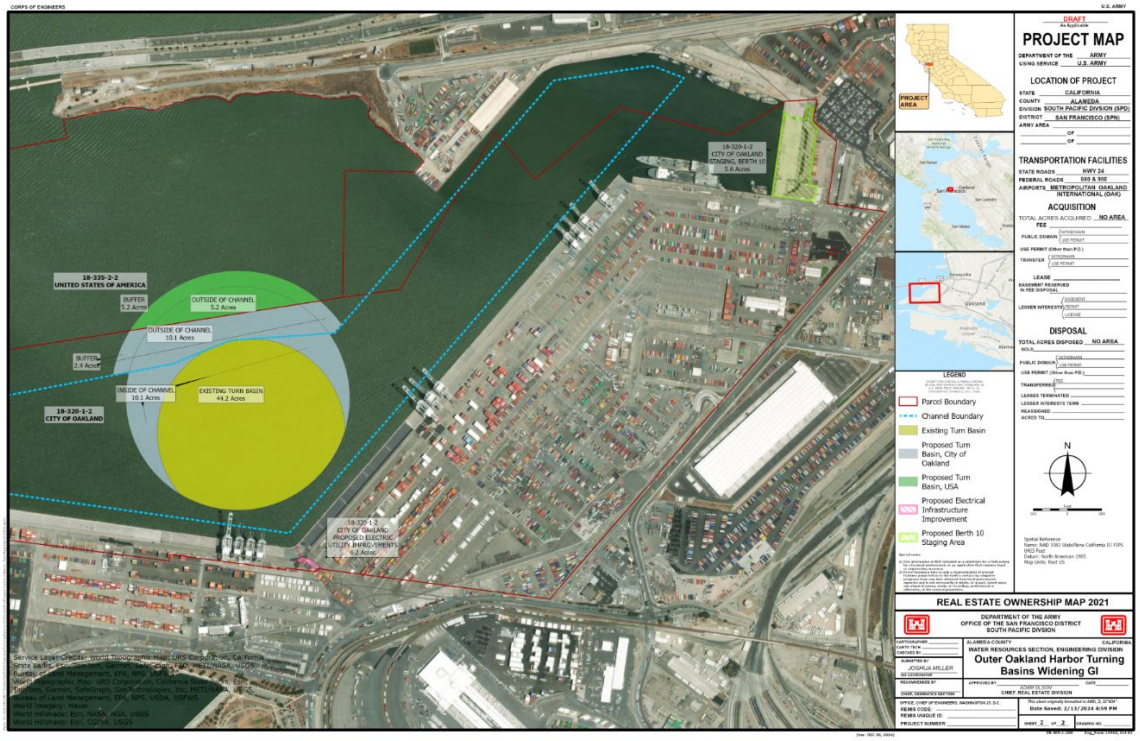

Figure 2-4: Map of Outer Harbor Turning Basin Recommended Plan Proposed Footprint

Navigation Servitude per Article I, Section 8 (Commerce Clause) would be applied within submerged lands for the construction of the Inner and Outer Turning Basins and features, as well as dredging of the Federal channel in the Inner and Outer Harbors where the United States and the City of Oakland own submerged lands. It would also apply in the turning basin in Oakland and Alameda within submerged lands. See Section 7, Navigation Servitude, below for additional information regarding the use of navigation servitude for this proposed project.

Roadways close to the northern side of the Inner and Outer Harbors are primarily used for Port-related traffic, such as Market Street south of 3rd Street and Maritime Street south of Burma Street. Both cities of Oakland and Alameda have designated several local streets as “local truck routes” for use by commercial trucks. Truck traffic can use non-truck route streets when necessary to reach a destination granted that the truck leaves a designated truck route at the closest point to its destination.

The RP requires the removal and placement of aquatic dredged and terrestrial excavated material. Landfill location is not yet selected, but 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. Beneficial use sites would be established at public or privately owned sites. The contractor would be responsible for transportation, offloading and conveying material within existing roads and waterways. The contractor would be responsible for disposal with no estate needed and no acquisition of LERRD would be required.

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 construction costs, 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. 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.

Once the Project Partnership Agreement (PPA) is completed, the San Francisco District Engineering Division would prepare the final design for advertisement and construction. During this process, the tract register and tract maps would be updated to reflect any modifications. These modifications may include changes to the final staging areas, access requirements, construction haul routes, and recreation features. The tract register and tract maps would 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 in writing that the NFS has in fact acquired the necessary real estate interests on behalf of the project and these real estate interests are available to support construction in accordance with ER405-1-12. This information would be used for future crediting purposes. 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 to include the status of acquisition, identification of all activities that must occur to complete acquisition, realistic schedules for these activities, and advice on the probability of finalizing acquisition in a timely manner.

Consistent with current Port practice, the turning basins are anticipated to be maintained by dredging every year. It is estimated that implementation of the RP would require an additional 93,000 cy of material to be removed every year as regular operation and maintenance of the turning basins. It will be determined during PED if the NFS would perform future inspections and/or O & M of the Inner Harbor's slope and wall features within Schnitzer Steel's submerged lands in the Inner Harbor waterway. If the NFS would be responsible for future inspections and/or O & M of the slope feature and wall within the waterway, a channel improvement easement may be necessary from the State of California. This cost is included in the REP. If the O & M of the slope feature would be conducted by the Corps of Engineers, navigation servitude would be invoked to perform this work.

Section 3 Non-Federal Sponsor Owned Lands, Easements, Rights-of-Way, Relocations, and Disposal

The RP 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 of the below listed APN shown in Table 3-1 for the Inner Harbor and Table 3-2 for the Outer Harbor. These parcels are located at Howard Terminal, Berth 10, and in the waterway through the City of Oakland.

Table 3-1: Non-Federal Sponsor Owned LERRD Required for Inner Harbor

APN	Owner	Acreage Owned	Location	Feature
18-395-2	City of Oakland	37.29	Water	Turn basin/wall/slope
18-405-1	City of Oakland	16.12	Land/Water	Turn basin/staging/access
18-405-2	City of Oakland	16.24	Land/Water	Turn basin/staging/access
18-410-1-5	City of Oakland	46.09	Water	Turn basin

Table 3-2: Non-Federal Sponsor Owned LERRD Required for Outer Harbor

APN	Owner	Acreage Owned	Location	Feature
18-320-1-2	City of Oakland	210.64	Land/Water	Turn basin/staging/access

The NFS's Capability Assessment is discussed in Section 13 and is included as **Exhibit A** of this REP. The Port is not a state agency, but a part of the City of Oakland with its own Board of Commissioners. Under the Oakland City Charter, the Port is structured differently than the City of Oakland, being an independent department with exclusive control over the Port area, self-funded with occasional federal/state grant funding, but not funded from tax revenue. Since the Port is a department of the City of Oakland, rights for LERRD owned by the City of Oakland do not need to be acquired or transferred. If eminent domain is necessary, the Port's Board of Commissioners would take action as permitted by Article VII of the Charter of the City of Oakland and applicable state law.

The NFS would acquire fee estate for the upland parcels owned by private landowners where the turning basin would be constructed. The fee estate would insure sufficient real estate interests to successfully construct and maintain the project while protecting the Federal investment. Since USACE would be constructing the RP and performing the initial and future dredging, USACE would exercise navigation servitude for all submerged lands for construction and dredging being completed by USACE. For temporary work areas within privately-owned lands, the NFS would acquire a temporary work area easement.

The NFS may perform future inspections and/or O & M of the Inner Harbor's slope and wall features in the vicinity of Schnitzer Steel. These structures are submerged lands within the Inner Harbor waterway. If the NFS would be responsible for future inspections and/or O & M of the slope feature and wall within the waterway, a channel improvement easement may be necessary from the State of California. This cost is included in the REP.

Credit would only be applied to LERRD owned and/or held by the NFS within the "project footprint" and deemed necessary to construct, operate, and maintain the RP if not previously credited for another project. LERRD located outside of the project requirements for the NFS's own purposes (not supporting the minimum interests necessary to construct or operate and maintain the Project) would not be creditable LERRD. The value of potentially creditable lands owned by the NFS is included in the cost estimate below in Section 10.

The USACE Sacramento District, Real Estate Division's records indicate that the land and real estate interests required to construction the turning basins proposed in this report were not previously provided under either the -42-foot or the -50-foot projects. The NFS has stated verbally that the footprint for the turning basins widening was not previously credited, as this RP's footprint extends beyond the previous widening project. After PED, a formal request would be sent to the NFS for written statement confirming that areas required to construction the RP, and for operation and maintenance have not been previously credited. The infrastructure being used for the electric dredging would not be creditable, as the cost for that component is considered a betterment and funded by the NFS. Confirmation of staging areas being facilitated by the NFS for storage, etc. and staging needed for construction of the RP within the Howard Terminal would be determined in PED.

The Port has a relationship with the neighboring government entities, including the City of Alameda. It is not expected that the use of roads outside of Oakland would cause a slip in the schedule. No State Land's Commission property would be used for road use or hauling routes. The NFS confirmed with the State Land's Commission that the subject parcels are entrusted to the City of Oakland and the Port in accordance with the tidelands trust.

The Covenant in place restricting land rights for the Howard Terminal site would not affect the parcels within the footprint of the RP. This covenant area is north of the existing quay wall at Howard Terminal. Construction of the turning basin would be south of the existing quay wall. See more information discussing hazardous, toxic, and/or radioactive waste (HTRW) and a map of Howard Terminal in Section 17.

The Port would provide all LERRD necessary for the project. Cost sharing for the RP would be done in accordance with Section 1111 of the WRDA of 2016, as amended, as a general navigation feature. The cost share is based on the recommended improvements being at -50 foot MLLW. Disposal necessary for the project is cost shared as a general navigation feature. The current estimates for LERRD costs exceed 10% of the cost of the general navigation features, therefore it is not anticipated, based on current cost estimates, that the NFS would be required to pay an additional 10% of the total costs of the general navigation features. The cost to place material at an upland beneficial use site, beyond the cost of the least cost placement option would be cost shared in compliance with Section 204(d) of WRDA 1992 at 35% non-federal and 65% federal. The NFS supports the beneficial placement of dredged material and is willing to share in the incremental cost above the base plan.

It is possible the NFS could purchase credit from companies offering mitigation bank credits for mitigation. The cost of credits purchased from mitigation banks is not defined as a real estate cost and therefore is not included in the cost estimate in this REP. Since the cost share for electric dredges was not approved, but the team identified this feature in the RP, the cost for electric dredges would be 100% NFS responsibility (non-federal cost).

Section 4 Standard and Non-Standard Estates

The NFS would be required to acquire the minimum interest in real estate to 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. It is not anticipated that non-standard estates would be required.

Temporary Work Area Easement
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, for use by the United States, its representatives, 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.

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 5 Existing Federal Projects

Construction of both the Oakland Harbor Navigation Improvement -42 -project and the -50-foot Projects were completed in 1998 and 2016, respectively. This proposed project's footprint is beyond the previously constructed -42 and -50 foot projects.

The NFS confirms that LERRD's required for the construction and operation and maintenance of the proposed expansion of the turning basins have not been previously provided for a previous federal project. Also, the USACE Sacramento District Real Estate Division's records do not indicate that the LERRD required for the turning basins in this proposed project were previously provided for either the -42 foot project, or the -50 foot project.

Section 6 Federally Owned Land Required for the Project

One parcel within the Outer Harbor is federally owned. Records indicate that this property is held and managed by the U.S. General Services Administration (GSA). USACE Sacramento District, Real Estate Division sent a request to GSA for confirmation of ownership/management and confirm the intended use of the federally owned parcel. GSA stated they do not have any use for the parcel as it was included GSA's "inactive inventory" for over one decade.

The intended use of the submerged federally owned parcel would be part of the expansion of Outer Harbor Turning Basin, which consists of widening the existing Outer Harbor Turning Basin and involves dredging material to widen the basin to a depth of -50 foot MLLW consistent with the existing depth of the Outer Harbor Turning Basin.

Per ER 405-1-12, the NFS would not be required to provide a real property interest regarding the federally owned land. The Office of Counsel at USACE San Francisco District has confirmed that the exercise of the navigation servitude for the construction and maintenance of improvements being proposed in this study is appropriate for the federal government.

Table 6-1: Federally Owned LERRD

APN	Managing Agency	Parcel Acres	Location / Feature	Project Acres
18-335-2-2	GSA	155.97	Outer Harbor / Turning Basin	10.4

Section 7 Navigation Servitude

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U. S. CONSTITUTION Article I, Section 8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands 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. The Government's rights under the navigation servitude exists regardless of the ownership of the banks and bed of a stream below the mean high-water mark and of western water rights under prior appropriation doctrine.

The Office of Counsel at USACE San Francisco District has confirmed that the exercise of the navigation servitude for the construction, operation, and maintenance of improvements below the ordinary high-water mark being proposed in this study is appropriate for the federal government.

The determination of availability of the navigable servitude is a two-step process. First, the Government must determine whether the project feature serves a purpose which is in the aid of commerce (navigation, flood control and hydro-electric power). The Inner and Outer Harbors are in the active Oakland Harbor and their expansion is to improve navigation. If it is so determined the project features serves a purpose in aid of commerce, then the second step is to determine whether the land at issue is located below the ordinary high-water mark of a navigable watercourse. There are substantial portions of the proposed project, including the entirety of the Outer Harbor, which are located below the ordinary high-water mark. By meeting both factors, the doctrine of the Federal Navigational Servitude applies to and is available for those properties ultimately required for the project that are located below the ordinary high-water mark.

The Government does not acquire interests in real property that it already possesses or over which its use or control can be legally exercised. Therefore, the Government will generally exercise its rights thereunder and, to the extent of such rights, will not acquire a real property interest in the land to which the navigation servitude applies. Generally, it is the policy of the U.S. Army Corps of Engineers (USACE) to utilize the navigation servitude in all situations where available, whether the project is cost shared or full Federal.

Construction of the Inner and Outer Harbor turning basins and dredging would take place within submerged lands within the Inner and Outer Harbors of the RP footprint where the United States, the City of Oakland, and where private parties own submerged lands. In addition, USACE would follow proper permitting processes for excavating and/or disposing of material in navigable waters as required under Section 10 of the River and Harbor Act of 1899.

Because the proposed action would expand the turning basins which are part of the federal navigation channel, the proposed action is being exercised in accordance with federal navigational servitude and a lease from the State Land's Commission is not required for construction of the RP.

Section 8 Maps

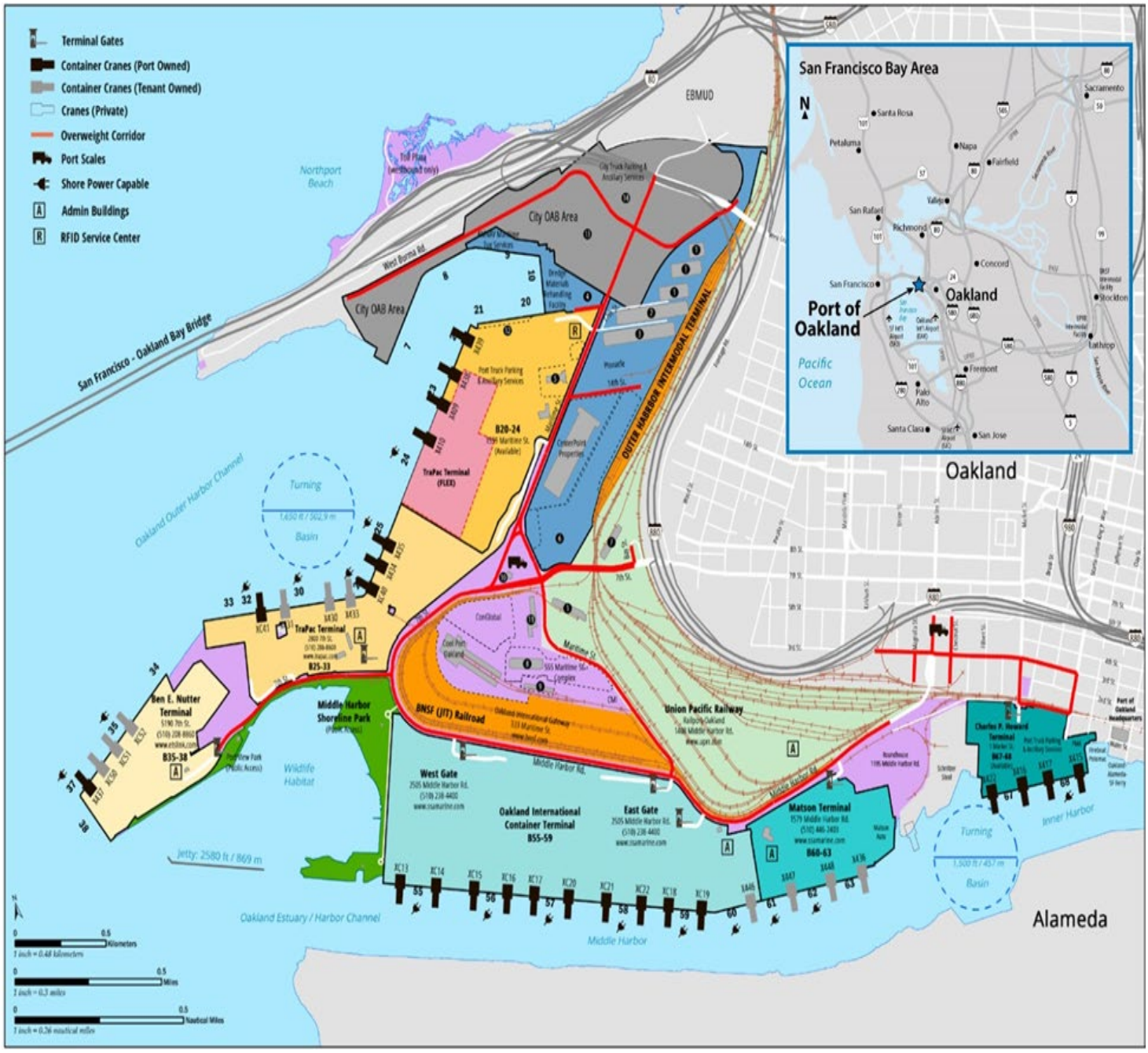

Figure 8-1: Map of Oakland (inset) and Port of Oakland Terminal Facilities

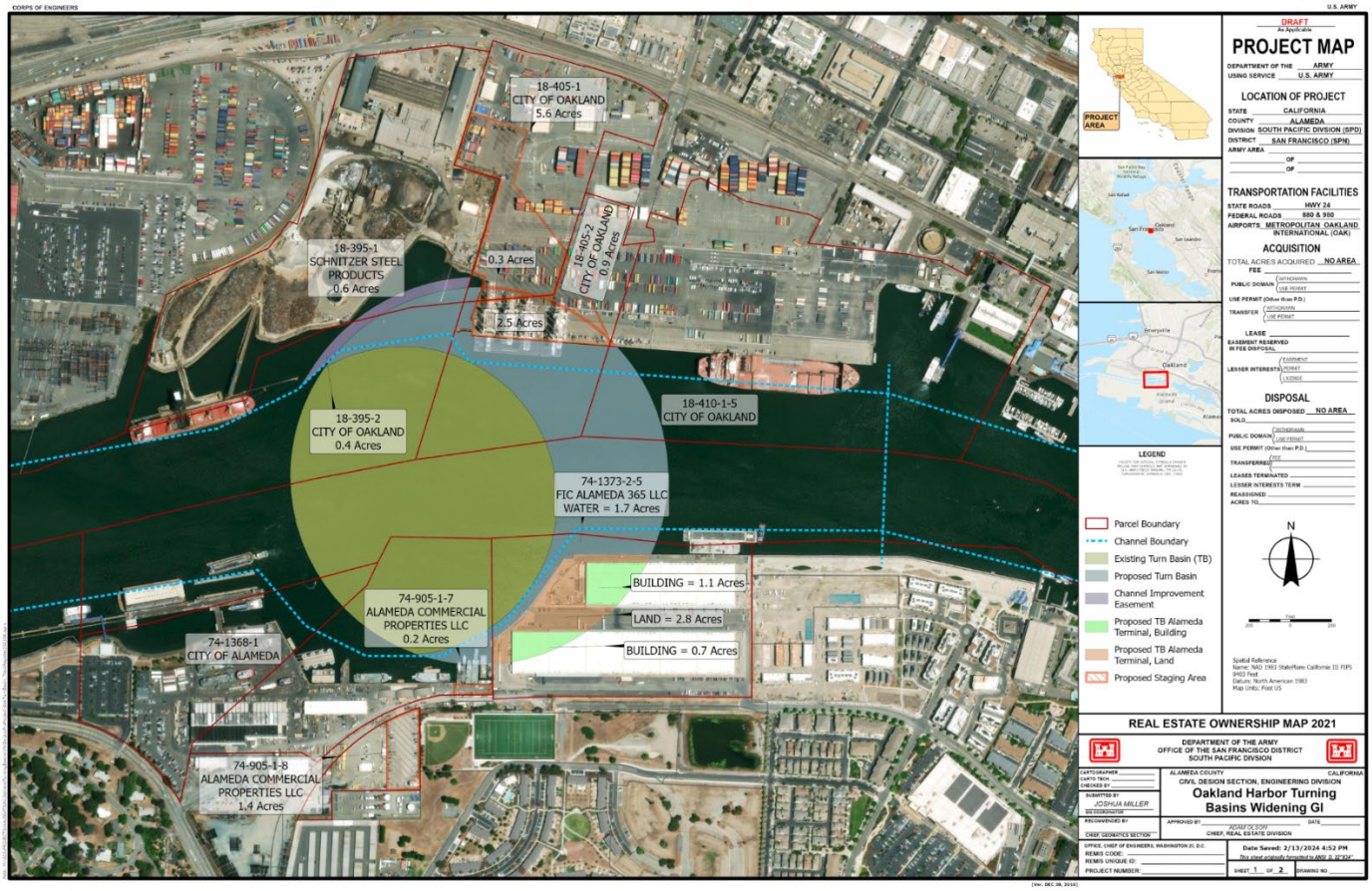

Figure 8-2: Map of Inner Harbor Turning Basin Recommended Plan Proposed Footprint

Figure 8-3: View of the Outer Harbor Turning Basin from the Bay Bridge Looking East

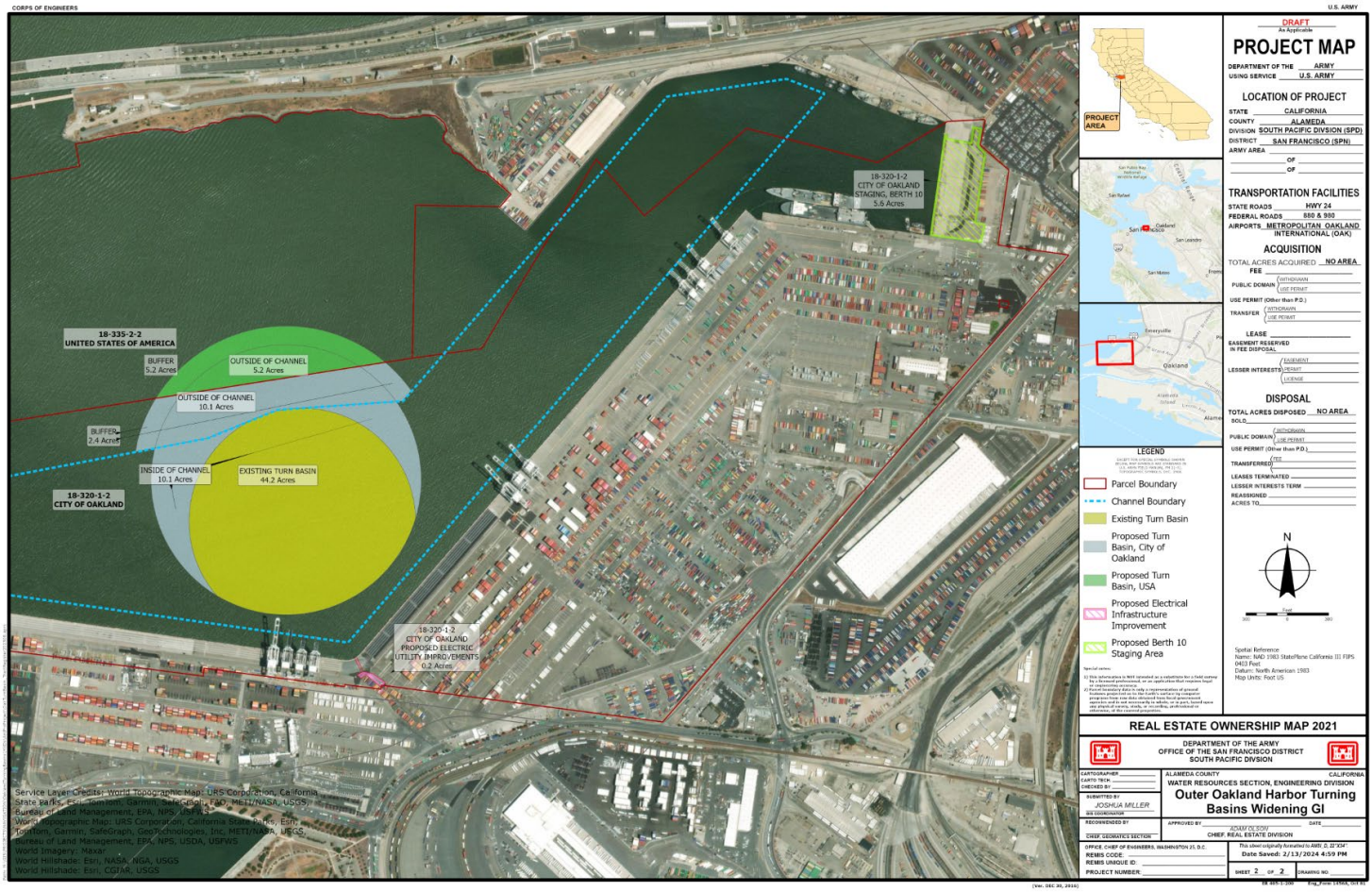

Figure 8-4: Map of Outer Harbor Turning Basin Recommended Plan Proposed Footprint

Figure 8-5: View of Howard Terminal Facility/Utility Footprint

Figure 8-6: Map of Inner Harbor Howard Terminal Quay Wall (green) and Schnitzer Steel HTRW (purple)

Section 9 Induced Flooding

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

Section 10 Baseline Cost Estimate

On November 3, 2023, Sacramento District Regional Appraisal Center completed a Gross Appraisal in conformance with ER 405-1-04. 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.

The Gross Appraisal shows the Study affects 10 total parcels (8 parcels in the Inner Harbor and 2 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 identified potential damages with impacts to existing structures caused by the construction of the RP. For the privately held parcel with the 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. The curative work would re-establish structures as functioning industrial improvements, allowing the affected landowner to continue operations after the construction of the RP.

The Gross Appraisal states that any potential severance damages to the uplands that are created due to the loss of access or utility associated with a property being adjacent to a navigable waterway are non-compensable. As such, the loss of income or damages associated with the loss of utility for wharfage, dockage, storage, etc. that were previously included in the Real Estate Plan for this study are excluded from the valuation as they are considered non-compensable and ineligible for LERRD credit based on regulations related to Navigation Servitude.

The proposed RP includes the project shift to minimize the operational impacts to businesses affected by the Study that provided additional benefits including 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 tables below show the estimated LERRD acreage, costs, and the estate for the Inner Harbor (Table 10-1) and the Outer Harbor (Table 10-2).

Table 10-1: Inner Harbor Estimated LERRD Acreage and Costs

Location	Estate	Acres	# of Parcels	Cost	30% Incremental	Total Estimated Cost
Inner Harbor – Turning Basin (Land and Building)	Fee	7.4	2	$33,719,000	$10,115,000	$43,834,000
Inner Harbor -Staging (Land) from Private Landowner	Temporary Work Area Easement	1.6	2	$5,081,000	$1,524,000	$6,605,000
Inner Harbor – Staging (Land) from Local Agency	Temporary Work Area Easement	6.5	1			
Inner Harbor -Future Inspection, O & M (water)	Channel Improvement Easement	1.0	1	$770.00	$230	$1000
			TOTAL	**$38,800,770**	**$11,639,230**	**$50,440,000**

Table 10-2: Outer Harbor Estimated LERRD Acreage and Costs

Location	Estate	Acres	# of Parcels	Cost	30% Incremental	Total Estimated Cost
Outer Harbor – Staging (Land) from Local Agency	Temporary Work Area Easement	5.6	1	$3,515,000	$1,055,000	$4,570,000
			TOTAL			**$4,570,000**

Table 10-3: Summary of Total Real Estate Costs

Account		Description	Estimated Cost
01	Lands and Damages		
	Inner Harbor	LERRD	$50,440,000
	Outer Harbor	LERRD	$4,570,000
01	Damages	Damages	$6,500,000
			$61,510,000
01	Admin - NFS	NFS Admin	$240,000
01	P.L. 91-646 Reloc	PL 91-646 Reloc	$40,000
02	Fac/Util Relocation	Remove/Reloc	$1,705,600
30	Federal Admin Costs	Fed Admin	$190,000
		TOTAL	**$63,685,600.00**

The estimated LERRD costs (and subsequent estimated total LERRD costs) may change based on various unseen or unknown factors during PED and construction, as there may be modifications to the plan that occur, thus changing the final acquisition areas, administrative costs, and LERRD costs.

Section 11 Relocation Assistance Benefits

The NFS 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 its implementing regulations 49 C.F.R. Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs to 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.

Fee estate would be acquired by the NFS from private landowners in the Alameda area within the footprint where the proposed turning basin would be constructed. This could result in a potential displacement and relocation assistance for one tenant impacted within APN 74-1373-2-5 who uses a portion of the warehouse space for storage.

Costs below for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 regulations are included in the cost estimate. These costs are included in Section 10, Baseline Cost Estimate, Table 10-3, Summary of Total Real Estate Costs, Line Item "01 P.L. 91-646 Relocation." Cost changes in MAP 21 (Moving Ahead for Progress in the 21st Century Act of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 regulations) are also considered in this cost estimate.

The estimated costs for Uniform Relocation Assistance for the one tenant within the footprint of the RP is $40,000. This estimate includes:

Actual moving and related expenses (packing, transporting, unpacking)
Additional operating expenses incurred due to new location
Storage (short term)
Re-establishment and relocating services
Professional services for lease replacement site, determine suitability
Advertisement costs (if any)

The amount paid to tenant would be determined by the Agency as actual, reasonable, and necessary. The NFS has been advised of PL 91-646 requirements and has been given information on the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 to provide relocation assistance to qualifying businesses. The NFS has completed PL 91-646 requirements in the past and is prepared to do so again.

No residences are located within the footprint of this RP. No replacement housing would be needed.

Section 12 Mineral Activity / Timber Harvesting

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

No merchantable timber was identified.

Section 13 Non-Federal Sponsor's Acquisition Capability

The Non-Federal Sponsor is the Port of Oakland and a part of the City of Oakland; therefore, they do not need to acquire rights for LERRD owned by the city. The Port is an independent department with exclusive control over the Port area with its own Board of Commissioners and self-funded with occasional federal/state grant funding but no tax revenue funding. If eminent domain is necessary, the Port's Board of Commissioners would take action as permitted by Article VII of the Charter of the City of Oakland and applicable state law.

A Feasibility Cost Sharing Agreement was executed on July 1, 2020, with the Port as the NFS. The Oakland Harbor Study is cost shared 50% federal and 50% non-federal.

The fully, recently executed Capability Assessment Checklist **("Exhibit A")** of the Real Estate Plan supports the assertion of the NFS's ability to acquire the necessary real property interests of the Project as "Highly Capable" and details the sponsor's authority in providing any necessary real estate interests. This assessment was completed after discussions with the NFS, reviewing the project footprint shift, revised schedule, and new real estate requirements. The NFS has approved the adjusted footprint and schedule. Since the time Exhibit A, Capability Assessment was finalized, USACE has determined that a training plan to review regulations and real estate requirements of Federal projects will be in place in time to support acquisition of LERRD by the NFS. The NFS has been advised of P.L. 91-646 requirements.

It is not anticipated that the Government would acquire LERRD on behalf of the NFS, as the Port would perform acquisitions.

Section 14 Zoning Ordinances

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 15 Real Estate Acquisition Schedule

The following schedules for the RP (including the post footprint shift) have been reviewed by the NFS. Any condemnation action, though not currently anticipated, could have a negative impact on the overall project schedule. The general attitude of the industries and businesses in the Oakland Harbor area are positive toward the widening of the basins to increase navigation efficiencies and improve the efficiency and safety of container ships within the harbor. This attitude is consistent, though no industry or business wants to be impacted by the project.

Table 15-1: Real Estate Acquisition Schedule

Task	Date
Design Agreement	April 2025
Sponsor's Notice to Proceed with Acquisition	April 2025
Project Partnership Agreement Execution	March 2027
Certification of Real Estate	March 2027
Authorization for Entry for Construction	April 2027
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 is the construction/implementation schedule for the project. The Real Estate Acquisition Schedule is based on this schedule.

Table 15-2: Recommended Plan Implementation Schedule

Task	Date
Chief of Engineering Report Approval	May 2024
Design Agreement	April 2025
Pre-Construction Engineering & Design	January 2025 – January 2027
Project Partnership Agreement Execution	March 2027
Real Estate Acquisition	April 2025 – March 2027
Construction	June 2027 – November 2029

The schedules are subject to change due to unforeseen factors, outside of USACE, Sacramento District Real Estate Division or the NFS's control.

Section 16 Description of Facility/Utility Relocations

Cost engineering provided the following lists of potential facility/utility removals and relocations with the estimated costs. The cost estimates assume new pipes and structures for the relocated utilities. While there are known utilities on the Alameda side to be relocated and/or demolished or abandoned in place, no utility information is available outside of the Howard Terminal area. As of the date of this report, no facility/utility information was identified traversing Oakland Harbor, therefore relocation impacts shown are on the uplands or fast lands. No relocation of the electrical conduit at Schnitzer Steel is anticipated due to the proposed turning basin area shift.

Any conclusion or categorization contained in this report that an item is a facility or utility relocation is preliminary only. The Government would 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 a Final Attorney's Opinions of Compensability for each of the impacted facilities and utilities.

Additional survey work during the PED Phase would be completed to identify all facility/utility relocations required and to determine the degree of impacts to existing utilities. It is anticipated that all relocations would be completed within parcels already owned or to be acquired in fee by the City of Oakland or Port and that no additional LERRD would be needed. The Port owns parcels within Howard Terminal shown below separately from the other lands within the RP for tracking purposes.

Table 16-1: Facility/Utility Located at Howard Terminal

Description	Action	Qty	UOM
6" Sanitary Pipe	Remove	575	LF
8" Sanitary Pipe	Remove	350	LF
Sanitary Manhole	Remove	4	EA
3" Water Pipe	Remove	250	LF
4" Water Pipe	Remove	650	LF
6" Water Pipe	Remove	200	LF
8" Water Pipe	Remove	650	LF
Fire Hydrant	Remove	10	EA
12" Storm Pipe	Remove	350	LF
15" Storm Pipe	Remove	310	LF
18" Storm Pipe	Remove	430	LF
72" Storm Pipe	Remove	270	LF
Catch Basin/Storm Structure	Remove	5	EA
Light Pole	Remove and relocate	2	EA
	COST ESTIMATE TOTAL		**$246,700**

Below is a view of the Howard Terminal facilities (Figure 16-1).

Figure 16-1: View of Howard Terminal Facility/Utility Footprint

In accordance with PGL 31, a preliminary attorney's opinion of compensability is not required, as the estimated total cost to modify (remove/relocate) facility/utility relocations does not exceed 30 percent of total project costs. An attorney's analysis and opinion of compensability for each of the impacted facilities and utilities would be completed during PED. The Government would then make a final determination of the relocations necessary for the construction, operation, or maintenance of the project after completion then approval of final attorney's opinions of compensability for the impacted facilities and utilities. In lieu of a preliminary attorney's opinion of compensability, see the following real estate assessment:

1. Is the facility/utility generally the type eligible for compensation under the substitute facilities doctrine? **Yes.**

2. Does the District have some valid data or evidence that demonstrates that it has identified an owner with a compensable interest in the property? **While there are known utilities on the Alameda side to be relocated and/or demolished or abandoned in place, no utility information is available outside of the Howard Terminal area.**

3. For commercial navigation project is the channel depth of 45 feet or less? **No, the proposed turning basins would be maintained to a depth of -50 foot MLLW.**

Table 16-2: Facility/Utility Located on Other Lands (Outside of Howard Terminal)

Description	Action	Qty	UOM
6" Sanitary Pipe	Remove	775	LF
Sanitary Manhole	Remove	5	EA
6" Sanitary Pipe	Remove and relocate	1110	LF
Sanitary Manhole	Remove and relocate	6	EA
2" Gas with Valve	Remove	775	LF
2" Gas with Valve	Remove and relocate	1110	LF
Electrical Conduit w 4.16 KV Cable	Remove	775	LF
Electrical Manhole	Remove	5	EA
Electrical Conduit w/4.16 KV Cable	Remove and relocate	1110	LF
Electrical Manhole	Remove and relocate	6	EA
10" Water Line	Remove	1160	LF
Valve	Remove	7	EA
Fire Hydrant	Remove	4	EA
10" Water Line	Remove and relocate	1660	LF
Valve	Remove and relocate	9	EA
Fire Hydrant	Remove and relocate	5	EA
6"-10" Storm Drain Pipe	Remove	760	LF
Storm Inlet	Remove	10	EA
10" Storm Drain Pipe	Remove	610	LF
8" Storm Drain Pipe	Remove	440	LF
Catch Basin/Storm Structure	Remove	5	EA
		COST ESTIMATE TOTAL	**$1,458,900**

Table 16-3: Total Estimated Costs for Facility/Utility Relocation

Contingency	Total
Total Facility/Utility Relocation Cost **- 0%** Contingencies	**$1,705,600**

Section 17 Hazardous, Toxic, and Radioactive Waste

Based on the Final IFR/EA, it has been determined that the RP would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

Hazardous materials are referred to as hazardous, toxic, and/or radioactive waste (HTRW), although no radioactive waste has been documented within or adjacent to either of the proposed turning basin expansion footprints. Hazardous materials are present at the Port as part of normal operations. The Port requires that shippers follow applicable laws and regulations in shipping their cargo. 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 HTRW. Several industrial land uses in the vicinity are likely to have historically contributed to this existing contamination.

No dredged material fill would be placed in waters of the United States. The fill that is placed in the waters of the U.S. would be the minimum fill necessary to ensure the future structural integrity and seismic safety of the portion of the rock dike, bulkhead, and piles being replaced.

Inner Harbor For expansion of the Inner Harbor Turning Basin, sediments would be dredged from submerged lands within the current Inner Harbor waterway and from depths below -5 foot MLLW at the Howard Terminal and the Alameda site soils above -5 foot MLLW (which is approximately 15 feet below existing ground surface) would be excavated from land. Project plans would be developed to avoid impeding existing Department of Toxic Substances Control (DTSC) or other regulatory agency cleanup and abatement orders in or near the proposed footprint.

Inner Harbor - Howard Terminal - The entire 50-acre Howard Terminal site is under DTSC orders for cleanup and abatement. An underground waste oil storage tank was removed in 1999 from the general area proposed for excavation for the turning basin expansion. Post removal sampling indicated the tank had not leaked. Monitoring of various hydrocarbons through the fill is ongoing. The most likely source of site contamination is movement of liquid contaminants from the historical uses through the fill into groundwater. Ongoing data collections indicate low levels of hydrocarbons in the fill at or near the range of groundwater tidal movement.

Land-Use Covenants with restrictions in place for the Howard Terminal site would require notice and prior approval before any excavation or changes in the land use were constructed. After reviewing the title reports, these restrictions affect parcels north of the quay wall - not the parcels within RP footprint (See Figure 17-1 below). Construction of the turning basin would be south of the existing quay wall in the southwest corner of Howard Terminal (not where the historic use and contamination are located).

Howard Terminal - Dredging Footprint - While there is no specific data regarding the fill quality between groundwater (marine derived) it is unlikely that the deeper fill is contaminated. Therefore, sediments below the groundwater table are likely suitable for beneficial use at a wetland site.

Inner Harbor - Schnitzer Steel - The Schnitzer Steel site is currently under a Cleanup and Abatement Order issued by the DTSC (Department of Toxic Substances Control). A variety of contaminants have been detected at various levels on the site. Completed soil evaluations have concluded, given the shallow depths to groundwater, it is reasonable to assume that total petroleum hydrocarbons (TPH) and metals (specifically nickel) detected in groundwater are from the fill materials

beneath the Schnitzer Steel facility. 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 DTSC approval. No portion of the RP is within the land footprint of Schnitzer Steel.

Figure 17-1: Map of Inner Harbor Howard Terminal's Quay Wall (green) and Schnitzer Steel HTRW (purple)

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. 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 soil material has no known additional or new sources of contamination, and therefore should be like the material removed for the -50-Foot Project.

Inner Harbor - Alameda Dredging Footprint - The material that would be removed where dredging would occur as part of the alternatives considered in this study is adjacent to the material removed for the -50-Foot Project and has no additional or new sources of contamination. Therefore, it should be like the material removed for the -50-Foot Project. Based on the previous testing results, it is unlikely that the material below groundwater would contain any contaminants at levels making it unsuitable for beneficial use.

Outer Harbor - Expansion of the Outer Harbor Turning Basin would involve dredging submerged lands within and adjacent to the Outer Harbor Channel. While the sediments in the study area have not yet been sampled and analyzed for this study, the USACE and Port have reviewed sampling and testing results from other actions occurring within or near the study area to make informed assessments of the potential for contaminants in the aquatic sediment. There is no landside work proposed as part of the turning basin expansion and therefore no HTRW is expected to be encountered in soils or groundwater.

Status of Investigation of HTRW

The implementation of the RP is subject to cost sharing and other applicable requirements of federal laws, regulations, and policies. Federal implementation of the project for commercial navigation includes, but is not limited to, the following items of local cooperation to be undertaken by the NFS in accordance with applicable federal laws, regulations, and policies: Perform, or ensure performance of, any investigations for HTRW that are determined necessary to identify the existence and extent of any HTRW regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675, and any other applicable law, that may exist in, on, or under real property interests that the Federal government determines to be necessary for construction, operation and maintenance of the general navigation features.

National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. § 4321 *et seq.*) and Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 C.F.R. §§ 1500-1508) dated July 1986, as amended.

The IFR/EA has been prepared in compliance with NEPA and CEQ regulations.

Clean Water Act, as amended (33 U.S.C. § 1251 *et seq.*)

All dredged material will be placed at a permitted upland beneficial reuse site or landfill; no aquatic placement of dredge material is expected. The proposed plan would place rock fill and bulkhead support structures in waters of the United States. Alternatives involving the Inner Harbor Turning Basin expansion would remove existing fill and result in net expansion of open waters of the U.S. A 404(b)(1) analysis was prepared for this study and can be found in Appendix A-3. A water quality certification pursuant to section 401 of the Clean Water Act will be obtained from the San Francisco Bay Regional Water Quality Control Board prior to construction. All conditions of a water quality certification would be implemented in order to minimize adverse impacts to water quality.

Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.)

The RP is consistent with the California Coastal Zone Management Program pursuant to the Coastal Zone Management Act of 1972. A Phase I Consistency Determination has been prepared and is included in the environmental appendix A5. The San Francisco Bay Conservation and Development Commission provided a Letter of Agreement concurring with the Phase I Consistency Determination on 27 December 2023.

Section 18 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 it for the RP. The NFS is supportive of the RP. This footprint shift seems to have addressed many concerns from some landowners and locals. Remaining private landowners and/or their representatives still impacted by the project have concerns over the impacts on their businesses.

The Howard Terminal facility is Port controlled and used for maritime services (location for trailers, storage containers, cranes, etc.). All equipment would be easily moved by the operator that expanded into the area within the footprint.

Section 19 Risk Notification Letter

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 20 Other Real Estate Issues

This Real Estate Plan has been prepared in accordance with ER405-1-12, Chapter 12, in compliance with regulations, policy and delegations.

PREPARED BY:

_____

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Real Estate Division
Sacramento District
U S Army Corps of Engineers

REVIEWED BY:

_____

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Sacramento District
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APPROVED BY:

_____

Adam B. Olson
Chief
Real Estate Division
Sacramento District
U S Army Corps of Engineers

Exhibit A

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

OAKLAND HARBOR TURNING BASINS
AUGUST 2023
ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY

Sponsor(s): PORT OF OAKLAND

I. Legal Authority:

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

Please cite the authority: **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" authorities 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.**

e. Are any of the lands or 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 project 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**

f. Will the sponsor likely request U.S. Army Corps of Engineers (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 (USACE fill-in):

a. Has the sponsor performed satisfactorily on other USACE projects? **Yes**

b. With regard to this project, the sponsor is anticipated to be: **Highly Capable**

V. Coordination (USACE fill-in):

a. Has this assessment be coordinated with the sponsor? **Yes**

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

Prepared by (Non-Federal Sponsor):

Signature

Bryan Brandes
Port of Oakland
Director of Maritime

Date: 8/21/23

Prepared and reviewed by (USACE):

FISCHER.PAMELA.MAURAS.1384865050 Digitally signed by FISCHER.PAMELA.MAURAS.1384865050 Date: 2023.08.30 11:33:02 -05'00'

Signature/Date
Pamela M. Fischer
Realty Specialist

Reviewed and approved by (USACE):

SHTEYN.PETER.L.1619758028 Digitally signed by SHTEYN.PETER.L.1619758028 Date: 2023.08.30 10:33:42 -07'00'

Signature/Date

Name: Peter Shteyn, PMP

Title: Deputy Chief

Exhibit B

RISK NOTIFICATION LETTER

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 project.Real Estate Division March 31, 2022
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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,

Enclosure

Adam B. Olson
Chief of Real Estate

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

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): _____

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

ACKNOWLEDGMENT OF RECEIPT OF RISK NOTIFICATION LETTER

Real Estate Division March 31, 2022
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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 Brandes

Signatory's Position: Maritime Director

Date: 6/30/22

By placing my initials below, I acknowledge that:

BD 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.

DP 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.