



**US Army Corps  
of Engineers®**  
New York District

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# **NEW YORK AND NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENTS**

## **NAVIGATION STUDY**

### **INTEGRATED FEASIBILITY REPORT & ENVIRONMENTAL ASSESSMENT**

## **APPENDIX D: Real Estate Plan**

# NEW YORK AND NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENTS NAVIGATION STUDY

## January 2022 Real Estate Plan

1. Preamble .....	1
2. Statement of Purpose .....	1
3. Project Purpose and Features .....	2
3.1. Project Purpose.....	2
3.2. Plan of Improvement .....	3
3.2.2. Required Lands, Easements, and Rights-of-Way (LER) .....	3
3.2.3. Disposals.....	4
3.2.4. Appraisal Information.....	5
4. Non-Federal Sponsor .....	5
5. Non-Standard Estates.....	5
6. Existing Federal Projects .....	5
7. Federally Owned Land.....	8
8. Navigational Servitude .....	8
9. Maps .....	8
10. Induced Flooding.....	8
11. Baseline Cost Estimate for Real Estate .....	8
12. Public Law 91-646, Uniform Relocation Assistance.....	10
13. Minerals and Timber Activity .....	11
14. Land Acquisition Experience and Capability of the Non-Federal Sponsor .....	11
15. Zoning .....	11
16. Schedule of Acquisition .....	11
17. Facility / Utility Relocations.....	12
18. Hazardous, Toxic, and Radioactive Waste (HTRW).....	14
19. Project Support .....	15
20. Notification to Non-Federal Sponsor.....	15
21. Point of Contacts.....	16
22. Recommendations .....	16

### Exhibits and Attachments

Exhibit “A” - Real Estate Maps

Exhibit “B” - Required LER

Exhibit “C” - Standard Estates

Exhibit “D” - Baseline Cost Estimate for Real Estate

Exhibit “E” - Non-Federal Sponsor Capability Assessment Checklist

Exhibit “F” - Subsurface Utility Relocation List



# 1. Preamble

## 1.1. Project Authorization

The project study authorization is §216 of the Water Resources Development Act (hereinafter, WRDA) of 1970.

Official Project Designation: The Project’s official designation is the New York and New Jersey Harbor Deepening Channel Improvements (NYNJHDCI).

Project Location: The study area for the NYNJHDCI study is the existing 50-foot federal navigation channel and immediately surrounding areas. The New York and New Jersey Harbor is located between the southeastern-most point of New York State and the northeastern part of New Jersey. The 50-foot federal navigation channels are adjacent to New York City in New York State and the cities of Bayonne, Elizabeth, and Newark in New Jersey. The harbor is located along the upper-middle portion of the Atlantic Seaboard and is often the first port of call on the East Coast for the largest container vessels. The harbor is approximately 190 miles southwest of Boston, Massachusetts and approximately 75 miles northeast of Philadelphia, Pennsylvania. The harbor is formed by the confluence of, among other smaller tributaries, the Hudson River, East River, Raritan River, Jamaica Bay, and Newark Bay which is itself formed by the confluence of the Hackensack and Passaic Rivers. The network of 50-foot federal navigation channels extends from the Atlantic Ocean into the New York and New Jersey Harbor and the marine terminals of the Port Authority of New York and New Jersey.

Non-Federal Sponsor: The non-Federal sponsor for the feasibility phase of the Project is the New York and New Jersey Port Authority. A Feasibility Cost Sharing Agreement was executed on 22 July 2019 with the Port Authority of New York and New Jersey (PANYNJ) as the non-Federal sponsor. The NYNJHDCI Study is cost shared 50% federal and 50% non-Federal.

## 2. Statement of Purpose

The purpose of this Real Estate Plan (REP) is to describe the minimum Lands, Easements, Rights-of-Way, Relocations, and Disposals (LERRD) requirements for the construction, operation, and maintenance of the Recommended Plan. This REP describes the estimated Land, Easements and Right-of-Ways (LER) values, cost to acquire the LER, the types of real estate interests required, property information, and other pertinent information relative to the real estate acquisition process and schedule. Further, this report identifies and describes the facility and or utility relocations that are necessary for construction. This REP is the first prepared for the Study and is an appendix to its Integrated Feasibility Report and Environmental Assessment (the “main report”).

Since this REP was prepared during a feasibility level study, the size of the required real estate interests presented herein are preliminary estimates based only on existing, readily

available Geographic Information System (GIS) data. The LER requirements are subject to change with optimization during the Recommended Plan's Pre-construction, Engineering, and Design (PED) phase when final plans, specifications, and detailed drawings are prepared.

This Real Estate Plan/Appendix is tentative in nature and both the final real property acquisition lines and costs are subject to change after approval of the Decision Document to which this Plan/Appendix is appended.

### **3. Project Purpose and Features**

#### **3.1. Project Purpose**

This report is prepared in accordance with the provisions of Corps of Engineers Regulation ER 405-1-12, Chapter 12, Paragraph 12-16. It is intended to serve as an Appendix to the New York District's Final Integrated Feasibility Report and Environmental Assessment.

This NYNJHDCI study's purpose is to determine if there is a technically feasible, economically justified, and environmentally acceptable recommendation for federal participation in a navigation improvements project in the New York and New Jersey Harbor.

This project is an addition to the original Harbor Deepening Project which was authorized by Section 435 of the Water Resources Development Act of 1996 (Pub. L. No. 104-303) and whose construction was completed in 2016. The study conducted pursuant to Section 435 of the Water Resources Development Act of 1996 resulted in a USACE Chief's Report dated 2 May 2000, which recommended a channel at a depth of -50 feet MLLW in the harbor based on the *Regina Maersk* as the design vessel. The Recommended Plan was authorized for construction in Section 101(a)(2) of Water Resources Development Act 2000 (Pub. L. No. 106-541). However, the accelerating expansion of the volume of trade and the resulting fleet transition to larger vessels that has taken place since the completed 50-foot federal navigation project (Harbor Deepening Project) was authorized has led to the existing project's channel's dimensions being inadequate for current use in the Port of New York and New Jersey much sooner than was anticipated in the 1999 Study. Therefore, to keep pace with the ever-increasing size of the shipping fleets, the non-Federal sponsor has requested USACE to assist in the evaluation of the project area to determine a solution to facilitate the entry of the largest container vessels into its ports.

## 3.2. Plan of Improvement

### 3.2.1. Navigational Improvement

The Recommended Plan proposes deepening the pathways to Elizabeth – Port Authority Marine Terminal and Port Jersey – Port Authority Marine Terminal by 5 feet (to -55 feet MLLW). The Recommended Plan involves deepening Ambrose Channel, Anchorage Channel, the Kill Van Kull, Newark Bay Channel, South Elizabeth Channel, and Elizabeth Channel, and PJPAMT Channel. This includes the additional width required for structural stability and for the navigation of the design vessel – with a length of 1,308.0 feet and beam of 193.5 feet – to transit from sea to Elizabeth – Port Authority Marine Terminal and Port Jersey – Port Authority Marine Terminal.

### 3.2.2. Required Lands, Easements, and Rights-of-Way (LER)

I. Fee (Standard Estate No. 1) – There are two public parcels owned by the City of Bayonne, which will need to be acquired in fee due to the proximity of the channel to the shoreline of the City of Bayonne and the specific angle and depth of the side slopes thereof. The channel’s right-of-way will extend slightly landward at a location approximately 0.6 miles east of the Bayonne Bridge, impacting 0.169 acres.

II. Temporary Work Area Easement (Standard Estate No. 15) –A temporary work area is necessary for this project regarding a chimney on an industrial property located on Staten Island on the south side of the Kill Van Kull, opposite of the City of Bayonne. This chimney, at 561 Richmond Terrace, is approximately one hundred and thirty feet tall, and is being proposed for monitoring and temporary stabilization, pending structural analysis in the field during PED. That work is expected to take six months. Approximately one acre will be required for this easement. Please also see Section 12 of this Real Estate Plan.

III. Temporary Road Easement (Standard Estate No. 11) – In order to access the demised Temporary Work Area Easement described above, Temporary Road Easements will be needed over one public property and one private property, one of which is under jurisdiction of the New York City Department of Small Business Services (“SBS”) and managed by the New York City Economic Development Corporation (“EDC”, a private, non-profit corporation). Securing use of the SBS property may potentially trigger the City of New York’s Uniform Land Use Procedure (“ULURP”), which will take up to eighteen months. Approximately .25 acres will be required for this easement.

IV. Right of Entry for Survey and Exploration (Standard Estate No. 20) – A second chimney is located at an industrial site adjacent to the Kill Van Kull on Staten Island, at 11 Ferry Street, Staten Island Block 1068, Lot 45. Approximately thirty feet in height, this chimney is not designated as a work item, but has been identified as possibly needing structural monitoring, which will be determined during PED. No acreage is expected to be required for this Right of Entry.

*Table 1 – Required LER Summary*

Required Interest	Required Acres	Number of Parcels		Number of Owners	
		Private	Public	Private	Public
Fee	0.169	0	2	0	1
Temporary Work Area Easement	1	1	0	1	0
Temporary Road Easement	.25	1	1	1	1

VI. COMPENSATORY MITIGATION: The Executive Summary of the Main Report also refers to a requirement for Compensatory Mitigation due to the proposed conversion of less than 2 acres (approximately 1.59 acres) of shallow subtidal habitat (-6 feet MLLW or shallower) under the State of New Jersey’s jurisdiction being converted to deep water habitat. Discussions have taken place with the Project Development team members handling environmental concerns as well as Office of Counsel. The current plan for meeting the project’s Compensatory Mitigation is restoring a portion of the Sea Bright Borrow Area by placing suitable grain size sediment within areas that were previously excavated for other beach nourishment projects.

Given the available application of the Federal Navigational Servitude, no LERRD acquisition will be required. However, further refinements to the mitigation plan will be required due in large part to the protracted construction duration and unknown elements resulting therefrom so the final real estate LERRD needs will occur in PED. This item has been coordinated with Office of Counsel, which gives its concurrence.

### **3.2.3 Disposals**

The Project does not require acquisition of real property interests for disposal areas. Materials meeting the standards for ocean placement and suitable for remediation purposes will be placed at the offshore “Historic Area Remediation Site” (“HARS”), or at the Sea Bright Borrow Area, as described above. Required permits for these activities will be obtained during the Project’s PED stage. All other dredged materials will be placed at existing upland privately-owned “Brownfield Remediation” sites in the State of New Jersey. Dredged material will be removed by the construction contractor and placed at these sites. There is no intent for the non-Federal sponsor to acquire these sites.

### **3.2.4 Appraisal Information**

An appraisal cost estimate was completed by a licensed USACE staff appraiser who concluded, as of October 26, 2020, the total estimated market value for the Recommended Plan’s required real estate in Bayonne is approximately \$10,000,000.00.

Subsequent to that, another cost estimate was prepared by the same USACE staff appraiser who concluded, as of October 26, 2021, the total estimated market value for the Recommended Plan’s required real estate in Staten Island is an additional approximately \$250,000.00.

Consistent with USACE Real Estate Policy Guidance Letter Number 31-Real Estate Support to Civil Works Planning Paradigm (3x3x3), the New York District has valued the real estate requirements through a cost estimate as the real estate costs will total less than 10% of the total project costs.

## **4. Non-Federal Sponsor**

The Recommended Plan includes no lands owned by the non-Federal sponsor which will be required for LERs acquisition.

## **5. Non-Standard Estates**

As of this report, there are no non-standard estates proposed for the Recommended Plan. Non-standard estates are necessary only when there is no corresponding USACE approved standard estate for the real property interest required, or when changes to a corresponding standard estate (or previously approved non-standard estate) are desired. In such situations, a non-standard estate will be drafted with coordination and consultation with the Sponsor, then coordinated with and approved by Headquarters USACE.

## 6. Existing Federal Projects

The existing 50-foot Federal Navigation Project is based on the recommendations made in the New York & New Jersey Harbor Navigation Study of December 1999. The project consists of the federal channels that lead to the container terminals in the Port of New York and New Jersey from the Atlantic Ocean. The federal channels are used by and designed for the deep-draft commercial vessels calling on the facilities within the Port of New York and New Jersey. Container vessels, tankers, car carriers, and other bulk goods carriers make up the majority of the deep-draft commercial vessels using these channels. Among these vessels, container vessels are the most depth-limited and are most constrained by the configuration of the channels.

A map of the constructed project is provided in Figure 1 and the existing authorized constructed federal channel dimensions are organized in Table 2.

The existing 50-foot Federal Navigation Project provides access to five terminals:

1. Global Container Terminal – Bayonne by way of Port Jersey-Port Authority Marine Terminal (PJPAMT) Channel
2. APM Terminal by way of Newark Bay and South Elizabeth Channels
3. Maher Terminal by way of Newark Bay and Elizabeth Channels
4. Port Newark Container Terminal by way of Elizabeth Channel
5. Global Container Terminal – New York by way of the Arthur Kill

The existing 50-foot federal navigation project specifically included deepening the following channels: Ambrose Channel, Anchorage Channel, Bay Ridge Channel, the Kill Van Kull, the Newark Bay Channels, Port Jersey-Port Authority Marine Terminal (PJPAMT) Channel, and the Arthur Kill to Howland Hook. The channels were deepened to -50 feet MLLW except in areas of rock or otherwise hard material where they were deepened to -52 feet MLLW, apart from the Ambrose Channel, which was deepened and maintained to -53 feet MLLW. All channels are maintained at -50 feet MLLW apart from Ambrose Channel, which is maintained at -53 feet MLLW.

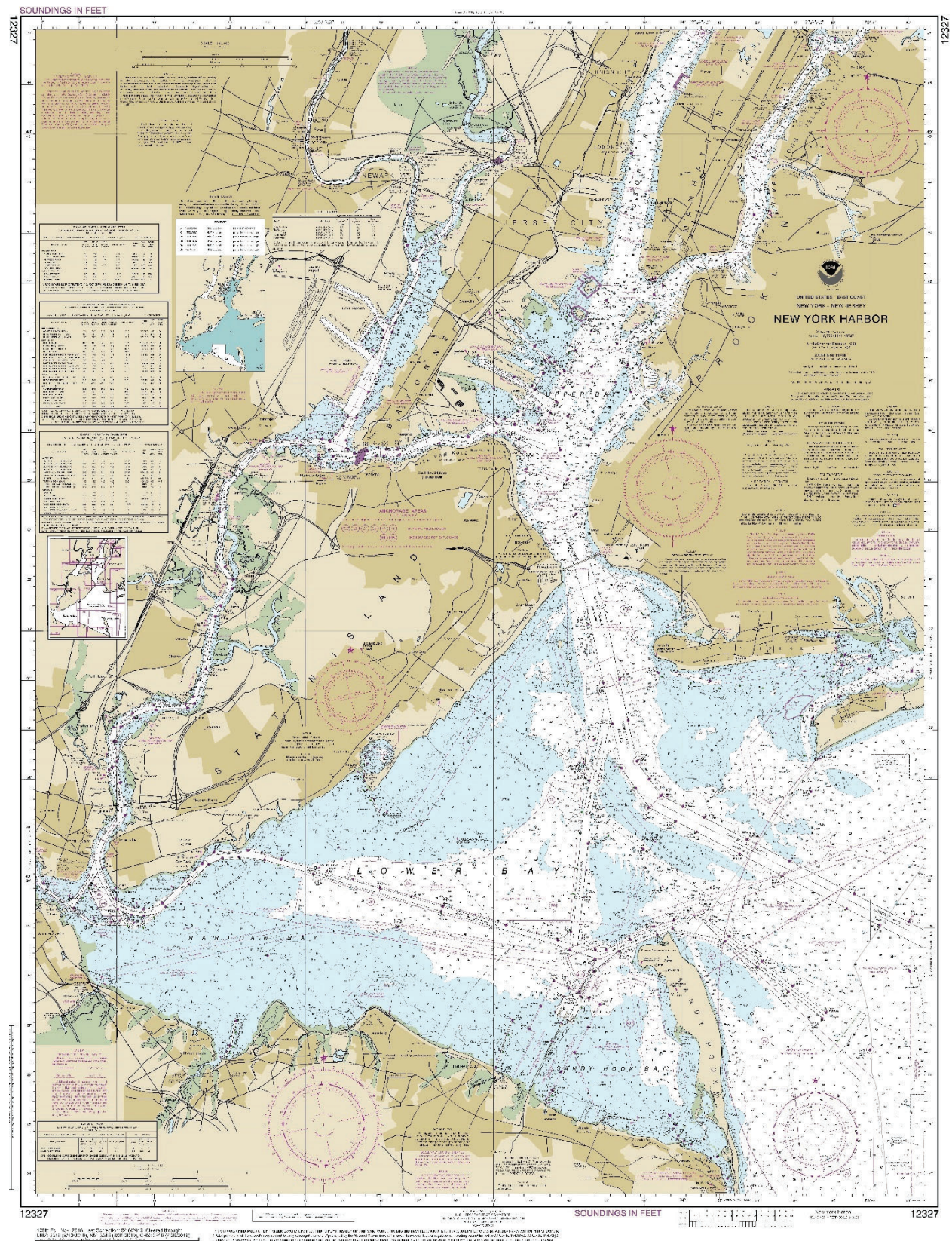
*Table 2: Existing Authorized and Constructed Harbor Deepening Project Channel Dimensions*

Channel	Authorized Depth* [Feet]
Ambrose	57-58
Anchorage	54-55
Elizabeth	56-57
Kill Van Kull	56-57
Newark Bay	56-57
Port Jersey-Port Authority Marine Terminal	56-57
South Elizabeth	56-57

\* Mean Lower Low Water



Figure 1: New York Harbor – Constructed 50-foot Federal Navigation Project



## **7. Federally Owned Land**

The Recommended Plan includes no lands owned by the Federal government which will be required for LERs acquisition.

## **8. Navigational Servitude**

The Federal Navigational Servitude is the dominant right of the Federal Government under the Commerce Clause of the Constitution to use, control, and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the Mean High-Water Line (MHWL). There are submerged lands outside of the existing authorized Federal navigation channel. The Federal Navigational Servitude is available for use on this project for the construction, operation and maintenance of project features located in the Harbor. The memo invoking Navigational Servitude for the Recommended Plan has been signed by CENAN-OC and is in the Real Estate file. The memo does an analysis of the Navigation Nexus and finds that as a navigation project, the Recommended Plan has the required nexus to navigation. In order to accomplish the Recommended Plan, the Army will dredge portions of the Channel. The interest of navigation will be aided by this dredging. Since the Recommended Plan has a nexus to navigation by the deepening of the channel, based on HQ USACE guidance and court cases, the Navigation Servitude would be available to accomplish the Recommended Plan.

There are 45.452 AC of submerged lands within designated lots and 3,959.411 AC within the shipping lanes. A total of 4,097.35AC will be used for the project through the use of navigational servitude. The project meets the criteria, and no additional costs will be incurred.

## **9. Maps**

The Project real estate maps are provided in Exhibit “A” herein. The parcel data set retrieved is not intended for use as a tax map. The lot boundaries delineated in the real estate map does not represent legal boundaries and should not be used to provide a legal determination of land ownership. The parcels boundaries are not survey data and should not be used as such. There may be boundary discrepancies between what is shown on the real estate map and the property’s actual deeded boundary. There are known issues with the GIS maps hosted by NYC for Richmond County. The GIS tax parcel data obtained is intended for planning purposes only to provide a reasonable representation of parcel boundaries and the real property interest required for the Recommended Plan. Surveys of the Recommended Plan’s final design are needed to determine the precise location of easements based on a property’s deeded legal description.



## 10. Induced Flooding

No induced flooding is currently anticipated as a result of the Recommended Plan.

## 11. Baseline Cost Estimate for Real Estate

An itemized BCERE is provided in Exhibit “D” with estimated real estate costs. The following is a summary of the costs for the Lands, Easements, Rights-of-Way, Relocations, and Disposals (“LERRD”) required for new elements of the Project:

- a. The Project’s total real estate costs is captured in the Project’s 01-Lands and Damage cost account and amounts to approximately \$10,988,000, which includes Federal administrative costs (\$156,000.00), and non-Federal costs (\$10,832,000.00). This includes the 20% contingency on both acquisition costs, not including land payments since that has a contingency built in, and incidental costs.
- b. The projected relocation costs, which are included in the 02 account, are \$1,035,000,000. The projected removal costs, which are included in the 19 account, are \$25,000,000, but these are not Real Estate costs, and are not included in the Real Estate Baseline Cost Estimates (Exhibit “D”), or in the List of Utilities (Exhibit “F”). They were removed from Exhibit “F” as it is not anticipated that interests will be required to be acquired for those removals. There is at this point an additional 26% contingency for relocations in the amount of \$269,100,000, which was determined by Cost Engineering (and in Appendix B4 of the Main Report). In accordance with Section 101 of the Water Resources Development Act of 1986 (33 U.S. Code § 2211) paragraph a(4), the relocations are cost shared with the utility owners, who will be responsible for approximately \$652,050,000, which amount will be finalized during PED. Also, regarding the relocation costs, there will be further refinement to determine what the 10 percent additional cash contribution limit is so as to place a threshold on the amount creditable.
- c. The Project’s LERRD costs are shown in Table 3, below. LERRD costs account for the non-Federal sponsor’s upfront costs and consists of the non-Federal costs provided in the 01-Lands and Damages cost account, and in the 02-Relocations cost account. LERRD is the non-Federal sponsor’s responsibility to perform (in accordance with the PPA) prior to project construction.

The non-Federal sponsor incidental costs are projected costs based on the number of properties which need to be acquired. The incidental costs are costs the non-Federal sponsor should anticipate spending as part of the acquisition process, which may be credited back to the non-Federal sponsor during the crediting phase provided adequate documentation is provided. The USACE Realty Specialist will provide guidance to the non-Federal sponsor in this regard.

*Table 3 – Non-Federal Sponsor’s estimated creditable LERRD costs (in thousands)*

LERRD Costs		Contingency	Total
LER*	\$ 10,250	\$ -	\$ 10,250
Relocations**	\$ 517,500	\$ 134,550	\$ 652,050
Disposals	\$ -	\$ -	\$ -
Incidental Costs***	\$ 582	\$ -	\$ 582
<b>Total Creditable Project Costs****</b>			<b>\$ 662,882</b>

\* The cost estimates for Lands and Easements already have contingencies built into the estimate of \$10,250,000.

\*\* In accordance with 33 U.S. Code § 2211a(4), the relocations are cost shared with the utility owners. This value does not reflect the \$652,050,000 to be borne by the utility owners.

\*\*\* Real Estate calculates Incidental costs of \$485,000, plus a 20% contingency in the amount of \$97,000 (see Exhibit D), equaling the \$582,000 figure shown above.

\*\*\*\* Nothing beyond the 10 percent of General Navigation Features will be creditable.

The non-Federal Sponsor will be entitled to LERRD reimbursement subject to the terms of the Project Partnership Agreement. As of this report, no reimbursable LERRD related expenses have been incurred by the non-Federal sponsor. A letter regarding the risks associated with LERRD acquisition prior to PPA execution and Notice to Proceed for Acquisition will be sent to the non-Federal sponsor prior to PPA execution as noted in paragraph 20. The non-Federal sponsor is eligible to receive credit for the actual associated direct and indirect costs of fulfilling its LERRD responsibilities that are found to be reasonable, allowable, and allocable. Reimbursement for deep draft utility relocations is limited to the 10% additional cash contributions towards general navigation features construction. Supporting documents on all costs incurred by the non-Federal sponsor will be submitted to USACE as part of its claim for credit.

## 12. Public Law 91-646, Uniform Relocation Assistance

There is one (1) chimney stack located on an industrial property along the south side of the Kill Van Kull on Staten Island. It no longer functions as a chimney per se, but the owner, a road salt distribution business, does have current lease agreements with two telecommunications businesses for the installation, operation, and maintenance of antenna equipment on the property.

This chimney stack has been identified as being at risk from vibratory impacts from the dredging involved in the Recommended Plan. Due to the identified risk, the chimney was initially proposed for demolition prior to the commencement of any construction activity in the Kill Van Kull. Subsequent to discussions with the Project Delivery Team, including limited review of lease drawings, and photographs taken from Google Maps and Google Earth, it was determined on-site investigation would be appropriate, and structural monitoring and temporary stabilization will be implemented, if determined to be necessary, and any associated blasting can be regulated to minimize risk of structural impacts. Consequently, no relocations or interruption of business would be required, but Temporary Work Area and Temporary Road Easements will still be necessary. If the above measures prove insufficient, demolition may need to take place. A final

determination will be made during PED. In relation to Section 3.2.2, above, this would require the securing of an estate that provides for demolition.

At this time, business impacts resulting from the proposed demolitions are not expected, but if it is determined during PED that chimney stabilization is insufficient, it may become necessary to demolish said chimney. In that case, loss of rental income resulting from demolition of the chimney stack is estimated to cost the owner approximately eighty-five thousand, five hundred dollars (\$85,500.00) annually. This is based on a calculation of the rent that would have otherwise been due to the chimney owner on each lease, one of which has eight years left, the other having six years left. Owner's primary business operations may be temporarily impacted during stabilization or demolition, and to ensure those operations are not impacted, owner has requested any work be carried out in a manner which will not, obstruct or damage the roadway internal to the property. This has been shared with the PDT.

Should demolition become necessary, relocations for the two telecommunications businesses' antenna equipment are estimated to cost one million dollars (\$1,000,000.00), each.

The above estimates do not include incidental costs that may be compensable under the New York EDL, applicable both for owner and its tenants.

It should be noted any projected business relocation costs included in this Real Estate Plan does not establish eligibility of those costs by the businesses.

The two parcels and two telecommunications properties are listed below:

*Table 4 – Possible Business Relocation Properties*

Site Name	Property Info	Owner Name	Relocation?
KVK306	Block 1068 Lot 45	Ferry St. Enterprises	NO
KVK309C	Block 4 Lot 21	Regal Estates LLC	NO
KVK309C	Block 4 Lot 21	Cell Phone Utility 1	NO
KVK309C	Block 4 Lot 21	Cell Phone Utility 2	NO

There are no anticipated residential relocations resulting from the Recommended Plan.

## **13. Minerals and Timber Activity**

There are no present or anticipated mineral activities or timber harvesting within the LER required for the Project.

## 14. Land Acquisition Experience and Capability of the Non-Federal Sponsor

The non-Federal sponsor maintains the legal and professional capability and experience to acquire the LER in support of the Project. The non-Federal sponsor has condemnation authority and other applicable authorities that may apply, if necessary, to support acquisition measures. The non-Federal sponsor has performed successfully in the past on such projects as the Harbor Deepening Project in 2014.

The fully executed Non-Federal Sponsor Capability Assessment Checklist is attached as Exhibit “E” herein.

## 15. Zoning

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

## 16. Schedule of Acquisition

*Table 5 – Schedule of Acquisition*

<u>Milestone</u>	<u>Date</u>
PPA Execution	July 2024
Sponsor’s Notice to Proceed with Acquisition	July 2024
Certification of Real Estate (no condemnation)	June 2027
Certification of Real Estate (with condemnation)	December 2027

## 17. Facility / Utility Relocations

Subject to the terms of Policy Guidance Letter 44, §2-5, for projects with an authorized depth of greater than 45 feet (“deep-draft utility relocations”), the non-Federal sponsor is responsible for all project-related utility relocations, but payment responsibility is shared – one half being the responsibility of the non-Federal sponsor, the other half being the responsibility of the utility owner, depending on the terms of state law or the utility permit issued by the state to the utility owner.

The referenced facilities/utilities in Exhibit “F” are generally of the type eligible for compensation under the “Substitute Facilities Doctrine.” The substitute facilities doctrine provides an alternate means of just compensation to property owners affected by an acquisition or taking of property in order to place them in as good a position as if the property had not been acquired or taken. The measurement of just compensation – as it relates to the substitute facilities doctrine – has been required only when fair market value has been too difficult to establish or

when its application would result in manifest injustice to the owner or the public. In such cases, the cost of constructing a substitute facility may be used as the measure of just compensation paid to the facility/utility owner where a substitute facility/utility is necessary. The substitute facilities doctrine is the foundation for the concept of “relocation” as applied to the implementation of water resources projects by USACE. Engineering Regulation 405-1-12, Real Estate Handbook, Change 31, 1 May 98, defines the term “relocation” as generally meaning:

*To provide a functionally equivalent facility to the owner of an existing utility, cemetery, highway, or other eligible public facility and railroad when such action is authorized in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement (and attendant removal) of the affected facility or part thereof.*

As a result of the Recommended Plan’s impact to the above-described facilities/utilities, there is a requirement to perform such relocations and provide “just compensation.” This will be determined during PED through an appraisal of Fair Market Value for interests taken. Additionally, any substitute facilities needed during acquisition and construction for the project would be compensable.

The preparation of an Attorney’s Opinion of Compensability is the principal process for determining the extent of the Federal Government or non-Federal sponsor’s legal obligation to relocate a utility or public facility that will be impacted by construction or operation of a project. Any conclusion or categorization contained in this report that an item is a utility or facility relocation to be performed by the non-Federal sponsor as part of its LERRD responsibilities is preliminary only. USACE will make a final determination of the relocations necessary for the construction, operation, or maintenance of the project upon completion of a Final Attorney’s Opinion of Compensability for each of the impacted utilities and facilities. A Final Attorney’s Opinion of Compensability and final relocation determination will occur during PED and prior to the execution of the Project Partnership Agreement.

There are three (3) utility lines to be removed and twelve (12) utility lines to be relocated for the Project, all of which constitute “Deep Draft Utility Relocations” under the provisions of US Army Corps of Engineers (CECW-AA) Policy Guidance Letter (PGL) No. 44 dated 27 September 2017, “Relocation of Utilities at Navigation Projects Under Section 101 of the Water Resources Development Act (WRDA) of 1986, as Amended.” Section 101 (a)(4) expressly requires the non-Federal sponsor to perform or assure the performance of all relocations of utilities necessary to carry out Federal navigation improvements.

In accordance with Section 101 (a)(4) of WRDA 86, as amended, and as discussed in Paragraph 5 of PGL 44 (“Deep Draft Utility Relocations”), the respective utility owners are responsible for half of these relocation costs, with the non-Federal sponsor being responsible for the other half. Consistent with Section 101 (a)(2) of WRDA 86, USACE shall credit towards the non-Federal sponsor’s additional 10 percent payment the costs borne by the non-Federal sponsor to perform or assure the performance of all utility relocations. The costs borne by the non-Federal sponsor are accounted for and reflected in the 02 Relocations (Facility/Utility) Account.

For the purpose of determining the amount of credit to be afforded, the total cost of each relocation shall not exceed the amount USACE determines to be necessary to provide a functionally equivalent facility. The non-Federal sponsor shall not be entitled to reimbursement over the additional 10 percent payment due for the general navigation features.

Coordination will need to take place with the utility owners to determine whether there exists for each a compensable interest under state law and/or the terms of any non-Federal permits, licenses, or right-of-way for each utility. This will help with the determination of non-Federal costs by 1). Ascertaining whether the non-Federal sponsor may have to pay more than 50 percent of the relocation costs; and 2). Determining whether any of the inactive utilities require relocation rather than just removal. Making the removal rather than relocation determination is important since the cost for removal per Paragraph 8 of PGL 44 requires the non-Federal sponsor to acquire any compensable interest in the utility under state law with no cost to the Federal government. The non-Federal sponsor would receive credit for its costs towards its additional 10 percent cash payment. USACE will remove any utility acquired by the non-Federal sponsor during project construction, with the costs of removal shared by USACE and the non-Federal sponsor as part of the general navigation features. If the owner has no compensable interest under state law or the terms of applicable non-Federal permits, and the owner can be located, the non-Federal sponsor is responsible for compelling removal at owner cost. If the non-Federal sponsor lacks this ability, it may request that USACE exercise the navigation servitude to compel removal using the process described in Paragraph 7 of PGL 44. If the owner of a utility has no compensable interest under state law or the terms of non-Federal permits, and the owner cannot be located, USACE will revoke any existing Section 10 permit and remove the utility as part of construction of the Project with the costs of removal shared by USACE and the non-Federal sponsor as part of the general navigation features.

Pursuant to ER 405-1-12 Chapter 12, §12-16, c. (16), A Preliminary Attorney's Opinion of Compensability ("preliminary opinion") has been prepared and issued as required during feasibility level investigations. The Opinion provides a determination as to the responsibility of the non-Federal sponsor for the costs of relocation of the utility cables, pipes, and mains referenced in the Real Estate Plan.

The attached Exhibit "F" herein identifies the Recommended Plan's required relocations or removals and approximate costs, estimated at approximately one billion, sixty million dollars (\$1,060,000,000.00), which does not include Cost Engineering's added twenty-six percent (26%) contingency of two hundred seventy-five thousand six hundred dollars (\$275,600.00).

## **18. Hazardous, Toxic, and Radioactive Waste (HTRW)**

There is one contaminated site within the project area though not on any property requiring LERs. The main plant of Diamond Alkali was added to the National Priority List in 1984 and was located at 80 Lister Avenue in Newark, New Jersey approximately five miles upgradient from Newark Bay along the western shore of the Passaic River. The Diamond Alkali plant is historically known for the manufacturing of agricultural chemicals and herbicides used in the

production of “Agent Orange”. The Newark Bay Operable Unit is co-located within the NYNJHDCI project area. No other federal or state listed contaminated sites were identified within the project area.

## **19. Project Support**

The Sponsor and local stakeholders support the Recommended Plan. As discussed in Section 12, Coordination has already commenced with the owner of the one hundred and thirty-foot tall chimney designated for monitoring, Regal Estates, LLC, referenced in Section 12 Public Law 91-646 Uniform Relocation Assistance, and they have expressed no opposition to the Recommended Plan.

## **20. Notification to Non-Federal Sponsor**

A formal written notice was provided to the New York and New Jersey Port Authority on December 3, 2020 on the risks associated with acquiring the real estate for the Recommended Plan in advance of signing a PPA. Those risks include, but may not be limited to, the following:

- 1) Congress may not appropriate funds to construct the Recommended Plan;
- 2) The Recommended Plan may otherwise not be funded or approved for construction;
- 3) A PPA mutually agreeable to the Sponsor and the Government may not be executed and implemented;
- 4) The 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 the CERCLA, as amended;
- 5) The Sponsor may acquire interests or estates that are later determined by USACE to be inappropriate, insufficient, or otherwise not required for the Recommended Plan;



6) The 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 USACE's Notice To Proceed; and

7) The Sponsor may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and USACE's Notice To Proceed Letter, which may not be creditable under the provisions of Water Resources Development Act 86 or the PPA.

## 21. Point of Contacts

The point of contact for this Real Estate Plan ("REP") is the Real Estate Project Delivery Team member Mr. Paul Fitzpatrick at (917) 790-8461 (email: [paul.m.fitzpatrick@usace.army.mil](mailto:paul.m.fitzpatrick@usace.army.mil)).

## 22. Recommendations

This REP has been prepared in accordance with Chapter 12, ER 405-1-12, Real Estate Handbook, 20 Nov 85. It is recommended that this report be approved.

FITZPATRICK.PAUL.MI  
CHAE.LJR.1588759195

Digitally signed by  
FITZPATRICK.PAUL.MICHAEL.J  
R.1588759195  
Date: 2022.01.28 11:33:30 -05'00'

Paul M. Fitzpatrick, Jr.  
Realty Specialist  
New York District

ROOS.ALLEN.D.  
1228890509

Digitally signed by ROOS.ALLEN.D.1228890509  
Date: 2022.01.28 17:51:52 -05'00'

Allen D. Roos, PMP  
Deputy Chief, Real Estate Division  
New York District



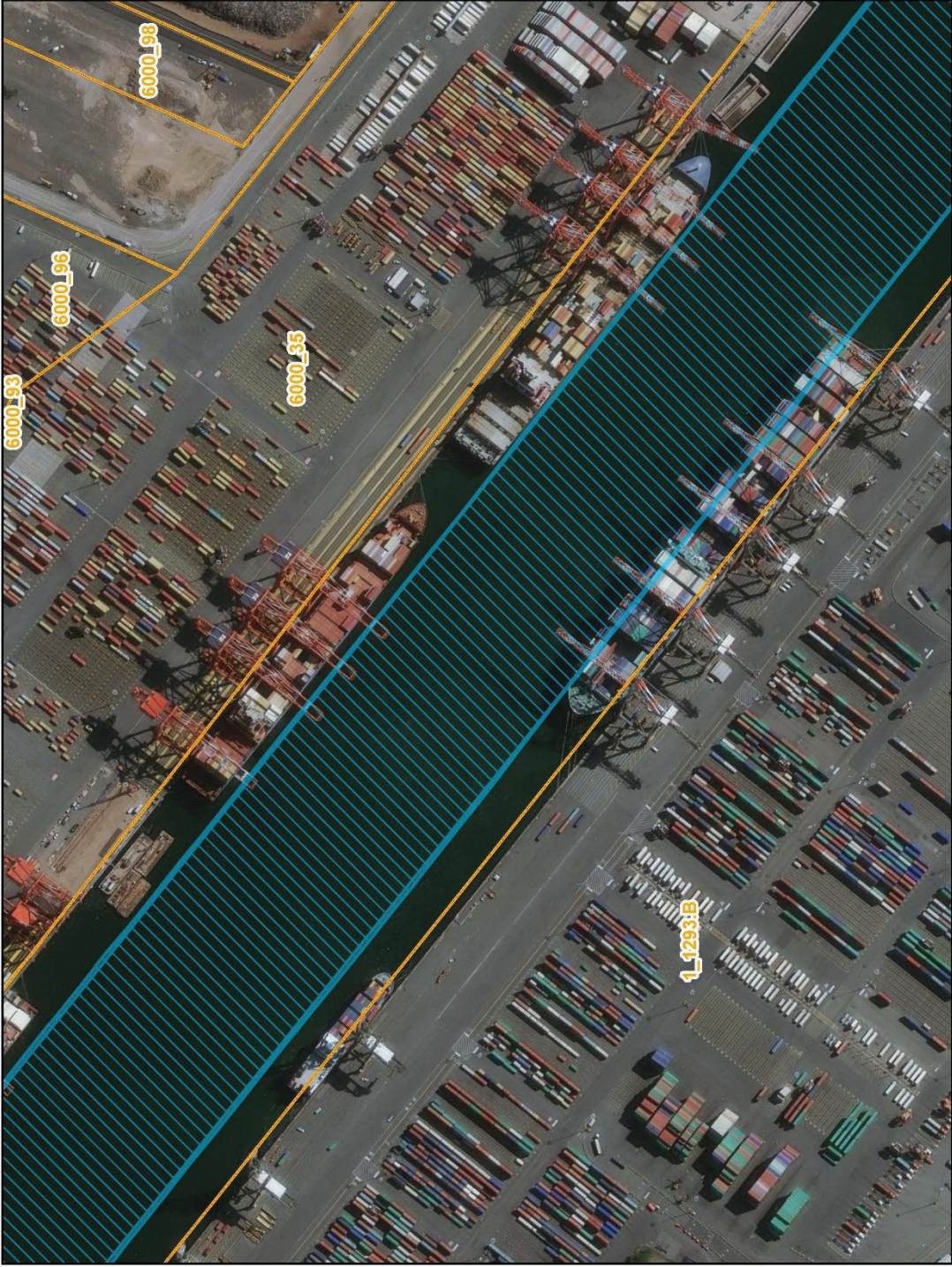
**EXHIBIT “A”**  
**REAL ESTATE MAPS**











### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (2021028)
- Chimney easement
- Roadway easements
- New Jersey Parcels (20200826)



NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 2 of 33 Date: 11/14/2021

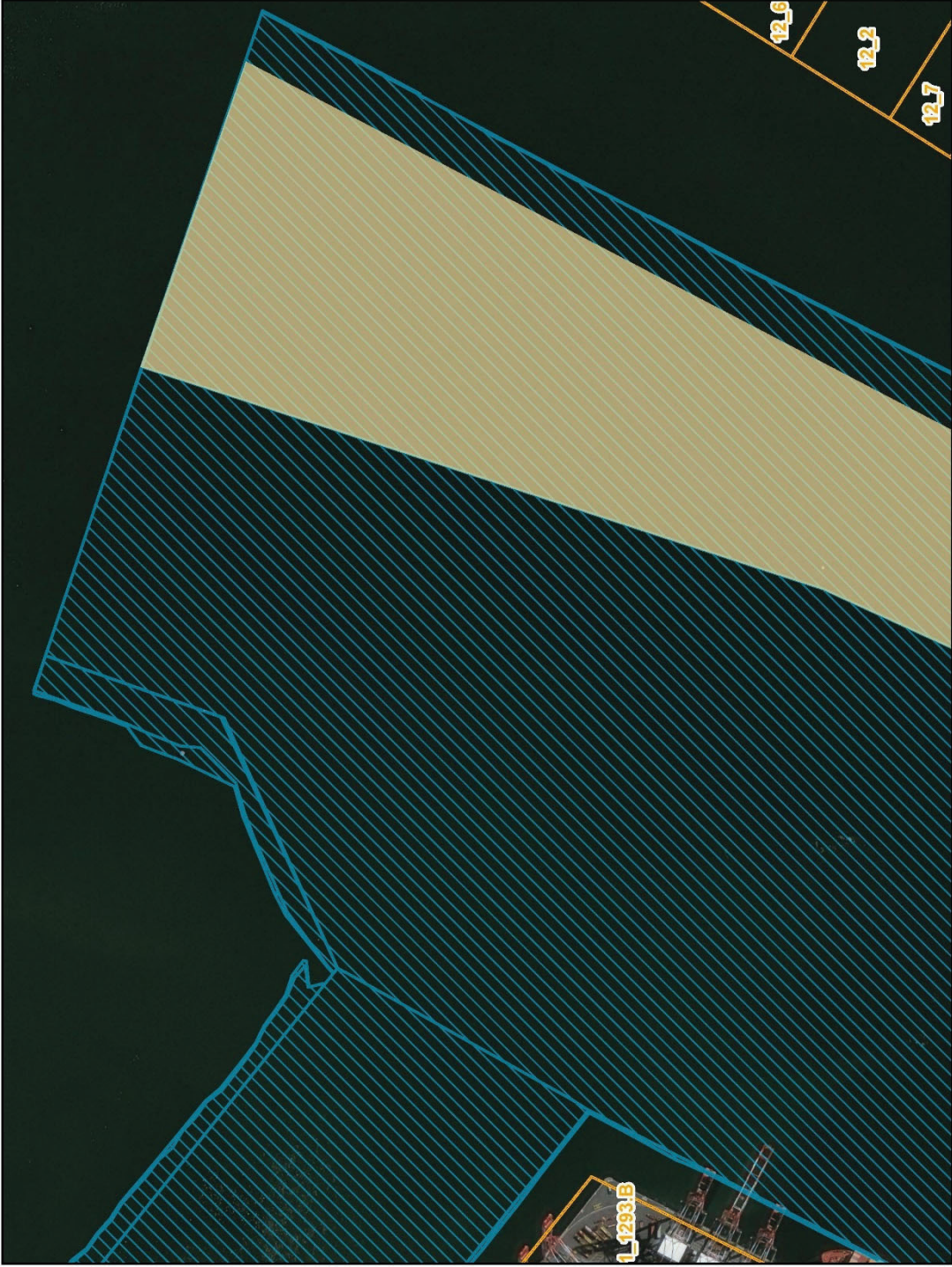


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NEW YORK DISTRICT









### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New Jersey Parcels (20200826)

Source:  
Original Background  
Edit: DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
U.S. User Community

Reference Map:  
Edit: HERE, DeLorme, Mapbox, Aerial, GeoEye, IGN,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
U.S. User Community

Coordinate System:  
NAD83-UTM Zone 18N

0 125 250 500 Feet  
1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

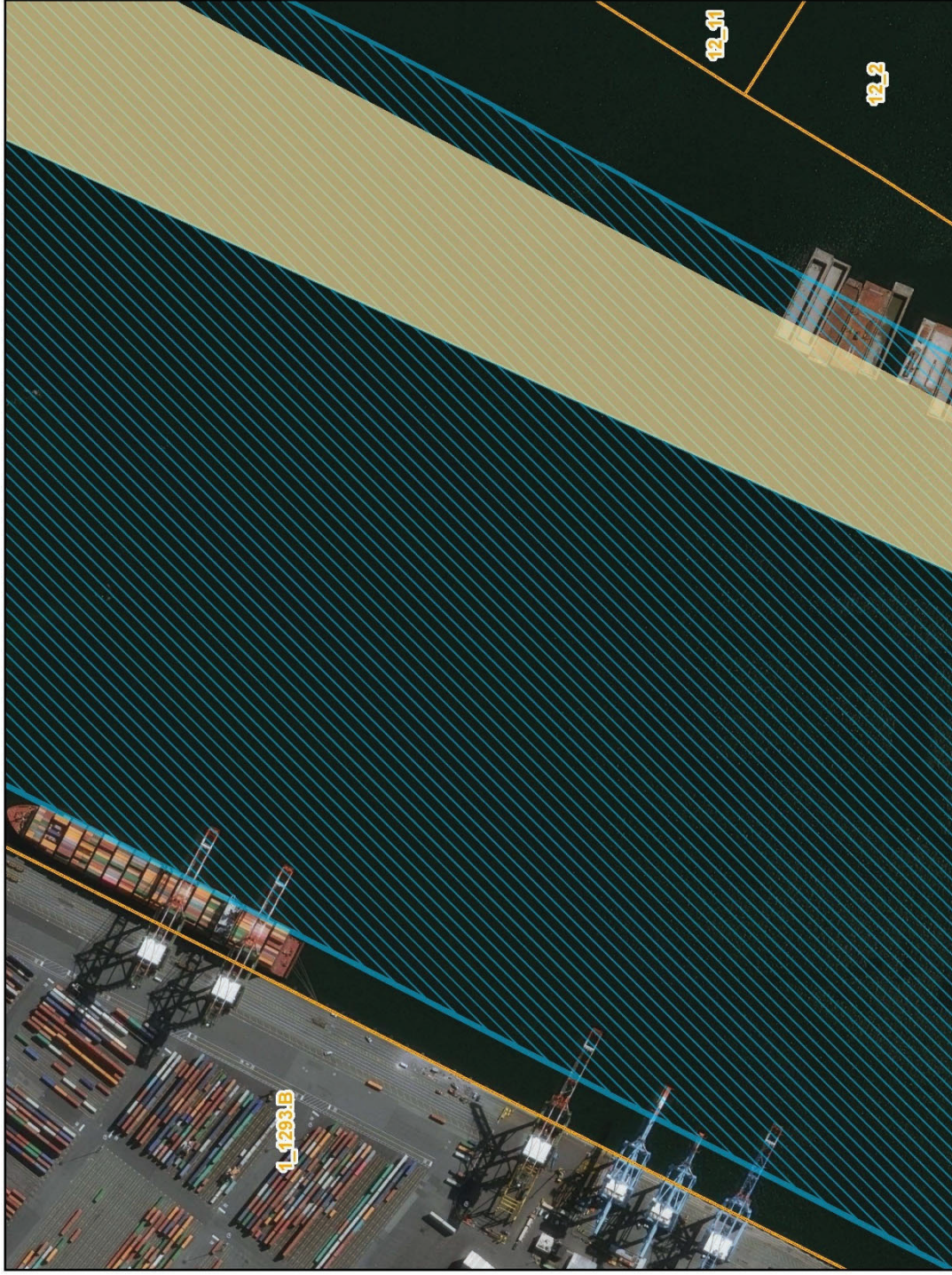
Page 4 of 33

Date: 11/4/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### **LEGEND**

- FINAL 5FT (Cuts & Widening)  
NavServe (20201028)  
Chimney easment  
Roadway easements  
New Jersey Parcels (20200826)

**Sources:**

**Imagery Background:**  
Esri, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN,  
and the GIS User Community

**Reference Map:**  
Esri, HERE, Garmin, USGS, Intermap, INCREMENT  
PAC, Esri Japan, METI, Esri China (Hong Kong),  
Esri Korea, Esri (Thailand), NOAA, Swisstopo, mapbox,  
and the GIS User Community

**Coordinate System:**  
NAD83UTM Zone 10N



1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## **Real Estate Index Map**

Page 5 of 33

Date: 11/4/2021



ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





















### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Sources:  
Ingenix Background  
ESRI, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
USGS User Community

Reference Map:  
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Hill, Swire, Bing, Mapbox, USGS, AeroGRID, IGN, and  
the USGS User Community

Coordinate System:  
NAD83, UTM Zone 18N

0 125 250 500 Feet  
1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 10 of 33 Date: 11/4/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Sources:  
Ingram Background  
ESRI DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
USGS User Community

Reference Map:  
ESRI, HERE, DeLorme, Mapbox, Aerial, GeoEye, P  
Hill, Swire, Bing, Mapbox, SRI, Esri, DeLorme, Geo  
Eye, (map data © OpenStreetMap contributors,  
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Coordinate System:  
NAD83, UTM Zone 18N



0 125 250 500 Feet

1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 11 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### **LEGEND**

- FINAL 5FT (Cuts & Widening)  
NavServe (20201028)  
Chimney easment  
Roadway easements  
New York City Parcels (20200826)

**Imagery Background:**  
 Esri, DigitalGlobe, GeoEye, Earthstar Geographics,  
 CNES/Airbus DS, USDA, USGS, AeroGRID, IGN,  
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**Reference Map:**  
 Esri, HERE, DeLorme, USGS, Intermap, iNGEN  
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 and the GIS User Community

**Coordinate System:**  
 NAD83UTM Zone 10N



A horizontal scale bar with tick marks at 0, 125, 250, and 500 feet. The word "Feet" is written at the right end of the bar.

1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## **Real Estate Index Map**

Page 12 of 33 Date: 11/4/2021

of 33

Date: 11/4/2021

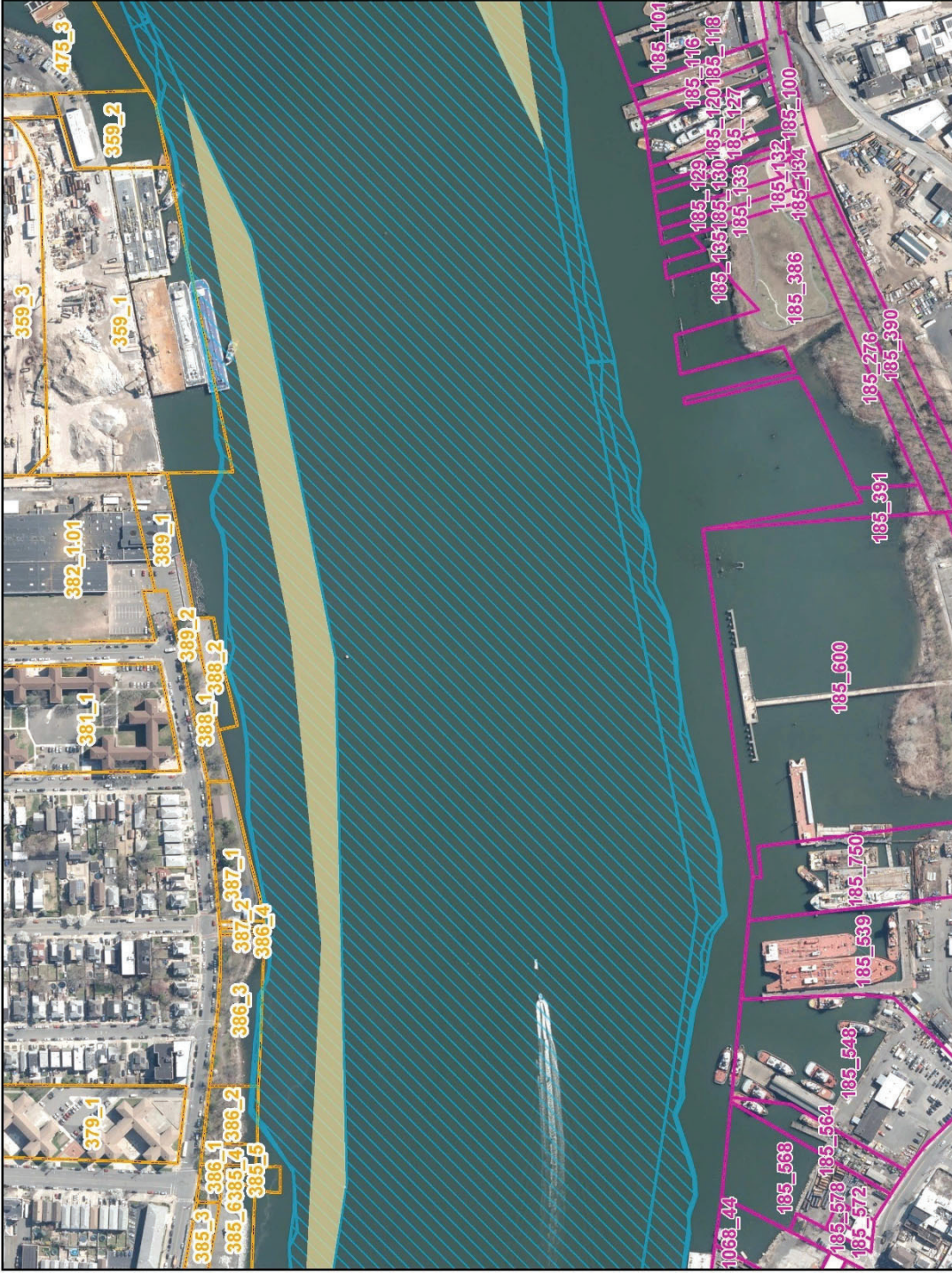


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NEW YORK DISTRICT









### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Source:  
Ingram Background  
ESRI DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Reference Map:  
ESRI, HERE, DeLorme, Mapbox, Aerial, Baidu, Swire, Microsoft, CNES, Airbus, GeoEye, AeroGRID, IGN, and the GIS User Community

Coordinate System:  
NAD83, UTM Zone 18N

1 inch = 250 ft

0 125 250 500 Feet

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 14 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Source:  
Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Reference Map:  
Esri, HERE, DeLorme, Mapbox, Aerial, Baidu, Bing, Google, Microsoft, Swire, UN, IGN, CNES, Airbus, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Coordinate System:  
NAD83, UTM Zone 18N

Scale:  
1 inch = 250 ft

0 125 250 500 Feet

NYNJ Harbor Development  
Channel Improvement

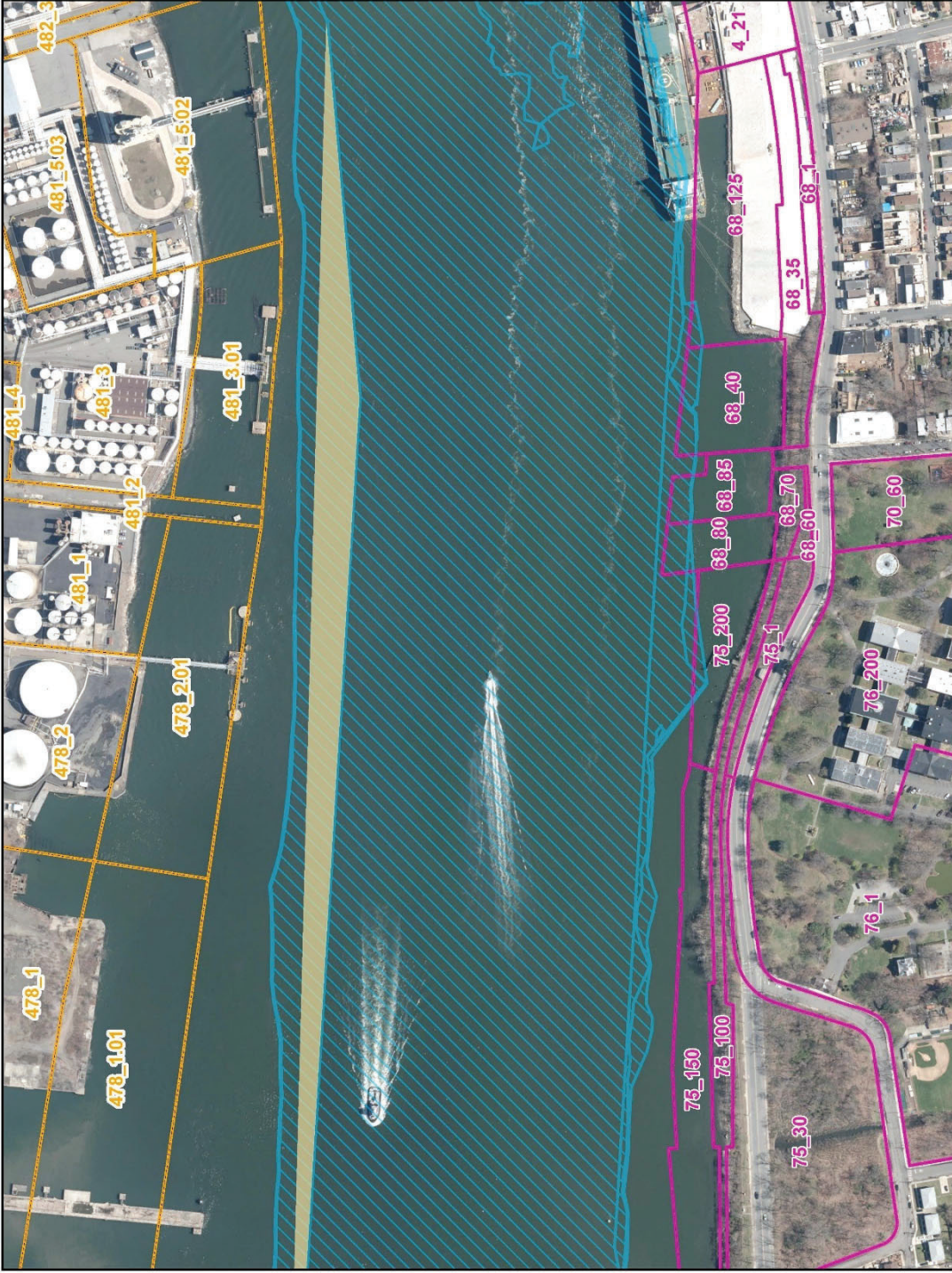
## Real Estate Index Map

Page 15 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Source:  
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ESRI DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Reference Map:  
ESRI, HERE, DeLorme, Intermap, increment P,  
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ESRI, HERE, DeLorme, Intermap, increment P,  
SwissTopo, USGS, AeroGRID, IGN, and the GIS User Community

Coordinate System:  
NAD83, UTM Zone 18N

0 125 250 500 Feet

1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 16 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (2021028)
- Chimney Proposed for Demolition
- KVK 305C (100' height)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

### Sources

Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR/Airphoto, IGN, DAAC, GeoEye, and the US User Community

### Reference Map

Esri, HERE, DeLorme, Mapbox, Aerial, GeoEye, IGN, CNR/Airphoto, IGN, DAAC, GeoEye, and the US User Community

### Coordinate System

NAD83, UTM Zone 18N

1 inch = 250 ft

0 125 250 500 Feet

1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 17 of 33

Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





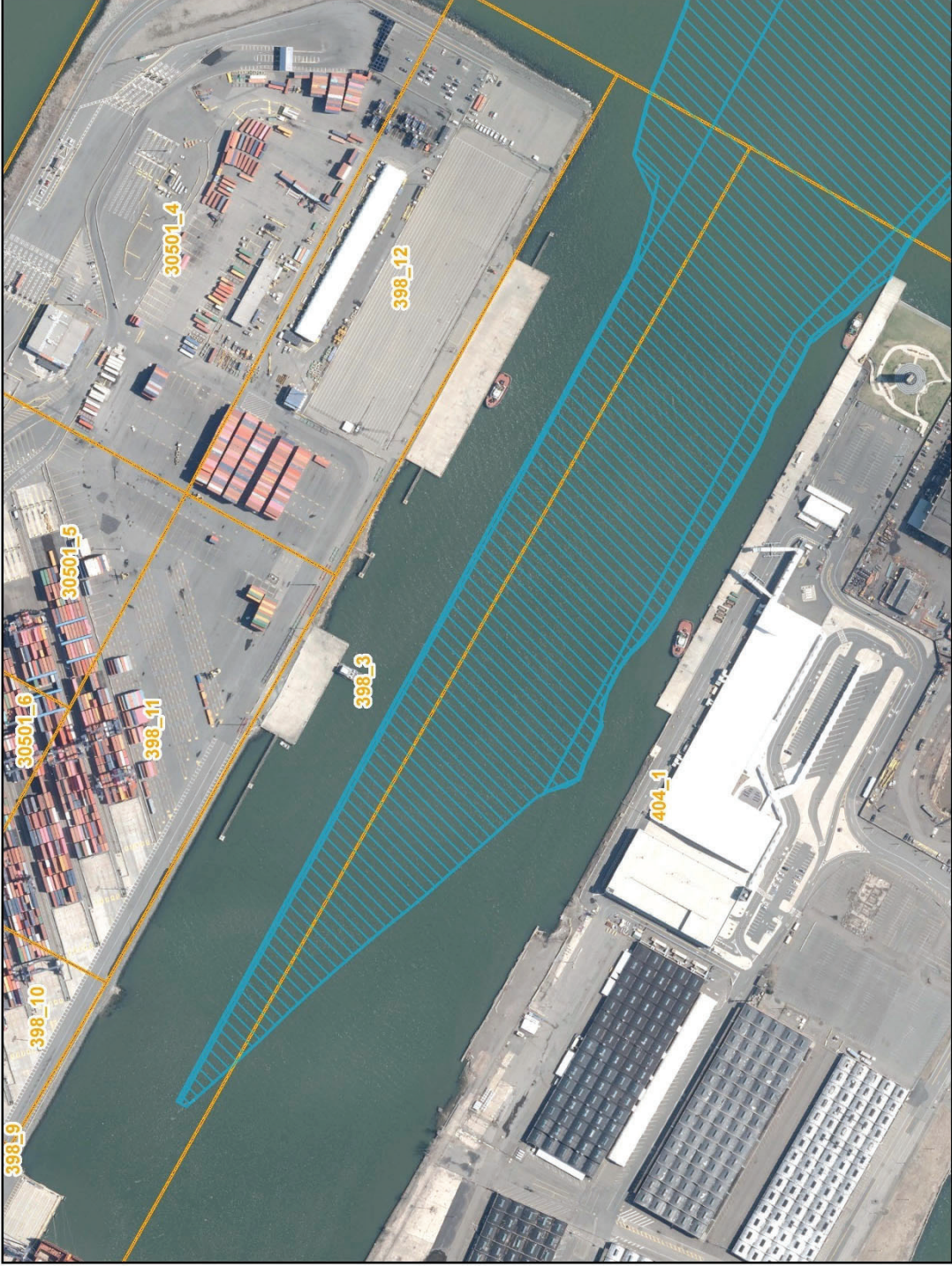












**LEGEND**

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- NavServe (20201028)
- Chimney easement
- Roadway easements
- New Jersey Parcels (20200826)

Source:  
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ESRI, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
USGS User Community

Reference Map:  
ESRI, HERE, DeLorme, Mapbox, Aerial, GeoEye, P  
Hill, Swire, Bing, Mapbox, USGS, AeroGRID, IGN,  
and the USGS User Community

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NAD83, UTM Zone 18N

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1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

**Real Estate  
Index Map**

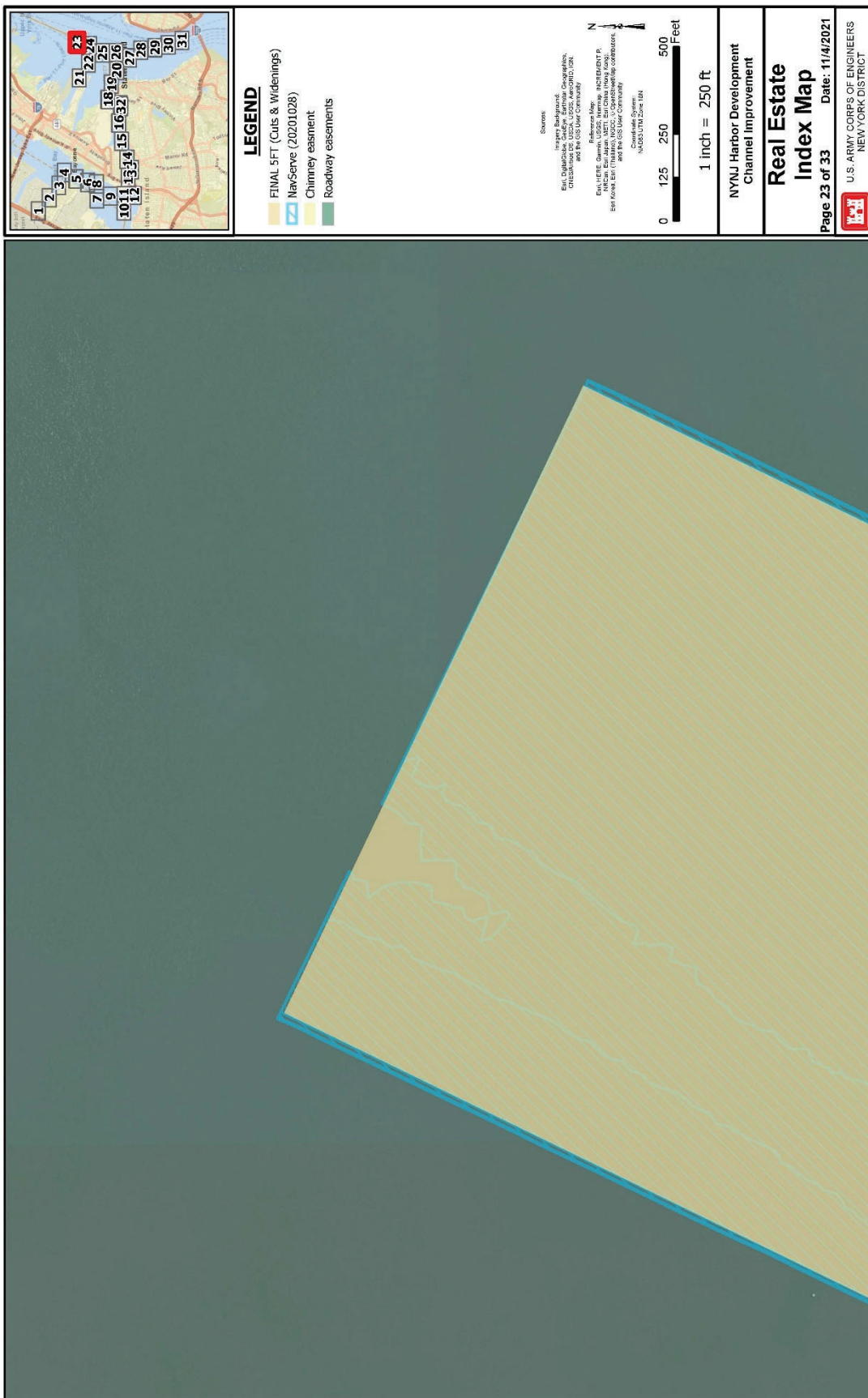
Page 21 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT















- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easment
- Roadway easements

**Reference Maps:**  
 ENVI, HERE, Garmin, USGS, Intermap, INCREMENT P,  
 NRCan, Esri Japan, METI, Esri China (Hong Kong),  
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 and the GIS User Community

**Coordinate System:**  
 NAD83 UTM Zone 18N

1 inch = 250 ft

## **Real Estate Index Map**

of 33

Date: 11/4/2021





## LEGEND

FINAL 5FT (Cuts & Widening)  
NavServe (20201028)  
Chimney easment  
Roadway easements

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**Imagery Background:**  
Earl, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, USGS, AeroGRID, IGN,  
and the GIS User Community

## Definieren von Bildung:

Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NOAA, OpenStreetMap contributors, and the GIS User Community

THE UNIVERSITY OF CHICAGO

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NAD83 UTM Zone 18N



1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 26 of 33 Date: 11/4/2021



ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT



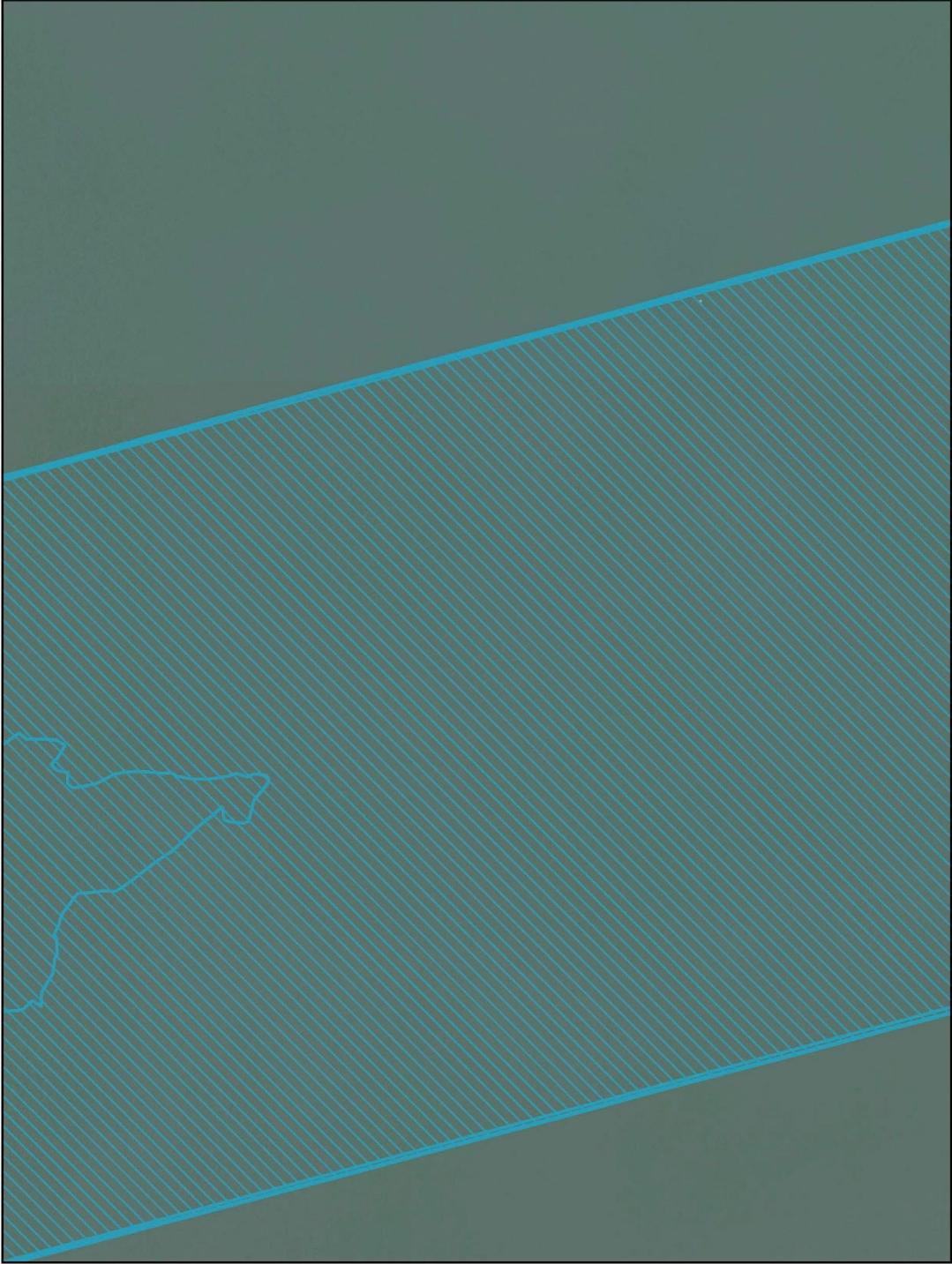


FINAL 5FT (Cuts & Widening)  
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Chimney easment  
Roadway easements

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## **Real Estate Index Map**

ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT



**LEGEND**

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements

Sources:  
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USGS User Community

Reference Map:  
ESRI, HERE, DeLorme, Mapbox, Aerial, IGN, HERE,  
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User Community

Coordinate System:  
NAD83 UTM Zone 18N

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1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

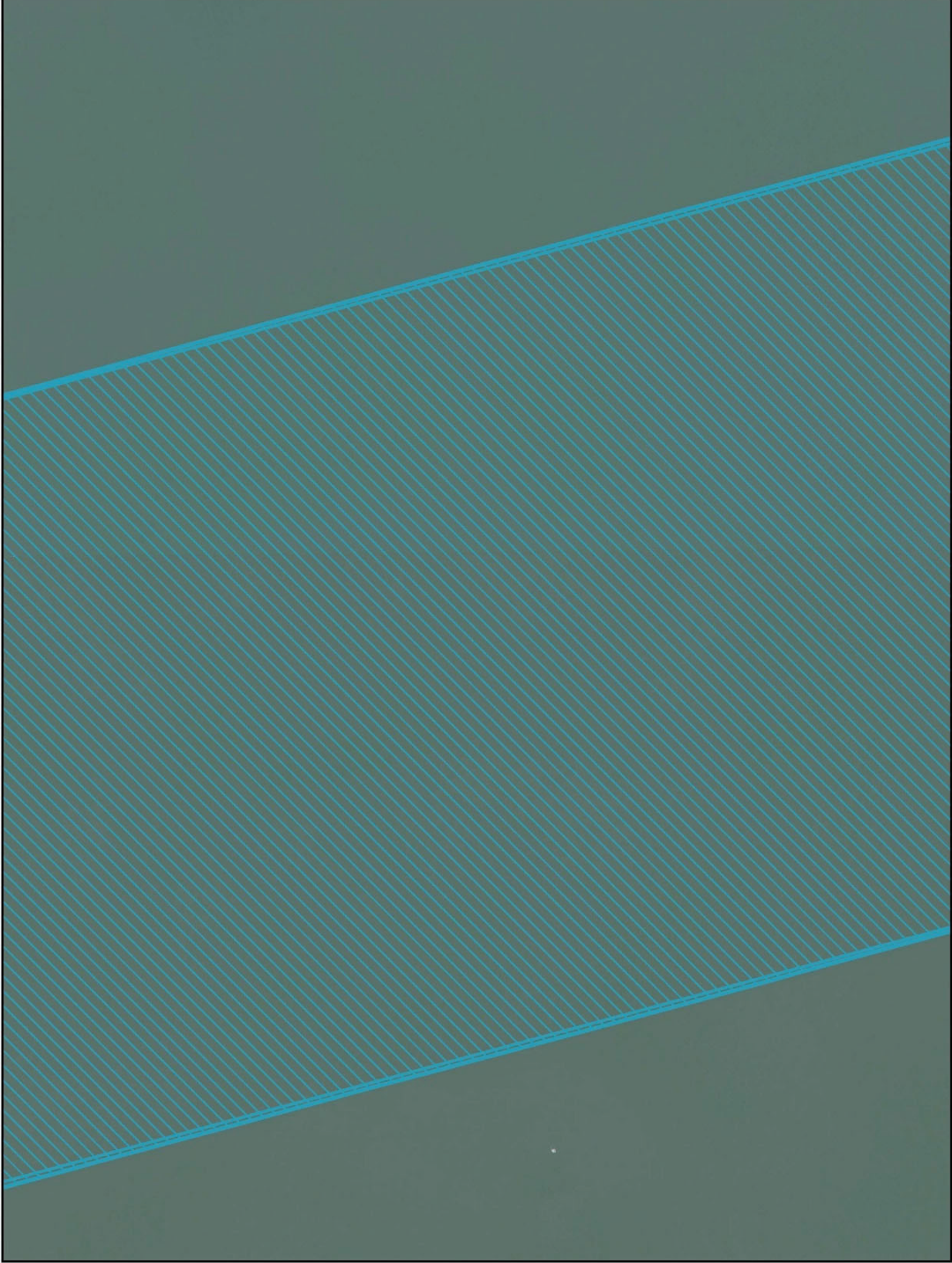
**Real Estate  
Index Map**

Page 28 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





**LEGEND**

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easment
- Roadway easements

Sources:  
Ingenix Background  
ESRI, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Reference Map:  
ESRI, HERE, DeLorme, Intermap, increment P,  
SwissTopo, USGS, AeroGRID, IGN, and the GIS User Community

ESRI World, ESRI (The National Geographic Society),  
USGS, AeroGRID, IGN, and the GIS User Community

Coordinate System:  
NAD83, UTM Zone 18N

0 125 250 500 Feet  
1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

**Real Estate  
Index Map**

Page 29 of 33 Date: 11/14/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT





**LEGEND**

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easement
- Roadway easements

Source:  
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Edit: DigitalGlobe, Google Earth, Esri, and the USGS User Community  
Data: 20201028

Reference Map:  
Edit: HERE, Google Earth, Esri, and the USGS User Community  
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Coordinate System:  
NAD83-UTM Zone 18N

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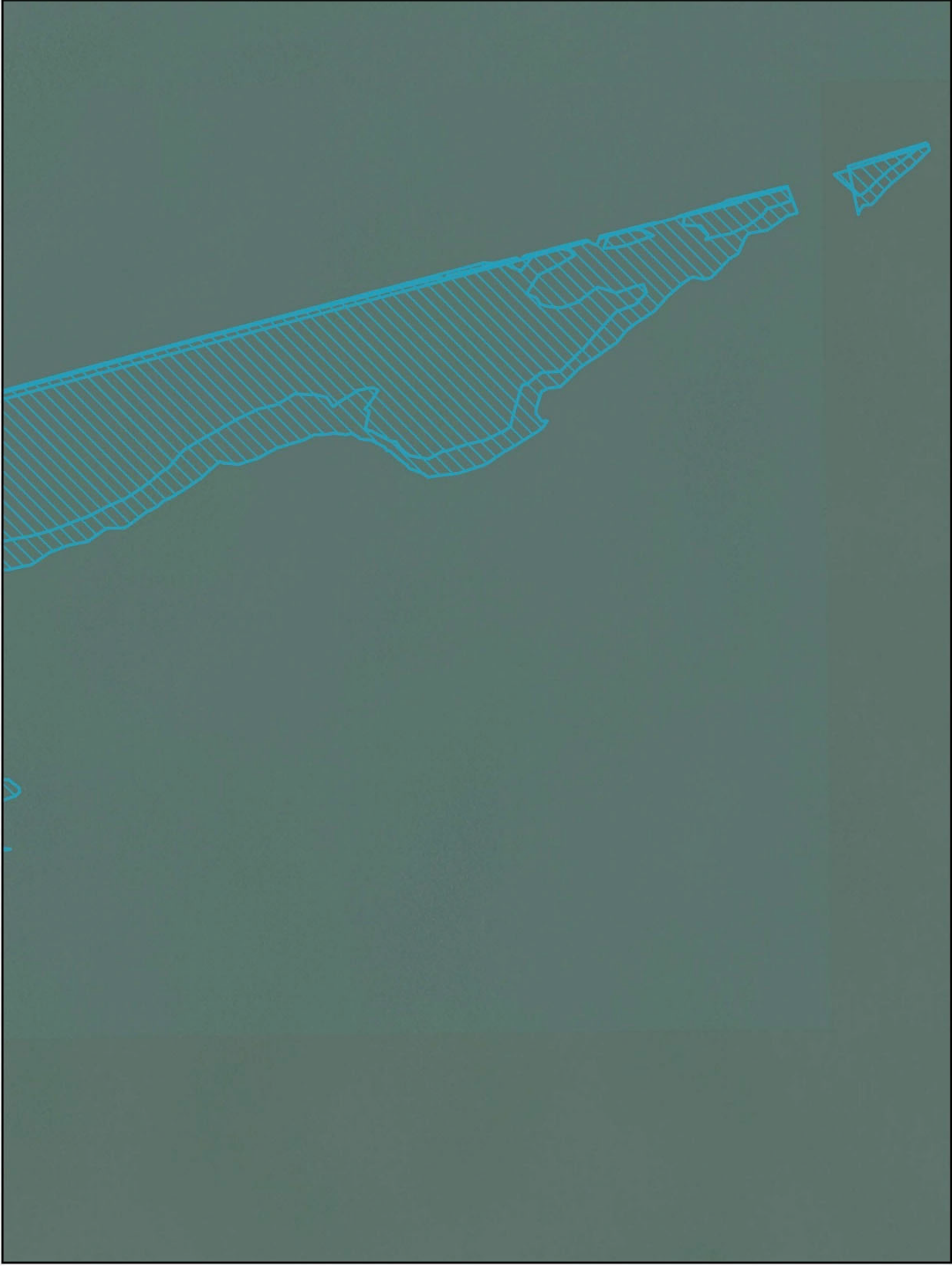
NYNJ Harbor Development  
Channel Improvement

**Real Estate  
Index Map**

Page 30 of 33 Date: 11/4/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT



### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney easment
- Roadway easements

Sources:  
Ingenix Background  
Esri, DigitalGlobe, GeoEye, Earthstar Geographics,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
USGS User Community

Reference Map:  
Esri, HERE, DeLorme, Mapbox, Aerial, GeoEye, IGN,  
CNES/Airbus DS, USDA, AeroGRID, IGN, and the  
USGS User Community

Coordinate System:  
NAD83 UTM Zone 18N

0 125 250 500 Feet  
1 inch = 250 ft

NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 31 of 33 Date: 11/4/2021



U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT

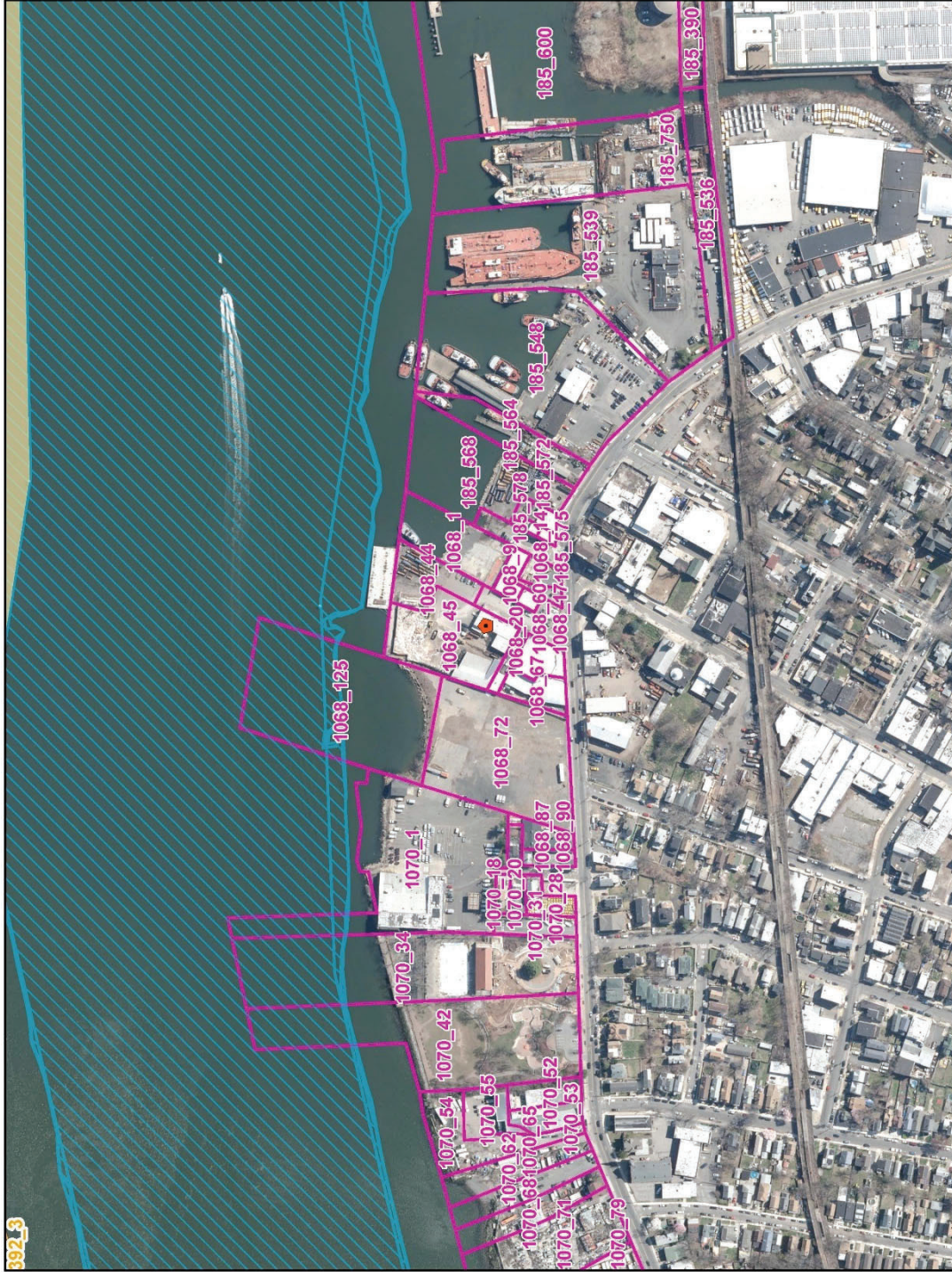












### LEGEND

- FINAL 5FT (Cuts & Widening)
- NavServe (20201028)
- Chimney Proposed for Demolition-KVK 306 (75' height)
- Chimney easement
- Roadway easements
- New York City Parcels (20200826)
- New Jersey Parcels (20200826)

Source:  
Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, AeroGRID, IGN, and the GIS User Community

Reference Map:  
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NYNJ Harbor Development  
Channel Improvement

## Real Estate Index Map

Page 33 of 33 Date: 11/14/2021

U.S. ARMY CORPS OF ENGINEERS  
NEW YORK DISTRICT







**EXHIBIT “B”**  
**REQUIRED LER**

## REQUIRED LER

Owner Name	Block	Lot	In Fee (AC)	Easements (AC)	Navigational Servitude (AC)	Grand Total (AC)
PORT AUTHORITY OF NY & NJ	1	1206.C			0.140	0.140
NYC DEPT. OF SMALL BUSINESS SERVICES	2	20			0.001	0.001
ANTOINE LUTFY	2	830			5.318	5.318
15 KILL VAN KULL, LLC	4	150			4.541	4.541
UNKNOWN C/O CITY OF BAYONNE	47	1			2.789	2.789
	47	3			0.001	0.001
MTA - STATEN ISLAND RAILWAY	68	40			0.415	0.415
MTA - STATEN ISLAND RAILWAY	68	80			0.399	0.399
NYC DEPARTMENT OF PARKS AND RECREATION	68	85			0.314	0.314
REGAL ESTATES LLC A	68	125		1.250	0.067	1.317
NYC DEPARTMENT OF PARKS AND RECREATION	75	200			0.128	0.128
CONSOLIDATED EDISON CO. OF N.Y., INC.	184	163			0.000	0.000
	310	1			1.499	1.499
	310	10			0.623	0.623
	310	11			1.181	1.181
STATE OF NEW JERSEY	332	1			1.594	1.594
STATE OF NEW JERSEY	332	2			0.357	0.357
TEXACO DOWNSTREAM PROPERTIES INC	332	3			0.330	0.330
DURAPORT REALTY ONE, LLC	359	1			0.267	0.267
LEHIGH MARINE, LLC	359	2			0.000	0.000
CITY OF BAYONNE	383	6			0.233	0.233
CITY OF BAYONNE	386	2	0.063			0.063
CITY OF BAYONNE	386	3	0.106			0.106
	390	RG67			0.009	0.009
PORT AUTHORITY OF NY & NJ	398	3			15.221	15.221
	404	1			40.868	40.868
	482	4.01			0.985	0.985
FERRY STREET ENTERPRISES	1068	45				0.000



Owner Name	Block	Lot	In Fee (AC)	Easements (AC)	Navigational Servitude (AC)	Grand Total (AC)
AMERCO REAL ESTATE COMPANY	1068	125			3.243	3.243
AMERCO REAL ESTATE COMPANY	1070	1			0.762	0.762
NYC DEPARTMENT OF PARKS AND RECREATION	1070	34			2.303	2.303
NYC DEPARTMENT OF PARKS AND RECREATION	1070	42			1.294	1.294
NYC DEPARTMENT OF PARKS AND RECREATION	1201	1			5.196	5.196
	CHANNEL				4005.684	4005.684
	Mitigation				1.59	1.59
<b>TOTAL</b>			<b>0.169</b>	<b>1.250</b>	<b>4097.35</b>	<b>4098.769</b>

**EXHIBIT “C”**  
**STANDARD ESTATES**



### **FEE (Standard Estate No. 1)**

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.

### **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.

### **ROAD EASEMENT (Standard Estate No. 11)**

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

## **RIGHT OF ENTRY FOR SURVEY AND EXPLORATION (Standard Estate No. 20)**

An assignable easement, in, on, over and across the land described in Exhibit "A" for a period of ( ) months beginning with the date possession of the land is granted to the United States, consisting of the right of the United States, its representative, agents, contractors and assigns to enter upon said land to survey, stake out, appraise, make borings; and conduct tests and other exploratory work necessary to the design of a public works project; together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles as required in connection with said work; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowner(s), their heirs, executors, administrators, successors and assigns, all such right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights and easement hereby acquired

The parenthetical clause maybe deleted, where necessary; however, the use of this reservation may substantially reduce the liability of the Government through reduction of severance damages and consideration of special benefits; therefore, its deletion should be fully justified.



**EXHIBIT “D”**

**BASELINE COST ESTIMATE FOR REAL ESTATE**

	BASELINE COST ESTIMATE FOR REAL ESTATE: New York New Jersey Harbor Deepening Channel Improvements Navigation Study (5-ft Cut)			
	COST CATEGORY	Non-Federal	Federal	Total Cost
	<b>TOTAL PROJECT REAL ESTATE COSTS</b>	<b>\$1,070,832,000</b>	<b>\$156,000</b>	<b>\$1,070,988,000</b>
	<b>COST SUMMARY:</b>			
	Incidental Costs (01A)	\$485,000	\$130,000	\$615,000
	Real Estate Acquisition Costs (01B)	\$10,250,000	\$0	\$10,250,000
	Subtotal:	\$10,735,000	\$130,000	\$10,865,000
	20% Contingency	\$97,000	\$26,000	\$123,000
01	<b>LANDS AND DAMAGES</b>	\$10,832,000	\$156,000	<b>\$10,988,000</b>
02	<b>RELOCATIONS (Facility/Utility)*</b>	\$1,035,000,000	\$0	<b>\$1,035,000,000</b>
	<b>COST BREAKDOWN:</b>			
01A	<b>INCIDENTAL COSTS</b>	<b>\$485,000</b>	<b>\$130,000</b>	<b>\$615,000</b>
01A1	<b>Acquisition (Admin Costs)</b>	<b>\$37,500</b>	<b>\$87,500</b>	<b>\$125,000</b>
01A1A	By Government (Gov't)		75,000	
01A1B	By Non-Federal Sponsor (NFS)			
01A1C	By Gov't on behalf of NFS	\$37,500		
01A1D	Review of NFS		\$12,500	
01A2	<b>Survey</b>	<b>\$15,000</b>	<b>\$3,750</b>	<b>\$18,750</b>
01A2A	By Gov't (In-house)			
01A2B	By Gov't (Contract)			
01A2C	By NFS	\$15,000		
01A2D	By Gov't on behalf of NFS			
01A2E	Review of NFS		\$3,750	



01A3	<b>Appraisal</b>		<b>\$12,500</b>	<b>\$10,000</b>	<b>\$22,500</b>
01A3A	By Gov't (In-house)				
01A3B	By Gov't (Contract)				
01A3C	By NFS		\$12,500		
01A3D	By Gov't on behalf of NFS				
01A3E	Review of NFS			\$10,000	
01A4	<b>Title Services</b>		<b>\$10,000</b>	<b>\$3,750</b>	<b>\$13,750</b>
01A4A	By Gov't (Contract)				
01A4B	By NFS		\$10,000		
01A4C	By Gov't on behalf of NFS				
01A4D	Review of NFS			\$3,750	
01A5	<b>Other Professional Services</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
01A5A	By the Gov't				
01A5B	By the NFS				
01A5C	By Gov't on behalf of NFS				
01A5D	Review of NFS			\$0	
01A6	<b>Closing Cost (4% of Land Payments-01C1)</b>		<b>\$410,000</b>	<b>\$0</b>	<b>\$410,000</b>
01A6A	By Gov't				
01A6B	By NFS		\$410,000		
01A6C	By Gov't on behalf of NFS				
01A5D	Review of NFS				
01A7	<b>PL 91-646 Assistance</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
01A7A	By Gov't				
01A7B	By NFS				
01A7C	By Gov't on behalf of NFS				
01A7D	Review of NFS				
01A8	<b>Audit</b>		<b>\$0</b>	<b>\$25,000</b>	<b>\$25,000</b>
01A8A	By Gov't			\$25,000	
01A9B	By NFS				

01B	REAL ESTATE ACQUISITION COSTS	\$10,250,000	\$0	\$10,250,000
01B1	<b>Land Payments</b>			
01B1A	By Gov't	\$10,250,000	\$0	\$10,250,000
01B1B	By NFS			
01B1C	By Gov't on behalf of NFS	\$10,250,000		
01B2	<b>Damage Payments</b>			
01B2A	By Gov't	\$0	\$0	\$0
01B2B	By NFS			
01B2C	By Gov't on behalf of NFS			
01B3	<b>PL 91-646 Payment</b>			
01B3A	By Gov't	\$0	\$0	\$0
01B3B	By NFS			
01B3C	By Gov't on behalf of NFS			
01B4	<b>Condemnation</b>			
01B4A	By Gov't	\$0	\$0	\$0
01B4B	By NFS			
01B4C	By Gov't on behalf of NFS			
01B4D	Review of NFS			
01B5	<b>Facility / Utility Relocations</b>			
01B5A	By Gov't	\$0	\$0	\$0
01B5B	By NFS			
01B5C	By Gov't on behalf of NFS			
01B5D	Review of NFS			
01B5	<b>Disposals</b>			
01B5A	By Gov't	\$0	\$0	\$0
01B5B	By NFS			
01B5C	By Gov't on behalf of NFS			

\* 26% contingency for utility relocations (\$269,100) not included;

\$1,035,000,000 represents the combined costs of both non-Federal Sponsor and utility owners. Non-Federal Sponsor is not expected to pay for more than one half of this amount.



**EXHIBIT “E”**

**NON-FEDERAL SPONSOR CAPABILITY ASSESSMENT CHECKLIST**

# ASSESSMENT OF NON-FEDERAL PARTNER'S REAL ESTATE ACQUISITION CAPABILITY

## NEW YORK NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENT STUDY

**NON-FEDERAL PARTNER:** Port Authority of New York & New Jersey ("Sponsor")

### **I. LEGAL AUTHORITY**

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

Yes, upland property and riparian rights, pursuant to

- In New Jersey, Port Authority NJ Statutes Title 32:1-35.31;
- In New York, McKinney's Consolidated Laws, Annotated, Unconsolidated Laws Sec 6674.

All property acquisition is subject to PA Board Authorization.

- b) Does the Sponsor have the power of eminent domain for this project?

Yes, depending on who owns the property. If property is owned by a municipality then consent of that municipality is required.

In New Jersey, the PA's use of eminent domain is covered by NJ Statutes Title 32:1-15. Please see Exhibit D in the attached GOETHALS BRIDGE REPLACEMENT PROJECT REAL ESTATE ACQUISITION MANAGEMENT PLAN Revision 7 Final: January 2015 for details on the PA's use of eminent domain in NJ.

In New York, the PA's use of eminent domain is covered by the state's Eminent Domain Procedure Law (EDPL), starting with Section 201. Please see Exhibit E in the attached GOETHALS BRIDGE REPLACEMENT PROJECT REAL ESTATE ACQUISITION MANAGEMENT PLAN Revision 7 Final: January 2015 for details on the PA's use of eminent domain in NY.

- c) Does the Sponsors have "quick-take" authority for this project?

Yes. In New Jersey, the taking can occur when the PA files a condemnation subject to just compensation. In New York, PA complies with Eminent Domain Procedure Law (EDPL). Please see attached PA acquisition summaries for details.

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

No



## ASSESSMENT OF NON-FEDERAL PARTNER'S REAL ESTATE ACQUISITION CAPABILITY

### NEW YORK NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENT STUDY

- e) Are any of the lands/interests in land required for the project owned by an entity whose property the Sponsor cannot condemn?  
For privately-owned property, no. Municipality-owned properties will require municipal consent. New York City-owned property will require the City's ULURP process. Property acquisition requires authorization by the Port Authority Board of Commissioners.

## 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?  
Training will not be necessary. PA Law will comply with all regulations in force at the time, in consultation with Army Corps counsel.
- b) If the answer to II.a is "yes," has a reasonable plan been developed to provide such training?
- c) Does the Sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?  
Yes. Port Authority has expert real estate attorneys as well as a dedicated Real Estate Department staffed by Real Estate Professionals.
- d) Are the Sponsors' projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?  
If needed, the PA can engage expert outside counsel to supplement in-house forces.
- e) Can the Sponsors obtain contractor support, if required in a timely fashion?  
Yes, including appraisers, relocation experts, etc as needed.
- f) Will the Sponsors likely request U.S. Army Corps of Engineers (USACE) assistance in acquiring real estate?  
Port Authority has the capacity to perform real estate acquisition, subject to PA Board Authorization, for all property it has the legal authority to do so. PA anticipates looking to US Army Corps to acquire property, such as federal property, that the PA does not have the authority to acquire.

## ASSESSMENT OF NON-FEDERAL PARTNER'S REAL ESTATE ACQUISITION CAPABILITY

### NEW YORK NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENT STUDY

#### III. OTHER PROJECT VARIABLES

- a) Will the Sponsor's staff be located within reasonable proximity to the project site?

Yes. The Sponsors' staff will be located within reasonable proximity to the project site.

- b) Has the Sponsor approved the project/real estate schedule/milestones?

Yes, subject to the overall project schedule being approved as well as any necessary PA Board Authorization.

<u>Milestone</u>	<u>Date</u>
PPA Execution	July 2024
Sponsor's Notice to Proceed with Acquisition	July 2024
Certification of Real Estate (no condemnation)	June 2027
Certification of Real Estate (with condemnation)	December 2027

#### IV. OVERALL ASSESSMENT

- a. Has the Sponsor performed satisfactorily on other USACE projects?

Yes.

- b. With regard to this project, the Sponsors are anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable. If the Sponsors are believed to be "insufficiently capable," provide explanation.

Yes, the Sponsors are fully capable.

The Sponsor is considered fully capable of performing or ensuring the performance of its real estate responsibilities in support of the project. They possess the professional capability to acquire the real estate and have sufficient general and



## ASSESSMENT OF NON-FEDERAL PARTNER'S REAL ESTATE ACQUISITION CAPABILITY

### NEW YORK NEW JERSEY HARBOR DEEPENING CHANNEL IMPROVEMENT STUDY

legal authority to do so. If necessary, they can obtain outside contracting services for further assistance with real estate acquisition.

#### **V. COORDINATION**

a. Has this assessment been coordinated with the Sponsor?

Yes.

b. Does the Sponsor concur with this assessment?

Yes.

*Patrick Thrasher*

10/16/2021

Patrick Thrasher  
Manager, Infrastructure Planning  
Port Department  
Port Authority of New York & New Jersey

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Veronica A. Hiriams  
Acting Chief, Real Estate  
New York District  
Real Estate Contracting Officer

**EXHIBITS REFERENCED IN THE ABOVE  
ASSESSMENT OF NON-FEDERAL PARTNER'S  
REAL ESTATE ACQUISITION CAPABILITY  
AVAILABLE UPON REQUEST**



**EXHIBIT “F”**

**LIST OF UTILITIES FOR RELOCATIONS**

## LIST OF UTILITIES FOR RELOCATIONS

Utility Name/Description	Length to be removed (LF)	Proposed Treatment	Coordinated & Verified w/Utility	Interest to Be Acquired (yes/no)	Estimated Cost
36" Cast Iron Water Pipe	2,257	Removal	No	TBD	See Cost Engineering Account 19
42" Cast Iron Water Pipe	2,614	Removal	No	TBD	See Cost Engineering Account 19
Utility 1 - 12" Gas Main	1,547	Removal	Yes	TBD	See Cost Engineering Account 19
Utility 2 - (1) Gas Pipeline in Atlantic Ocean	12,000	Relocation	Yes	N/A	\$200,000,000
Utility 2 - (1) Gas Pipeline in Verrazano Narrows	6,000	Relocation	Yes	N/A	\$200,000,000
Utility 3 - (2) Gas Pipelines 24" and (2) Oil Pipelines 20"	8,304	Relocation	Yes	N/A	\$138,000,000
Utility 4 - (2) 8.75" Steel Pipes encasing six Electric Cables	4,060	Relocation	Yes	N/A	\$280,000,000
Utility 5 - (3) Electric Power Lines, about 33,000' -long each	99,000	Relocation	Yes	N/A	\$180,000,000
Utility 6 - (1) One Conduit encasing two 10" Petroleum Pipelines	6,000	Relocation	Yes	N/A	\$37,000,000
<b>subtotal</b>					<b>\$1,035,000,000</b>
<b>Total Relocation / Removal Costs:</b>					<b>\$1,035,000,000</b>