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POLICY STATEMENT FOR THE TOWN OF EAST HAMPTON LOCAL WATERFRONT REVITALIZATION PROGRAM

Project: Downtown Montauk Stabilization Project

Applicant: U.S. Army Corps of Engineers, New York District

Applicable Policies: The Town of East Hampton Local Waterfront Revitalization Program (LWRP) policies were reviewed as to their applicability to the Downtown Montauk Stabilization Project. Based upon this review 15 LWRP policies were identified as potentially applicable to the proposed project. These policies are presented below, followed by an explanation of project consistency. The LWRP identifies 12 reaches within the Town of East Hampton and discusses the policies as applicable in the individual reaches. The Downtown Montauk Project Area is located within Reach 9.

POLICY 7 Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved, and, where practicable, restored so as to maintain their viability as habitats.

POLICY 7A Locally significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved, and, where practicable, restored so as to maintain their viability as habitats.

Determination: Fort Pond is designated as a NYS Significant Coastal Fish and Wildlife Habitat on the coastal area map (Map III-1 in the LWRP). No activities are proposed in Fort Pond. There are no other locally significant habitats designated in the Downtown Montauk Project Area. The proposed project would be consistent with this policy.

POLICY 7B Protect to the maximum extent practicable the vulnerable plant and animal species and natural communities that have been identified by the New York Heritage Program, the New York State DEC protected native plant list (NYCRR 193.3), the New York State DEC list of endangered, threatened and special concern species and the federal list of endangered and threatened wildlife and plants (50 CFR 17).

The New York Natural Heritage Program (NY NHP) was contacted for information on known records of rare or state-listed animals and plants, and significant natural communities that may occur on, or in the immediate vicinity of the Downtown Montauk Project Area. The response letter from NY NHP is included in Attachment C of the Draft Environmental Assessment (DEA). The response letter indicates that there are no known records of rare or state-listed animals or significant natural communities in the Project Area. However, the vascular plants southern arrowwood (*Viburnum dentatum var. venosum*, State threatened) and whorled-pennywort (*Hydrocotyle verticillata*, State threatened) were noted as having been found on the edge of Fort Pond. The south end of Fort Pond is within the Downtown Montauk Project Area; however, no activities are proposed in, or in the immediate vicinity of, Fort Pond and the project would not directly nor indirectly impact vegetation near Fort Pond. None of the communities in

the Downtown Montauk Project Area are designated as ecologically significant natural communities by the NY NHP. The proposed project would be consistent with this policy.

POLICY 12 Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier land forms and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.

The Long Island south shore beaches, dunes, and nearshore areas are natural “defenses” that help preserve coastal lands and property from damage and reduce the danger to resources and property resulting from flooding and erosion. The proposed activities would be conducted on the south shore beaches. The purpose of the project is to implement stabilization measures that will augment and restore the natural protective characteristics of the existing beach and dunes.

The project consists of dune reinforcement along 3,100 feet of the shoreline using geotextile bags filled with sand then covered by a minimum of 3 feet of sand. The sand will be obtained from upland sources rather than offshore borrow areas. The nourishment of beaches and dunes with appropriate material is an allowable activity pursuant to the coastal erosion hazard area regulations contained in 6 NYCRR Part 505, and is a non-structural erosion control measure preferred over structural measures by the State in its tidal wetlands, erosion hazards, and coastal management program statutes and regulations. Restoring the natural protective characteristics of the beach would be consistent with and further promote Policy 12, which is to minimize damage to natural resources and property by protecting the naturally occurring protective characteristics and the associated physical processes. The proposed project would be consistent with this policy.

POLICY 13 The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design or construction standards and or assured maintenance or replacement programs.

POLICY 13A Erosion protection structures must be maintained both with regard to the structure and to adjoining natural protective features. Required maintenance may include beach nourishment and mitigation of erosion to nearby property and resources caused by construction or reconstruction of the erosion protection structure.

Determination: The proposed project will be incorporated into the overall Reformulation Study, which is a long-term (50-year) plan for storm damage reduction along the south shore of Long Island. This stabilization measure will address the significant erosion from recent storms, including Hurricanes Irene and Sandy, as well as several unnamed storms. The Downtown Montauk Stabilization Project imparts a commitment to complete the Reformulation Study to select the optimum approach to long-term (50-year) storm damage reduction. The downtown Montauk Stabilization Project will provide immediate protection to the area until the Reformulation Study can be completed and the long term project can be implemented. New York State Department of Environmental Conservation (6NYCRR Part 505) Coastal Erosion Management Regulations require that beach erosion projects must NY DEC) have a reasonable probability of controlling erosion for at least 30 years and that such projects must be maintained at the

level of protection for a minimum period of 30 years. The downtown Montauk project will be incorporated into the overall Reformulation Project and, therefore, is consistent with this policy.

POLICY 17 Whenever possible, use non-structural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include:

(I) the setback of buildings and structures;

(II) the planting of vegetation and the installation of sand fencing and draining;

(III) the reshaping of bluffs; and

(IV) the flood-proofing of buildings of their elevation above the base flood level.

POLICY 17A Along south shore ocean facing reaches 8, 9, 10, and 11, only non-structural measures are permitted to minimize flooding and erosion

Determination: The proposed project will utilize non-structural measures for the dune reinforcement activities. See the determination for Policy 12 for a description of the dune reinforcement activities. The proposed project would be consistent with this policy.

POLICY 18 To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.

Determination: The project will reduce the frequency and degree of overwashes and thereby afford storm damage protection to the downtown Montauk community, which is important to the tourist economy of this coastal area. Given the vulnerability of this community to future storm damage there is an imminent need to protect the coastal structures in downtown Montauk; the proposed activities are consistent with and will advance this policy.

POLICY 19 Protect, maintain and increase the level and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.

Determination: The beach areas in the Downtown Montauk Project Area support a variety of public recreational activities (see also Policy 20). A temporary reduction in off-season, public access to the work site during the construction period would occur. However, this would be off-set over the longer term by the increased width of the nourished public beach and the continued protection and maintenance of the beach as a public resource that supports a high level of public access and use. Buffer areas will be closed during construction activities for safety reasons. Public use of the beach area would be restored after the construction is completed. The proposed activities would be undertaken in a manner consistent with this policy. Also, the proposed project would advance the policy objective to protect, maintain, and increase public access to and use of public water-related recreation resources and facilities.

POLICY 20 Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

Determination: The western portion of the Downtown Montauk Project Area includes lands and waters that are publicly owned and accessible underwater lands and parklands that support a variety of public uses are present in the area. There would be no change in public access to the water's edge. Based on the Policy 19 analysis above, the proposed activities would be undertaken in a manner consistent with and would advance this policy.

POLICY 21 Water-dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and, takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.

POLICY 21A Water-dependent and water-enhanced recreation will be encouraged and facilitated at sites recommended under "opportunities for improvement" and "recreational uses compatible with new development" in the analysis narrative of this report, and in "public access and recreation improvements" in Projects Section XIV.

Determination: Only the lands in the western portion of the Downtown Montauk Project Area are publicly owned and currently support a variety of public water dependent uses such as fishing and beach activities. The project will protect and enhance these uses in the long term, with only temporary, short term loss of use during construction, as described under Policy 19. The proposed project is consistent with and will advance this policy.

POLICY 22 Development, when located adjacent to the shore, will provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.

POLICY 22A For specific locations which may appropriately provide water-related recreation as a multiple use with development see recommendations under "opportunities for improvement" and "public access and recreational uses compatible with new development" in the analysis narrative and in public access and recreation improvements" in projects section xiv. See also public access policies #19-20.

Determination: The project is not “development” per se, but is a non-structural stabilization measure. Water related recreation is a primary land use in the Project Area and will remain as such. The project will protect and enhance these water dependent recreational uses in the long term, with only temporary, short term loss of use during construction which will occur in the off-season, as described under Policy 19. The proposed project is consistent with and will advance this policy.

POLICY 25 Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Determination: The project will provide protection of the man-made resources within downtown Montauk as well as the existing dune system in the Project Area. The proposed project is consistent with and will advance this policy.

POLICY 35 Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.

Determination: This policy is not directly applicable to the project as no dredging or dredge spoil disposal is proposed. The sand for the dune reinforcement project will be obtained from upland sources rather than offshore borrow areas. No dredging activities or dredge spoil disposal is proposed. Therefore, the project is consistent with this policy.

POLICY 37 Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

POLICY 37A Best management practices will be used to abate and eliminate stormwater runoff draining into coastal waters.

Determination: During the dune reinforcement construction activities the project will utilize best management practices to minimize the potential for discharge of eroded materials into coastal waters. Temporary minor increases in turbidity in the intertidal and nearshore environment may occur during project construction. However, the existing environment at the placement area is turbid, and therefore, any increase in turbidity will not be noticeable and would be short term and should not extend much beyond the placement area. The project is consistent with this policy.

POLICY 41 Land use or development in the coastal area will not cause national or State air quality standards to be violated.

Determination: The project will result in mobile air emissions sources during construction only. No stationary sources are proposed. An air quality analysis was conducted for the project and is presented in the EA. As approval for the proposed project is necessary from a non USDOT federal agency (USACE permit), the proposed project is subject to review under the General Conformity Rule. For projects subject to this rule, the EPA has established *de minimis* levels (in tons per year) for each of the criteria pollutants for each type of designated nonattainment and maintenance area. As the proposed project levels are less than the *de minimis* levels of criteria pollutants, the Project's impacts are not significant, and the Conformity Rule is not applicable. Therefore, the project is consistent with this policy.

POLICY 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Determination: As discussed above in the Policy 35 analysis, the proposed dune reinforcement activities would take place in an area adjacent to the Atlantic Ocean littoral zone. Littoral zone wetlands, designated LZ on NYSDEC tidal wetland maps, includes all lands under tidal waters which are not included in any other category and extending to a depth of six feet at mean low water. As shown on the New York State Tidal Wetland Map (map ID# 756-546) littoral zone tidal wetlands are present in the Project Area, waterward of the sand placement area. Dune reinforcement will be located in the tidal wetland adjacent area, landward of the littoral zone wetlands. The proposed dune reinforcement activity is a generally compatible use according to the tidal wetlands land use regulations in 6 NYCRR Part 661. The proposed activity is one of the preferred non-structural erosion control measures identified in the State erosion hazard area regulations, the Coastal Policies contained in the State's Coastal Management Program document, the State tidal wetlands land use regulations, and Article 42 of the Executive Law and its implementing regulations in 19 NYCRR Part 600. The dune reinforcement activities will result in physical changes to the tidal wetland adjacent area that will adversely affect some invertebrates at the site. However, these adverse effects would not be significant, would be temporary, and would not result in significant adverse effects nor significantly impair the benefits derived from the littoral zone. The only freshwater wetlands in the Downtown Montauk Project Area are those associated with Fort Pond (NYS DEC Freshwater Wetland MP-18). The south end of Fort Pond is within the Project Area; however, no activities are proposed in, or in the immediate vicinity of, Fort Pond. The proposed activities would be undertaken in a manner consistent with this policy.