

# APPENDIX D

## Draft Real Estate Plan

**THE ATLANTIC COAST OF NEW JERSEY SANDY HOOK  
TO BARNEGAT INLET BEACH EROSION CONTROL  
PROJECT**

**Section I- Sea Bright to Ocean Township  
Reach 3- Elberon to Loch Arbour**

**Monmouth, New Jersey**

**Appendix D:**

**Real Estate Plan**



**U.S. Army Corps of Engineers**

*New York District*

**November 2013**

**REAL ESTATE PLAN**

**THE ATLANTIC COAST OF NEW JERSEY SANDY HOOK TO BARNEGAT INLET  
EROSION CONTROL PROJECT**

**Section I- Sea Bright to Ocean Township/ Reach 3- Elberon to Loch Arbour  
Monmouth County, New Jersey**

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**EXHIBITS**

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**MAP 1** – Project Alignment overview

**MAP 2** – Temporary Work Area Easement is slated for 2 years on 2 acres of publicly-owned land

#### Preamble

A. **Introduction:** The Sandy Hook to Barnegat Inlet Project is one component of the 21 mile Sandy Hook to Barnegat Inlet beach erosion control project. The Sandy hook to Barnegat Inlet project was divided into two sections; Section I which encompasses a 12 mile reach from Sea Bright to Ocean Township, and Section II, which consists of a nine mile reach from Asbury Park south to the Manasquan inlet. This project is part of the largest beach nourishment mission ever undertaken by the US Army Corps of Engineers, and is the largest beachfill project, in terms of volume, in the world.

The highly populated communities along the New Jersey shoreline, from the Town of Sea Bright to the Manasquan Inlet in Monmouth County, continually experience serious beach erosion. In 1962, the Ash Wednesday Storm caused \$56 million in damages (1992 price level).

B. **Project Authorization:** The Atlantic Coast of New Jersey Sandy Hook to Barnegat Inlet Erosion Control Project- Section I- Sea Bright to Ocean Township was authorized by River and Harbor Act of 3 July 1958, in accordance with reports printed in House Document 332, 85<sup>th</sup> Congress, 2<sup>nd</sup> Session. The reach of the authorized project extending from Sandy Hook to Ocean Township -Section-I was modified by the Water Resources and Development Act of 17 November 1986 (PL 99-662) and subsequently amended by the Water Resources Development Act of 19 October 1988 (PL-100-676).

C. **Official Project Designation:** The Atlantic Coast of New Jersey Sandy Hook to Barnegat Inlet Erosion Control Project- Section I- Sea Bright to Ocean Township- Reach 3- Elberon to Loch Arbour, Monmouth County, New Jersey.

D. **Project Location:** Along the Atlantic Coast within five communities in Monmouth County, New Jersey: The City of Long Branch, the Borough of Deal, the Borough of Allenhurst, the Village of Loch Arbour, and the City of Asbury Park. The New Jersey Atlantic Ocean coastline extends from Sandy Hook to Cape May, covering a distance of approximately 130 miles. The coastline from Manasquan Inlet south to Cape May Point lies within the boundaries of the Philadelphia District while the coastline north from Manasquan Inlet is under the jurisdiction of the New York District.

E. **Non-Federal Sponsor:** The non-Federal sponsor for this Project is the New Jersey Department of Environmental Protection (“NJDEP” or the “Sponsor”).

1. **Statement of Purpose:** This Real Estate Plan is prepared in support of the acquisition of interests in lands required for the construction and maintenance of the Atlantic Coast of New Jersey Sandy Hook to Barnegat Inlet Erosion Control Project - Section I- Reach 3- Elberon to Loch Arbour portion of the Atlantic Coast of New Jersey Beach Erosion Control Project in Monmouth County. The five municipalities within the Project area include: the City of Long Branch, the Borough of Deal, the Borough of Allenhurst, the Village of Loch Arbour, and the City of Asbury Park.

This Real Estate Plan is tentative in nature and both the final real property acquisition lines and costs are subject to change after approval of the Hurricane Sandy Limited Re-Evaluation Report (HSLRR) to which this Plan is appended.

2. **Project Purpose and Features:** The coastal areas in Monmouth County, experience damage from tidal inundation from the waters of the North Atlantic Ocean. Extensive damage to hundreds of structures has been recorded in the area during such storms. The problems in the project area consist of loss of sand due to storm-induced beach erosion, and the deterioration of the protective coastal structures. Erosion has reduced the width and lowered most of the beachfront areas along the project shoreline area. This continuing erosion exposes the project area to a high risk of catastrophic damage from ocean flooding and wave attack. Many of the coastal dunes and beaches along the project area have deteriorated and are increasingly susceptible to storm damage as the beach continues to erode and lower.

The recommended plan consists of constructing a beach berm and dune system along the shoreline. The Project calls for a 100 foot wide berm at elevation 10 feet NGVD above the mean low water line (MLWL) with a two foot high storm cap. Six existing groins would be notched to allow sediment to pass through and prevent sediment impoundment. Up to fourteen sewer outfalls will be extended. The project includes a re-nourishment cycle of every six years for fifty years.

A. *Required Lands, Easements, Rights-of-Way, Relocations and Disposal Areas (LERRD)*

The project's alignment contains a total of 76 tracts of land that consist of public and private property. Out of 76 parcels, nine are publicly owned and 67 are privately owned. There are six public entities, including the Borough of Allenhurst, the Village of Loch Arbour, the City of Asbury Park, the Borough of Deal, the City of Long Branch and the NJDEP. Out of 588 total ownerships there are 582 private ownerships. There are four condominium complexes within Long Branch that have a total of 519 owners located at the northern end of the project area. A list of all affected tracts of land is attached to this real estate plan as an EXHIBIT "B"

The following is a summary of the Project land (beaches) owned in fee by the five local Governments that are “partnering” with the Non-Federal Sponsor:

| SANDY HOOK TO BARNEGAT INLET (ELBERON TO LOCH ARBOUR)  |              |         |                   |         |                  |         |
|--|--------------|---------|-------------------|---------|------------------|---------|
| Municipality   | Square Feet* |         | Number of Parcels |         | Number of Owners |         |
|  | Public       | Private | Public            | Private | Public           | Private |
| Asbury Park  | 215,411      | 0       | 3                 | 0       | 1                | 0       |
| Loch Arbour  | 22,485       | 37,280  | 1                 | 2       | 1                | 1       |
| Allenhurst   | 291,070      | 7,832   | 1                 | 5       | 1                | 5       |
| Deal   | 132,087      | 382,838 | 2                 | 28      | 1                | 57      |
| Long Branch  | 3,120        | 545,362 | 2                 | 32      | 2                | 519     |
| Subtotals  |              |         | 9                 | 67      | 6                | 582     |
| TOTALS   | 664,172      | 973,312 | 76                |         | 588              |         |
| * Square footage calculated from area between the landward perpetual easement line and the seaward perpetual easement line (labeled limit of work on RE maps.) |              |         |                   |         |                  |         |

The berm will be constructed on existing beachfront owned by private owners, and public properties owned by the Borough of Allenhurst, the Village of Loch Arbour, the City of Asbury Park, the Borough of Deal, the City of Long Branch and NJDEP. Construction areas would exclude any existing structures. As shown in the Chart above, in Asbury Park City, a total of approximately three (3) publicly-owned parcels (owned by Asbury Park City) are indicated to be impacted by the proposed project. In the Village of Loch Arbour, a total of approximately one publicly-owned parcel (owned by the Village of Loch Arbour) and two (2) privately owned parcels (one owner) are indicated to be impacted by the proposed project. For the Borough of Allenhurst, a total of one publicly owned parcel with one owner (Borough of Allenhurst) and five (5) privately owned parcels with five (5) ownership are impacted by the project. In the Borough of Deal, a total of approximately 28 privately owned parcels (57 owners) and two (2) publicly-owned parcels (owned by the Borough of Deal) are indicated to be impacted by the proposed project. For Long Branch City, a total of approximately two (2) publicly owned parcels with two (2) ownerships (Long Branch City and NJDEP) and 31 privately owned parcels with 519 ownerships are impacted by the project. As directed by the Memorandum dated 16 October 2013 and titled “NAD Regional Real Estate Policy Guidance – Hurricane Sandy Coastal Restoration Program Easement Valuation” within Section 5.a., the publicly owned lands within the project impact area was not be considered in the cost estimate. There is one temporary Work Area Easement identified.

The cost-sharing of the initial construction cost is in accordance with the provisions of P.L. 113-2. PL 113-2 states that ‘the completion of ongoing construction projects receiving funds provided by this division shall be at full Federal expense with respect to such funds. This

was reiterated in the 11 March 2013 First Interim Report Disaster Relief Appropriations Act, 2013 which lists Long Beach among the ‘Completion of Ongoing Construction’ projects. The 30 May 2013 Second Interim Report Disaster Relief Appropriations Act, 2013 then went on to *identifying any previously authorized but unconstructed Corps project and any project under study by the Corps for reducing flooding and storm damage risks in the affected area, including updated construction cost estimates, that are, or would be, consistent with the comprehensive study...* The initial construction costs in the HSLRR will show October 2013 price levels; with 100% Federal cost allocation, inclusive of real estate costs. Please note that the beach renourishment costs will be cost-shared 65/35 (renourishment at 5-year intervals).

B. Work/Staging Areas- A standard Temporary Work Area Easement (Standard Estate .15) will be acquired specifically for storage areas associated with the construction of the project. Storage areas as delineated in the engineering and design for the project will be located on the beach along side of the construction as it progresses through the project. The temporary Work area Easement is assumed for a two year period on two acres of land owned by the Borough of Deal. Attached to this real estate plan as part of one of its exhibit’s the Temporary Work Areas is depicted on Map No. 2. There might be other storage areas required but they will be located within the Perpetual Beach Storm Damage Reduction Easement area which will have been previously acquired, as described in use and circulation on and over municipally owned uplands which abut the project landward of the dune. This will provide the sponsor with sufficient ingress and egress for accessing the project for construction, nourishment, rehabilitation and operation and maintenance of all project features.

C. Borrow Areas: The Project does not require acquisition of real property interests for borrow or disposal areas. No disposal areas will be required for any purpose. The required sand necessary to construct the project will be obtained from the offshore “Sea Bright” undersea borrow area, which has been permitted to the Corps of Engineers for this purpose by the non-Federal sponsor. The Sea Bright borrow area has an authorized capacity of approximately 55 million cubic yards of sand.

D. Appraisal Information – Current landowners are the following public entities (local governments): The City of Long Branch (approx.0.07 acres); the borough of Deal (approx. 3.03 acres); the borough of Allenhurst (approx. 6.68 acres); the Village of Loch Arbour (approx. 0.51 acres); the City of Asbury Park.(4.95 acres); and the total acreage for the privately owned lands within the above mentioned five municipalities is (22.35) acre).

**A summary of the acreage needed for the Project and the uses thereof is as follows:**

|  |                   |
|--|-------------------|
| Total acres of publicly owned lands is approximately:  | 15.25 acres       |
| Total acres of privately owned lands is approximately: | 22.35 acres       |
| Grand Total:   | <b>37.6 acres</b> |

**Acreage Summary for easement areas:**

|  |                   |
|--|-------------------|
| Perpetual Beach Storm Damage Reduction Easement:                           | 37.6 acres        |
| <u>Temporary work area easement (two yr duration the Borough of Deal):</u> | <u>1.0 acres</u>  |
| Grand Total:   | <b>38.6 acres</b> |

The purpose of the Project and the easement being estimated herein is to provide beach storm damage reduction. It is the opinion of the appraiser that the construction associated with the Project will provide the General Benefit of storm damage reduction to the entirety of the communities in the vicinity of the Project, not just the parcels involved with the project and under analysis herein. In addition, as described in the Memorandum dated 16 October 2013 and titled "NAD Regional Real Estate Policy Guidance – Hurricane Sandy Coastal Restoration Program Easement Valuation" within Section 5.c.(4)(a), the benefit should be considered general in the Reconnaissance/Cost Estimate. However, it may be shown in the future that the construction has provided some other Special Benefit to the parcels that has not yet been identified. Therefore, the assumption the parcels herein have no Special Benefits attributable to them by the construction of the project. In addition, if Special Benefits were identified, quantifying the benefit would be outside the scope of this estimate. If quantifiable Special Benefits are identified at a later date then this estimate would require revision and adjustment.

As a result a General Benefit cannot offset the value of the taking and therefore the appraiser has estimated the cost of The Perpetual Beach Storm Damage Reduction Easement areas at \$602,000 and will be compensated by the government for the use of the land owned by the local townships, villages and public for the purpose of reducing the flooding in these neighborhoods. The government is currently seeking on Temporary Work Area Easement that is slated for two (2) years on two (2) acres of publicly land owned by the Borough of Deal and is expected be a nominal cost of \$0.00. As per the Memorandum date 16 October 2013 and titled "NAD Regional Real estate Policy Guidance – Hurricane Sandy Coastal Restoration Program Easement Valuation" within Section 5.a., the publicly owned lands within the project impact area should not be considered. Therefore, a nominal cost is expected for the Temporary Work Area Easement.

**Summary of Real Estate Costs:** the below listed costs for the permanent and temporary easements are compiled from the contracted cost estimate completed in November 2013:

|  |                       |
|--|-----------------------|
| • Perpetual Beach Storm Damage Reduction Easement (includes 20% contingency) ....                | \$602,000.00          |
| • Temp. Work Area Easement (as per NAD Regional Real Estate Policy Guidance- in Section 5a)..... | \$0.00                |
| • Administrative costs by NFS .....  | \$219,000.00          |
| • Appraisal (by NFS) .....   | \$306,600.00          |
| • <u>Federal Administrative Costs</u> .....  | <u>\$20,000.00</u>    |
| <b>TOTAL:</b> .....  | <b>\$1,147,600.00</b> |

The Total real estate cost and associated administrative cost, including contingency, are estimated at **\$1,147,600**.

E. Summation- Base on the proceedings, a value of **\$1,147,600** is estimated as the real estate cost for the project. Also, no damages are estimated. The LERRD requirements over private properties in the project are to be acquired by each of the local non-federal sponsors with the sponsor (NJDEP) providing its eminent domain authority, if necessary, to acquire the real estate. The municipal entities owning lands in the project will provide representations and warranties stating that they own the lands for use in the project and are legally capable to grant an easement to the sponsor. By way of the above processes, the sponsor has the resources to accomplish the acquisition of interests in the real estate necessary for the construction, rehabilitation and operation and maintenance of the project.



3. **Non-Federal Sponsor Owned Lands:** Submerged lands below the MHWL of the Atlantic Ocean are owned by the NJDEP Bureau of Tidelands Management. The sponsor also owns one of the parcels within the footprint of the project.
4. **Proposed Standard Estates:** There are two “standard estates” to be obtained by the non-Federal Sponsor and they are:
  - 1.) The ***Perpetual Beach Storm Damage Reduction Easement (Standard Estate No. 26)*** will be used for the construction, operation, and maintenance of the ber.
  - 2.) A ***Temporary Work Area Easement (Standard Estate No. 15)*** will be used for a staging area during the construction of the project.

**Perpetual Beach Storm Damage Reduction Easement  
(Standard Estate No. 26)**

*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]; 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 said 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 (except\_\_\_\_); [reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk 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 Work Area Easement  
(Standard Estate No. 15)**

*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.*

5. **Existing Federal Projects:** The subject project, once complete will become a component of the already constructed Atlantic Coast of New Jersey Sandy Hook to Barnegat Inlet Beach Erosion Control Project Section I – Sea Bright to Ocean Township, New Jersey Project

6. **Federally-Owned Lands:** There are no known Federal Government owned lands in the Project area.

7. **Navigational Servitude:** Submerged lands below the MHWL of the Atlantic Ocean are owned by the NJDEP Bureau of Tidelands Management. The Government will not exercise its rights under the doctrine of Navigational Servitude for the Atlantic Coast of New Jersey, Sandy Hook to Barnegat Beach Erosion Control Project, Section I – Sea Bright to Ocean Township, New Jersey Project, which in addition is not a Navigation project.

8. **Project Maps:** Map No. 1 depicts the complete Project alignment and the block and lots. Map No. 2 depicts the temporary staging area.

9. **Induced Flooding:** There will be no induced flooding as a result of the Project. According to FEMA Flood Insurance Rate Maps, the subject properties are situated within the following zone: Zone VE – An area inundated by 100- year flooding with velocity hazard (wave action). The Temporary Work Area Easement is located in an area that appears to be Zone X- An area of very low flood risk.

10. **Baseline Cost Estimate:** A baseline cost estimate, in Mirco Computer-Aided Cost Estimating System (“M/CASES”) format, is attached hereto as **Exhibit “A”**.

11. **Compliance with Public Law PL91-646:** No residences, farms, or businesses will be displaced by or for the Project. Therefore, NO Relocation Assistance will be required under the provisions of *Public Law 91-646*.

12. **Mineral and Timber Activities:** There are no present or anticipated mineral activities or timber harvesting in the Project area and vicinity.

13. **Assessment of the Non-Federal Sponsor’s Land Acquisition Experience and Ability:** An *Assessment of non-Federal Sponsor’s Real Estate Acquisition Capability* is attached hereto as **Exhibit “B.”** The NJDEP is the non-Federal sponsor and has the legal and professional capabil-

ity and experience to acquire and provide the LER for the construction, operation and maintenance of the project. NJDEP has condemnation authority and quick-take capability but it is not anticipated that these actions will be required for this project. NJDEP has successfully acquired the LER for the Sea Bright to Manasquan Inlet Project, the Long Branch Project, and the Asbury Park Project.

14. **Zoning**: Application or enactment of zoning ordinances are not anticipated for the Project.

15. **Acquisition Schedules**: It is anticipated that the *Project Cooperation Agreement* (“PPA”) will be signed by **June 2014**, and the contract for the first phase of construction will be “ready to advertise” by **August 2014**. It is anticipated that the required real estate interests will be provided by or on behalf of the Non-Federal Sponsor at least thirty (30) days prior to the solicitation for bids for the construction contract (the “R/T/A Date”).

16. **Facility/Utility Relocations**: There are 17 outfalls that will require modification to ensure they remain operational. 10 out of 17 will be extended to the edge of the construction template. The remaining seven outfalls were deemed impractical due to high initial construction cost & high maintenance costs. Out of that seven, five will receive retention systems, one will be reset and the last one will be replaced. These 17 Modifications qualify as a utility relocation, however, all work being done under the HSLRR, including outfalls, will be paid using federal dollars only. This is stipulated in the PPA and therefore there will be no non-fed costs associated with the 17 outfalls. A *Preliminary Attorney’s Opinion as to Compensability* analysis has been prepared for this project and attached as Exhibit “D”. 17. **Hazardous, Toxic or Radiological Waste (“HTRW”)**: There are no known contaminants or HTRW problems associated with the LER required for construction, operation and maintenance of the Atlantic Coast of New Jersey, Sandy Hook to Barnegat Beach Erosion Control Project, Section I – Sea Bright to Ocean Township, New Jersey Project.

18. **Project Support**: Landowners, local officials, and other residents in the Project area are supportive of this Project.

19. **Notification to Non-Federal Sponsor**: Based on its past sponsorship of other Corps’ water resource (Civil Works) projects and ongoing discussions during the Project’s Feasibility phase, the non-Federal Sponsor is aware of the risks of acquiring LER required for the Project prior to the signing of the Project Cooperation Agreement (“PPA”). Formal written notification of the risks of such acquisition, in accordance with paragraph 12-31 of Chapter 5 of the Corps of Engineers Real Estate Handbook, ER 405-1-12, will be forwarded to the non-Federal Sponsor during the Project’s Preliminary Engineering and Design (“PED”) phase.

20. **Other Issues**:

- a.) The landowners are supportive of the project.
- b.) There are no known existing encumbrances (i.e. easements, right-of-way, etc.)
- c.) The proposed project will have minimal impact upon existing enterprises and/or land uses.

- d.) The non-federal sponsor will assume responsibility to maintain the project after construction. New York District will be supplying a manual, as prescribed in the PPA, setting forth actual practices for this type of project.
- e.) This Real Estate Plan has been prepared in accordance with Chapter 12 of the Corps of Engineers' Real Estate Handbook, Regulation ER 405-1-12.