

FLAGLER COUNTY, FLORIDA

HURRICANE AND STORM DAMAGE REDUCTION PROJECT
FINAL INTEGRATED FEASIBILITY STUDY AND
ENVIRONMENTAL ASSESSMENT

Appendix E

Real Estate Plan



**US Army Corps
of Engineers** ®
Jacksonville District

APPENDIX E

**FLAGLER COUNTY, FLORIDA
FLAGLER BEACH HURRICANE AND
STORM DAMAGE REDUCTION PROJECT**

REAL ESTATE PLAN

Updated: June 6, 2014

**FLAGLER COUNTY, FLORIDA
FLAGLER BEACH HURRICANE
AND
STORM DAMAGE REDUCTION
PROJECT**

REAL ESTATE PLAN

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ACQUISITION CAPABILITY ASSESSMENT (DRAFT)

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REAL ESTATE PLAN

1. STATEMENT OF PURPOSE

The Real Estate Plan (REP) focuses on the Recommended Plan and is intended to support the Flagler County, Florida Hurricane and Storm Damage Reduction Project Final Integrated Feasibility Study and Environment Assessment.

This report is tentative in nature and is to be used for planning purposes only and both the final real property lines and estimates of value are subject to change even after approval of this report. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land cost.

2. STUDY AND PROJECT AUTHORIZATION

The authority for conducting this Feasibility Study is contained in House Resolution 2676 adopted May 22, 2002:

"Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, that in accordance with Section 110 of the Rivers and Harbors Act of 1962, the Secretary of the Army is requested to review the feasibility of providing shoreline erosion protection, hurricane and storm damage reduction, and related purposes to the shores of Flagler County, Florida."

The Reconnaissance Report, Section 905(b) Analysis, Flagler County, Florida, Shore Protection completed by U.S. Army Corps of Engineers, Jacksonville District, March 2004, recommended a strong Federal interest in initiating a feasibility phase study.

3. PROJECT LOCATION

The Flagler County Hurricane and Storm Damage Reduction Project is located on the northeast coast of Florida midway between the Florida/Georgia state line and Cape Canaveral, as shown at Figure 3-1. This County is bounded to the north by Saint John's County and to the south by Volusia County. Flagler County encompasses approximately 18 miles of sandy shoreline, located on a coastal barrier island and mainland complex that extends uninterrupted for a length of 50 miles from Matanzas Inlet in the north to Ponce de Leon Inlet in the south. Flagler County's coastal area is bound by the Matanzas River to the north, Smith Creek and the Atlantic Intracoastal Waterway to the west, and Volusia County beaches to the south.

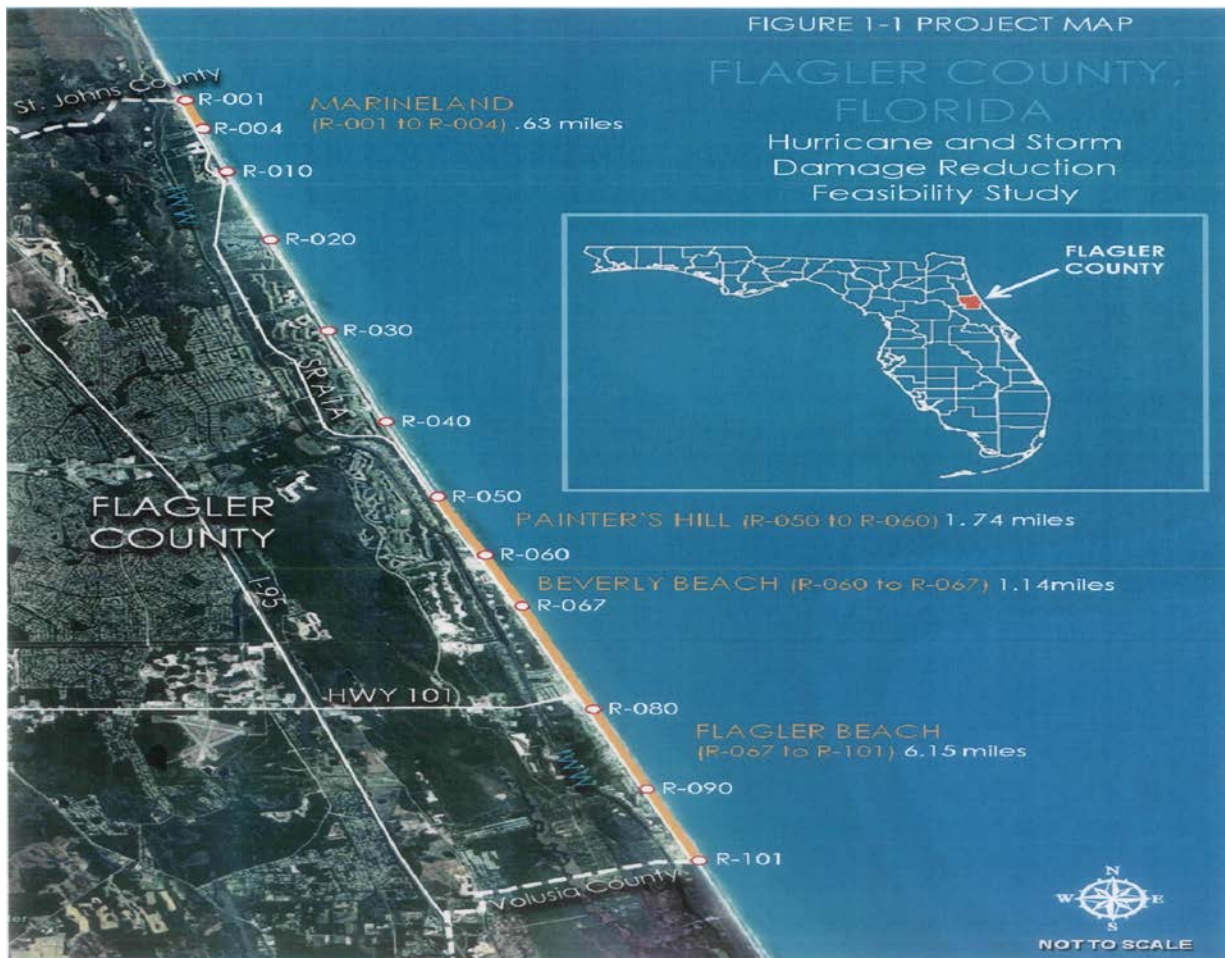


Figure 3-1: General location map of Flagler County and the study reaches (yellow lines).

4. PROJECT DESCRIPTION

The Recommended Plan (Reach C, Dune H) is the National Economic Development (NED) plan relative to cost and providing the maximum storm damage reduction benefits. The Recommended Plan is shown at Figure 4-1.

The Project area consists of a ten foot dune extension including a 10 feet sacrificial berm, located between Florida Department of Environmental Protection (FDEP) monuments R-80 and R-94. FDEP reference monuments are located approximately every 1,000 feet along the shoreline and serve as geographic reference points for survey profile lines. The project area extends along approximately 2.6 miles of shoreline and includes 100 feet north and 100 feet south of the project boundary for the taper area. SR A1A, the only north-south hurricane evacuation route for communities along the coastline, is an integral part of the county's infrastructure and is essential for public safety during evacuation events. Efforts to reduce the risk of coastal damages and improve conditions were examined in this study. The initial construction of the

project is expected to take two months.

Construction of the Recommended Plan will provide a dune and beach development by use of compatible fill material. The renourishment interval is expected to be approximately 11 years, equaling four renourishment events in addition to the initial construction over the 50 years period of Federal participation. Initial construction will require 330,000 cubic yards of sand and each renourishment will require approximately 320,000 cubic yards of sand.

The Project Scope of Work, includes the dredging material (sand) from the offshore borrow areas 2A and 2B, located approximately 7 miles offshore of the project site, placement by hydraulic dredge in the project area, then planting of vegetation on the constructed dune. Vegetation will be planted on areas of the existing dune disturbed by construction as well as newly constructed areas to stabilize the fill.

Existing within the project area is seawall and revetment constructed by Florida Department of Transportation (FDOT). There is a 420 foot precast concrete panel seawall starting 285 feet north of the pier. Starting at 7th Street South and ending at 23rd Street South, there is approximately 9,000 feet of granite revetment maintained by FDOT. This revetment was originally built in the 1960s and 1970s, with additional newer stone being placed during maintenance and repairs. Within the revetment area is a 150 foot steel sheet pile sea wall with concrete cap between 12th Street South and 13th Street South. This armor unit was constructed in December 2005 by FDOT to protect SR A1A from being undermined by erosion.

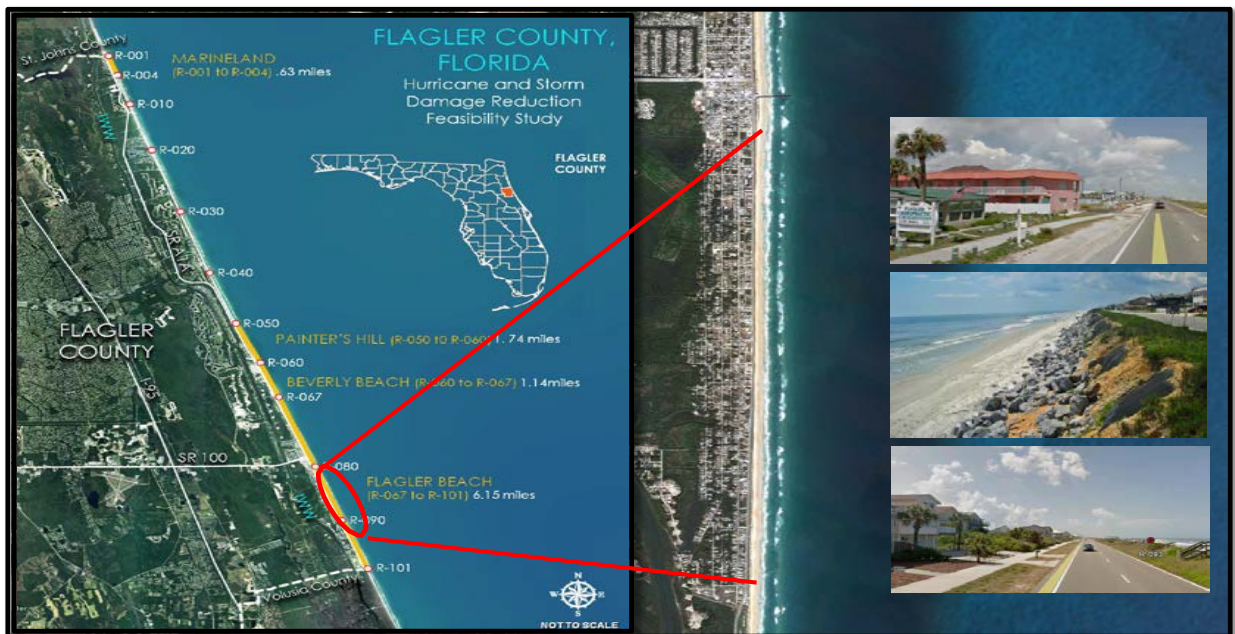


Figure 4-1: The Recommended Plan – R80 – R94

5. REAL ESTATE REQUIREMENTS

In the State of Florida beach nourishment, beach restoration, and erosion control projects are established pursuant to Florida Statute, Section 161.141, Property Rights of State and Private Upland Owners in Beach Restoration Project Areas. Florida Statute, Section 161.191, Vesting of Title of Lands, states that title to all lands seaward of the Erosion Control Line (ECL) shall be vested to the state by right of its sovereignty. The lands landward of the ECL remain vested to the upland owner.

A Survey and Legal Descriptions will be completed to establish the Florida Statute ECL between the state sovereign lands and the adjacent upland property. Upon completion of the survey, the ECL will be established and the State of Florida will issue a Sovereign Submerged Lands Authorization, contained within the Consolidated Joint Coastal Permit, for placement areas located seaward of the ECL. A final initial fill volume will be determined prior to construction of the project. The Permit would be issued in ten year increments by the State of Florida.

Based on the current project design, Perpetual Beach Storm Damage Reduction Easements will be required over 184 parcels situated within the project area. The Flagler Beach Pier located approximately 800 feet to the North of R-80 is situated outside of the project boundary and will not be impacted by the project.

The Project Area (R-80 to R-94) contains 184 parcels, and forty-two dune walkovers. Twenty-one of the walkovers are considered as public structures. Dune Walkovers on public properties only, if removed, are considered relocations. An estimated onetime relocation cost for the sponsor's twenty-one walkovers is included in the Real Estate cost estimate as part of the LERRD.

There are approximately 223 public parking spaces in the vicinity of the project area that will be available for public use. This amount of parking spaces is adequate to meet the beach use demand in the area and meets the policy requirements of ER 1165-2-130, which states, "Generally, parking for free or reasonable terms should be available within a reasonable walking distance of the beach. The amount of parking should be consistent with the attendance used in benefit evaluation". Should it be determined during PED that additional public access is required, acquisition of such access is the responsibility of the NFS.

The Borrow Area, as shown as Figure 5-1, is located offshore northeast of FDEP beach monuments R-80 to R-94. The borrow area is located approximately seven miles offshore from the project footprint. A noncompetitive negotiated agreement will be required from the Bureau of Ocean Energy Management (BOEM) in accordance with Outer Continental Shelf Lands Act for the mining of sand from the offshore site.

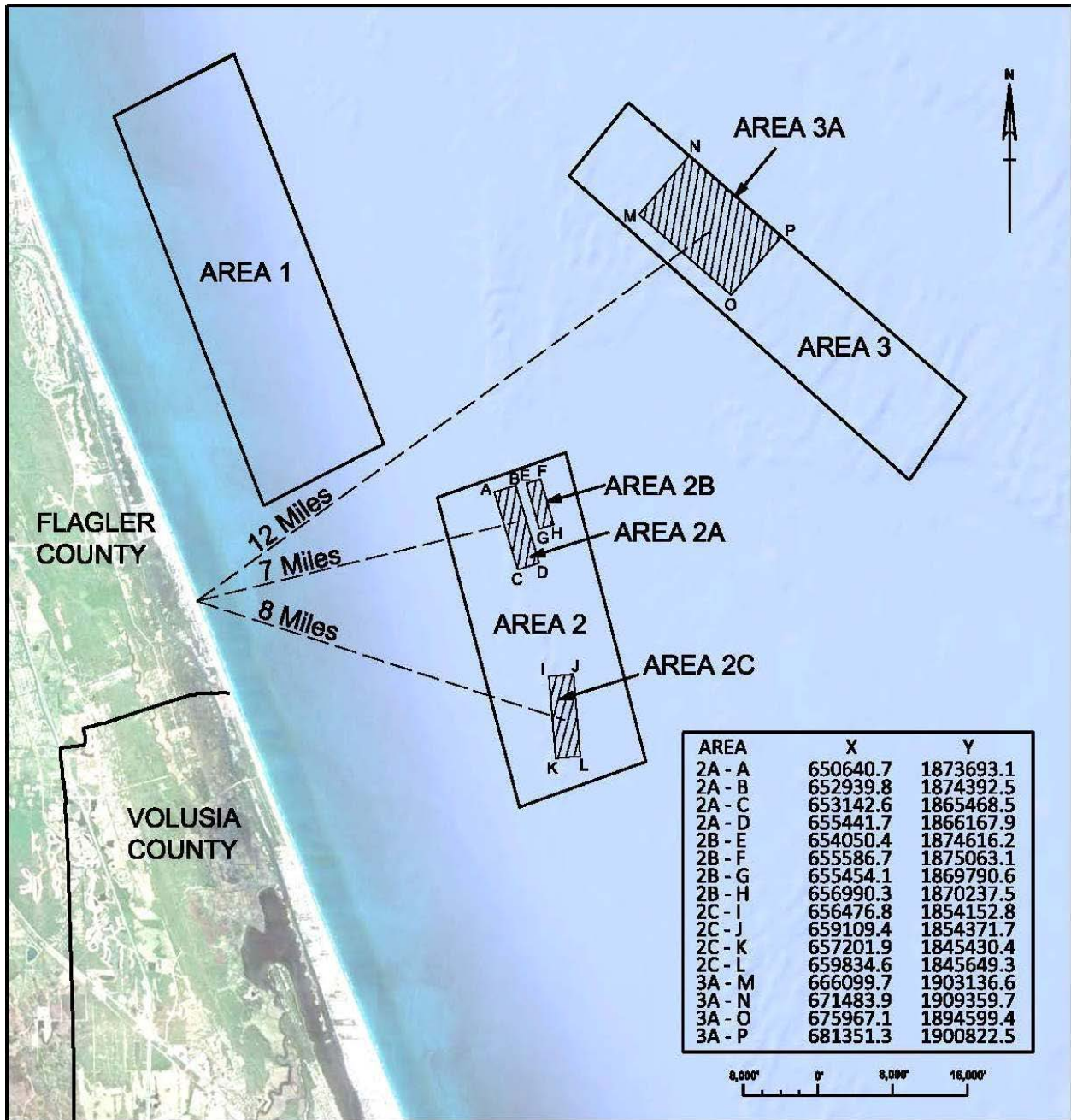


Figure 5-1: Offshore Borrow Areas

The Staging areas have not been identified at this time, but will require a Temporary Work Area Easement if not located within the perpetual storm damage reduction easement area. Access to the project along with all staging areas is planned to be located on Sponsor Owned lands situated within the project area.

Real Estate Division is currently in discussions with FDOT to determine the type of documentation which will meet the project purpose of placing fill material within the FDOT right-of-way. If the Real Estate Division determines the document is a non-

standard estate, the document will be submitted to HQ for approval. Figure 5-2 below shows one of the areas requiring placement of fill material.



Figure 5-2: FDOT ROW along State Road A1A (one of several areas)

6. FEDERALLY GOVERNMENT-OWNED LAND

There is no known land in the project area owned by the Federal Government.

7. NON FEDERALLY OWNED LAND

The non-Federal owned lands are owned by the Local Sponsor, the City of Flagler, Florida Department of Transportation and private landowners.

8. NON-FEDERAL SPONSOR'S OPERATION/MAINTAINANCE RESPONSIBILITIES

Flagler County will be the non-Federal Sponsor (NFS) for the project. The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall accomplish all alterations and relocations of facilities, structures and improvements determined by the government to be necessary for construction of the Project. The sponsor will have operation and maintenance responsibility for the project once construction has been completed. Future periodic nourishments are considered construction and will be performed in accordance with the Project Partnership Agreement, when approved.

The Draft Assessment of the NFS Real Estate Acquisition Capability is attached as Exhibit "1" of the Real Estate Appendix. A copy will be signed and mailed to the sponsor.

The Risk Letter attached as Exhibit “2” has been signed and forwarded by mail to the NFS. The NFS should not acquire lands required for the project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior to execution of the PPA; it will be at the Sponsor’s risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989. Risk Letter dated May 7, 2014, advising the NFS of the risks of early acquisition is attached as Exhibit “1” of the Real Estate Appendix.

9. NON-FEDERAL SPONSOR’S AUTHORITY TO PARTICIPATE IN PROJECT

Flagler County, Florida is a political subdivision of the State of Florida as provided by Article 8, Section 1 of the Florida Constitution.

Counties of Florida are empowered by Florida Statutes 125.01(j) to “Establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs.”

Flagler County as the NFS for the project has been an integral part of the Project Delivery Team (PDT) from the conception of the project. At each step of the process, Flagler County has contributed to the available information, participated in the formulation, and review of this report.

10. NAVIGATION SERVITUDE

In accordance with CECC-R Bulletin 14-05, Availability of the Navigation Servitude for Coastal Storm Damage Reduction Projects dated April 9, 2014, navigational servitude is not applicable to this project.

11. ATTITUDE OF THE LANDOWNERS

The City of Flagler Beach, Florida Department of Transportation, County of Flagler, and local communities fully support the project.

12. MINERALS

Preliminary assessment indicates no known present or anticipated mineral or sub-

surface mineral extraction activities within the vicinity of the proposed area which may affect construction, operation, or maintenance of the Project.

13. HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW)

There are no known HTRW in the project area.

14. INDUCED FLOODING

There will be no flooding caused by the construction of the project.

15. ZONING ORDINANCES

Zoning Ordinances are not of issue with this project. Application or enactment of zoning ordinances will not be used in lieu of acquisition.

16. RELOCATIONS ASSISTANCE (PUBLIC 91-646)

No persons or businesses will be impacted by the project. There will be no relocations under PL 91-646.

17. RELOCATIONS, ALTERATIONS, VACATIONS, AND ABANDONMENTS (UTILITIES, STRUCTURES AND FACILITIES, CEMETERIES, AND TOWNS).

There are 21 publicly owned dune walkovers that may be impacted by this project. The cost to replace the 21 public structures is approximately \$1,157,000 and is considered relocation under the LERRD.

18. STANDING TIMBER AND VEGETATIVE COVER

Existing dune vegetation will be impacted during construction. The Recommended Plan includes planting of dune vegetation on newly constructed areas as well as re-vegetation of areas disturbed during construction. It is assumed that dune planting will only be necessary for initial construction and that vegetation will spread and naturally recruit to any areas that are renourished in the future.

19. RECREATION RESOURCES

There are no separable recreational lands identified for this project.

20. CULTURAL RESOURCES

In a letter dated 28 February 2012, State Historic Preservation Office concurred with the USACE finding of no historic properties within the project limits.

21. OUTSTANDING RIGHTS

There are no known outstanding rights in the project area.

22. MITIGATION

There is no mitigation for the Recommended Plan.

23. ACQUISITION SCHEDULE

The NFS is responsible for acquiring real estate interests required for the project. The Perpetual Storm Damage Reduction Easements can be acquired within 12-18 months once final plans and specs have been completed and the Project Partnership Agreement has been executed. The Project Sponsor, Project Manager and Real Estate Technical Manger will formulate the milestone schedule upon project approval to meet dates for advertisement and award of the construction contract.

24. ACQUISITION/ADMINISTRATIVE COSTS

Revision to Policy Guidance Letter No. 11, Credit for Lands, Easements, Right-of-Way (LERR) at Shore Protection Projects, dated April 21, 1989, and ER 405-1-12, Real Estate Handbook, directs lands subject to shore erosion required for project purposes be appraised considering special benefits. The intent is to preclude credit for lands needed for shore protection projects, when the increase in value of the remaining lands would offset compensation for the property as well as any severance damages. Erodible land protected by a Federal project is valued at zero as it will be enhanced post-project.

The cost estimate for all Federal and non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRD, and other items are coded as delineated in the Total Current Working Estimate utilizing the Microcomputer Aided Cost Engineering System (MCACES).

The estimate of the Federal real estate acquisition administrative cost is \$1,038,000. This cost includes project real estate planning, mapping, review, oversight, monitoring, crediting review costs of approximately 184 crediting packages, certification of lands required for project purposes, legal opinions, analysis or other requirements that may be necessary during Planning, Engineering and Design (PED). The non-Federal sponsor will receive credit towards its share of real estate administrative project cost incurred for certification. Non-Federal administrative costs are estimated to be \$1,730,000. The non-Federal sponsor has been provided with requirements regarding acquisition policies and procedures, including compliance with Public Law 91-646, as amended, Land, Easement, Right-of-Way, Relocation and Disposal (LERRD) crediting procedures, and milestones for the land acquisition.

25. REAL ESTATE CHART OF ACCOUNTS

		Federal	Non-Federal
01B	LANDS AND DAMAGES	\$0.	
01B--	ACQUISITION		
01B40	FEDERAL	\$1,038,000.	
01B40	NON-FEDERAL		\$1,730,000.
01M00	CONTINGENCIES (23%)	\$ 238,740.	\$ 397,900
01N00	RELOCATION (Contingency 23% incl.)		\$1,157,000.
ESTIMATED REAL ESTATE SUBTOTAL COST		\$1,276,740	\$3,284,900
ESTIMATED REAL ESTATE TOTAL COST		\$4,561,640	
ROUNDED TO			\$4,562,000

26. ESTATES TO BE ACQUIRED

The standard and non-standard estates have been determined to represent the minimum real estate interest required from the non-Federal Sponsor to support the construction of this project.

27. STANDARD ESTATES

A perpetual beach storm damage reduction easement will be required over 184 parcels. Temporary work area easements will be required for all staging, stockpiling, permits, fill material placement, and temporary work areas for project construction.

TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract Nos. ____, ____, and ____), for a period not to exceed _____, beginning with date possession of the land is granted to the Project Sponsor, 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 Flagler County, Flagler Beach Hurricane and Storm Damaged Reduction Project, together with the right to trim, cut, fell and remove there from 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.

PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT

A perpetual and assignable easement and right-of-way in, on, over, and across (the land described in Schedule A) (Tract No.____) for use by the (Project Sponsor), its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach [a dune system] and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms [and dunes and walkovers]; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the (Project Name), together with the right of public use and access; to plant vegetation on sand dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement; reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune over walk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the (designated representative of the Project Sponsor) and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project; and further reserving to the grantor(s), (his) (her) (its) (their) (heirs),

successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY PIPELINE EASEMENT

A temporary and assignable easement in, on, over and across (the land described in Schedule "A") (tract Nos. , , and) for a period not to exceed beginning (date)(with the date possession is granted to the United States in this proceeding (or date of deed), and terminating with the earlier of the completion of the remediation or the filing in the local land records by the representative of the United States in charge of the Project of a notice of termination), to locate, construct, operate, maintain, repair, replace, and/or remove (a) (monitoring) (injection) (extraction) well(s), pipeline(s) and appurtenances thereto; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

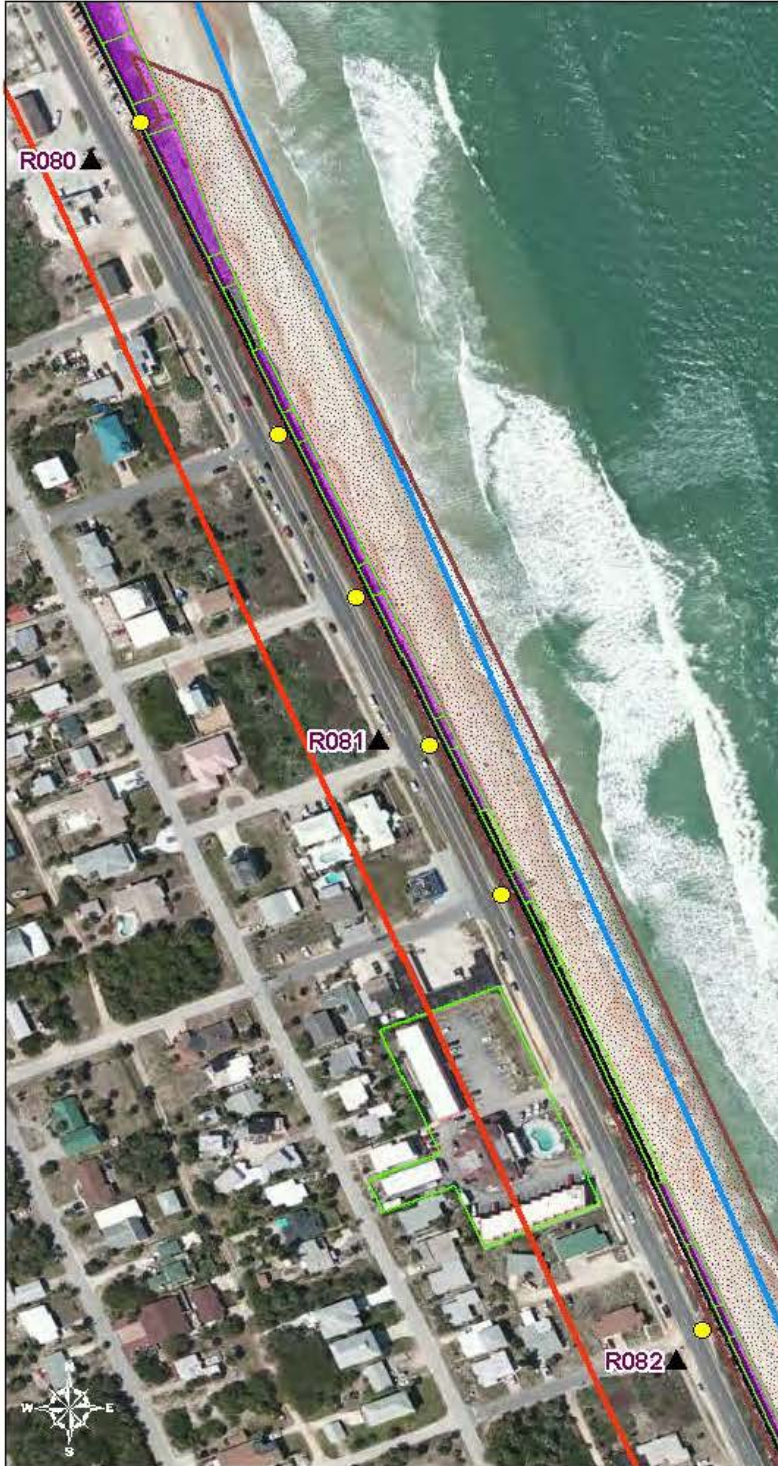
28. NON STANDARD ESTATES

As noted in Section 5, page E-7, Real Estate Requirements; a Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization for use of lands seaward of the ECL is required from the State of Florida. The Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization is considered a non-standard estate and will be forwarded to HQ for approval.

Real Estate Division is currently in discussions with FDOT to determine the type of documentation which will meet the project purpose of placing fill material within the FDOT right-of-way. If Real Estate Division determines the document is a non-standard estate, the document will also be submitted to HQ for approval.

29. MAPS

Real Estate Maps for this project are located at the end of the Real Estate Plan.



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-80 to R-82)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE

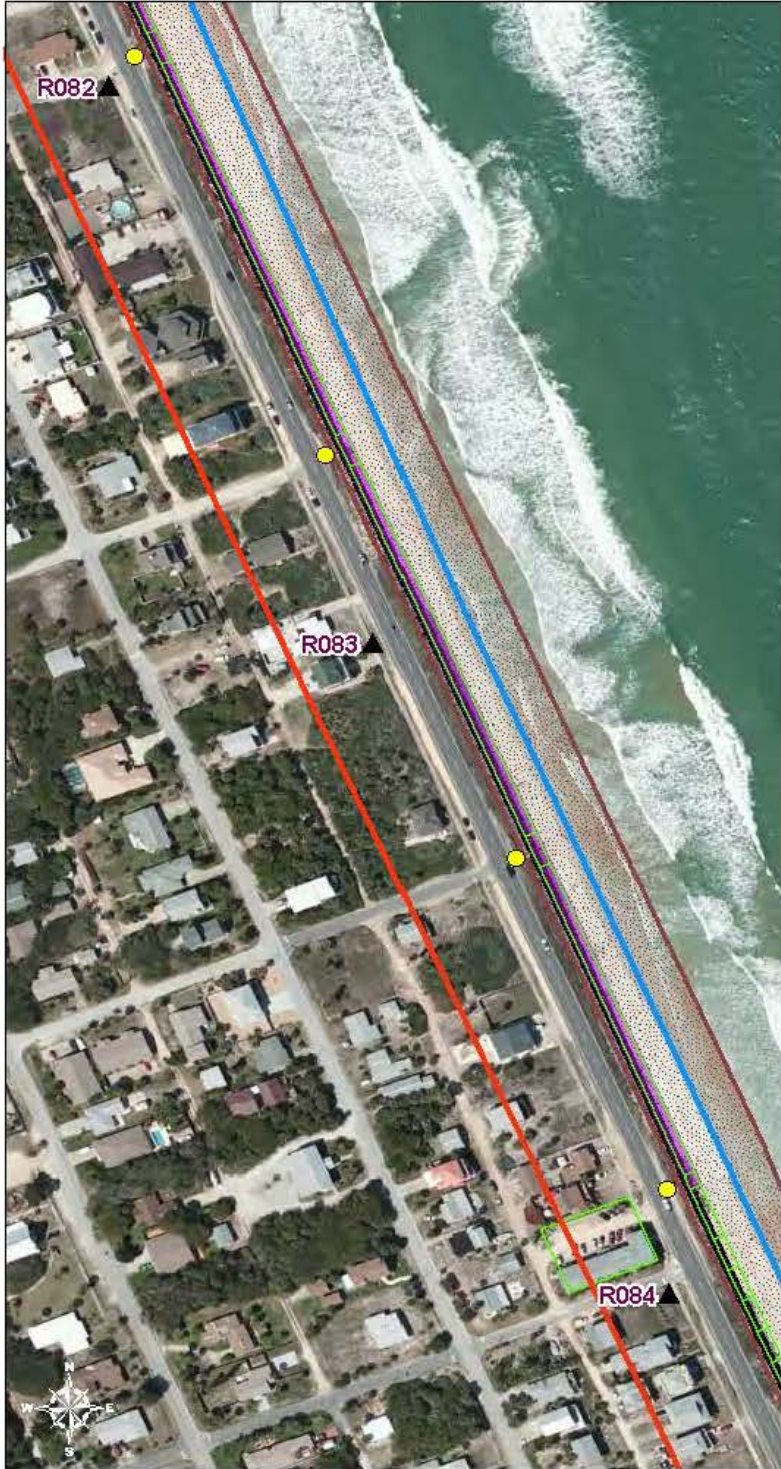


LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Property Line
- ▭ City of Flagler Beach Property
- DOT ROW (Estimated)



US Army Corps of Engineers
Jacksonville District



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-82 to R-84)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE



LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Property Line
- ▭ City of Flagler Beach Property
- DOT ROW (Estimated)



US Army Corps of Engineers
Jacksonville District



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-84 to R-86)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE



LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Property Line
- ▭ City of Flagler Beach Property
- DOT ROW (Estimated)



US Army Corps of Engineers
Jacksonville District



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-86 to R-88)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE



LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- Property Line
- City of Flagler Beach Property
- DOT ROW (Estimated)



US Army Corps of Engineers
Jacksonville District



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-88 to R-90)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE

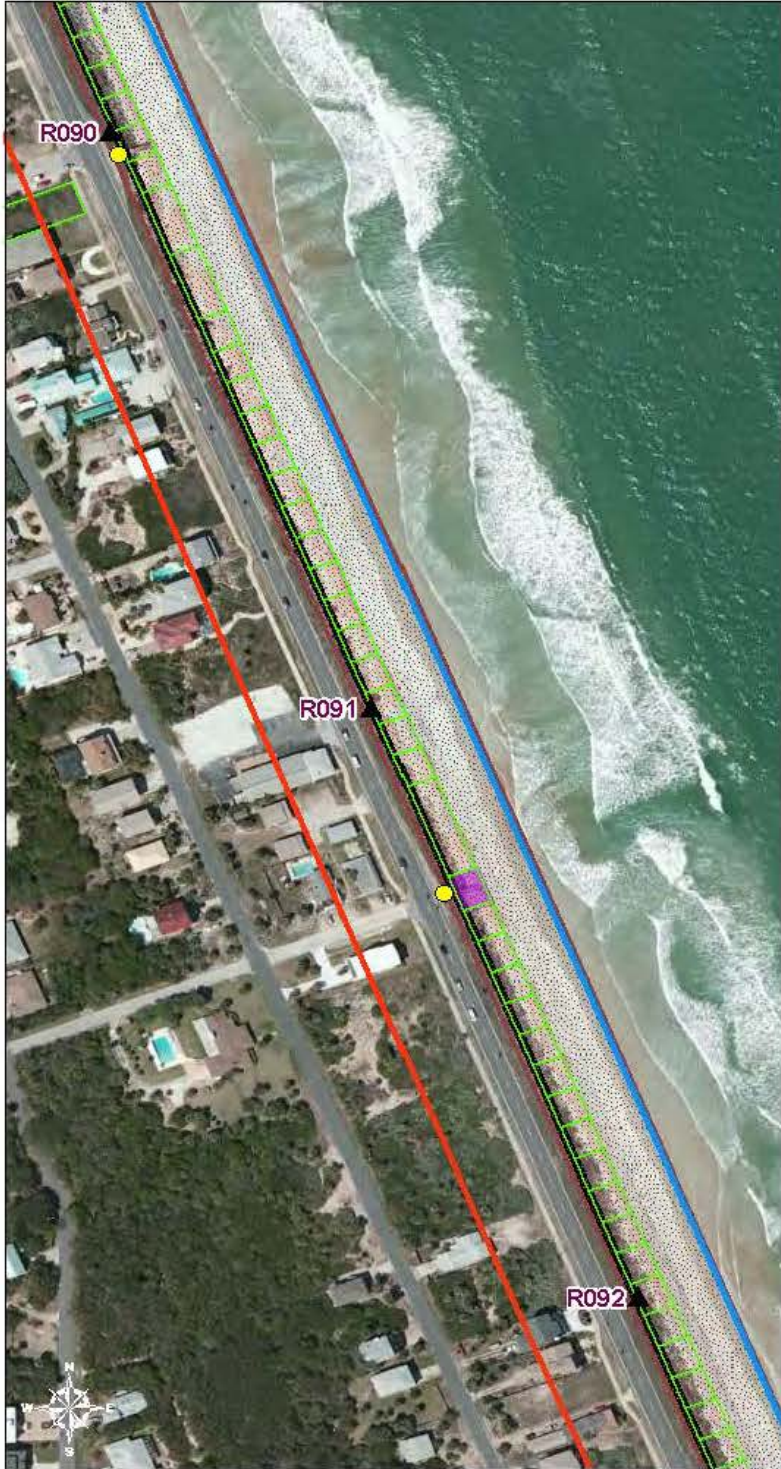


LEGEND

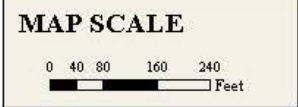
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- ▨ Project Area
- Property Line
- City of Flagler Beach Property
- DOT ROW (Estimated)



US Army Corps of Engineers
Jacksonville District



**Flagler County Beach
Hurricane and Storm
Damage Reduction
Project
(R-90 to R-92)
Flagler County, FL
22-Apr-2014
Real Estate Division**



- LEGEND**
- ▲ Florida Coastal Range Monuments
 - Beach Access
 - Construction Control Line
 - MHW (2011)
 - ▨ Project Area
 - Property Line
 - City of Flagler Beach Property
 - DOT ROW (Estimated)

US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-92 to R-94)
Flagler County, FL
22-Apr-2014
Real Estate Division**



MAP SCALE



LEGEND

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US Army Corps of Engineers
Jacksonville District

EXHIBIT NO. 1

FINAL- ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE
ACQUISITION CAPABILITY FOR FLAGLER HURRICANE AND STORM DAMAGED
REDUCTION PROJECT

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? YES
- b. Does the sponsor have the power of eminent domain for this project? YES
- c. Does the sponsor have "quick-take" authority for this project? YES
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? No
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? NO

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require technical training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? NO
- b. If the answer to IIa. is "yes," has a reasonable plan been developed to provide such training? N/A
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? YES
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? YES
- e. Can the sponsor obtain contractor support, if required in a timely fashion? YES
- f. Will the sponsor likely request USACE assistance in acquiring real estate? YES – only in advisory capacity

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? No- Project Milestone will be developed during PED, will be joint effort between RE, PM and NFS

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? NA
- b. With regard to this project, the sponsor is anticipated to be: highly capable

capable/moderately capable marginally capable/insufficiently capable. HIGHLY CAPABLE

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? YES
- b. Does the sponsor concur with this assessment? YES

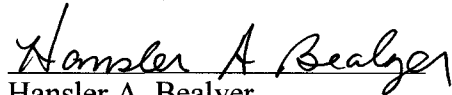
Date: 10 Jun 2014

Prepared by:



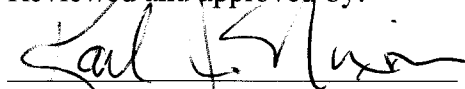
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Chief, Acquisition Branch
Real Estate Division
Jacksonville District

Reviewed and approved by:



Karl J. Nixon
Acting Chief, Real Estate Division
Real Estate Division
Jacksonville District



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4870
JACKSONVILLE, FLORIDA 32232-0019

MAY 07 2014

Real Estate Division

Subject: Flagler Beach Hurricane and Storm Damage Reduction Project – Real Estate Acquisition

ATTN: Kifah Faith Alkhatib, P.E.
County Engineer
County of Flagler
1769 East Moody Blvd, Bldg 2, Suite 309
Bunnell, Florida 32110

Dear Ms. Alkhatib;

The intent of this letter is to formally advise the County of Flagler as the potential non-Federal sponsor for the project, of the risks associated with land acquisition prior to the execution of the Project Partnership Agreement (PPA) or prior to the Government's formal notice to proceed with acquisition. If a non-Federal sponsor deems it necessary to commence acquisition prior to an executed PPA for whatever reason, the non-Federal sponsor assumes full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort.

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

- (1) Congress may not appropriate funds to construct the proposed project;
- (2) The proposed project may otherwise not be funded or approved for construction;
- (3) A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;
- (4) The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;
- (5) The non-Federal sponsor may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;



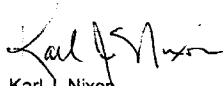
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(6) The non-Federal sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646 as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of LERRD; and

(7) The non-Federal sponsor may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PPA.

We appreciate the City's participation in this project. Should you have questions or concerns pertaining to this letter please feel free to contact Katherine Rivers at (904) 232-1656.

Sincerely,



Karl J. Nixon
Jacksonville District
Acting Chief, Real Estate Division

EXHIBIT NO. 2

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