

Draft Integrated Interim Response  
Feasibility Report and Environmental  
Assessment for Actionable Elements

**NEW YORK-NEW JERSEY  
HARBOR AND TRIBUTARIES  
COASTAL STORM RISK MANAGEMENT  
FEASIBILITY STUDY**

**APPENDIX E  
REAL ESTATE PLAN**  
July 2025

## Table of Contents

1	Statement of Purpose .....	3
1.1	Purpose .....	3
1.2	Study Authority.....	3
1.3	Non-Federal Sponsors .....	3
2	Real Estate Requirements .....	3
2.1	Harlem River Real Estate Requirements.....	3
2.2	East Riser Real Estate Requirements .....	4
2.3	Oakwood Beach Real Estate Requirements .....	4
3	Real Estate Owned by Non-Federal Sponsors.....	4
4	Nonstandard Estates.....	5
5	Existing Federal Projects .....	5
6	Federally Owned Land .....	5
7	Federal Navigational Servitude .....	5
8	Real Estate Mapping .....	5
9	Induced Flooding.....	6
10	Baseline Cost Estimate for Real Estate .....	6
11	Uniform Relocation Assistance .....	6
12	Minerals and Timber Activity.....	6
13	Non-Federal Capability Assessment .....	6
14	Land Use Zoning.....	7
15	Real Estate Acquisition Schedule .....	7
16	Facility and Utility Relocations.....	7
17	Environmental Contamination.....	8
18	Project Public Support .....	8
19	Non-Federal Sponsor Risk Notification .....	8
20	Other Pertinent Information.....	9
20.1	Limitations of Real Estate Analysis .....	9

# 1 STATEMENT OF PURPOSE

## 1.1 PURPOSE

This Real Estate Plan (“REP”) is prepared in accordance with ER 405-1-12, Chapter 12 and is intended to present the minimum lands, easements, rights-of-way, relocations, and disposals (“LERRD”) needed for the construction, operation, maintenance, repair, and rehabilitation of the three Actionable Element Sites: Harlem River (New York, NY), East Riser (Meadowlands, NJ), and Oakwood Beach (Staten Island, NY). It will provide an estimate of the Land, Easements, and Rights-of-Way (LER) values, cost to acquire the LER, and any other pertinent information related to the real estate acquisition process and schedule.

A previous REP, dated September 2022, was prepared for the comprehensive New York – New Jersey Harbor and Tributaries Coastal Storm Risk Management Project (NYNJHATS). This REP is only intended to cover the real estate requirements for the three Actionable Element Sites proposed for consideration under an interim response to the NYNJHATS, and for potential inclusion within the Water Resources Development Act (WRDA) 2026. This REP may rely on certain assumptions provided in the September 2022 REP.

This REP is Appendix E to the New York – New Jersey Harbor and Tributaries Coastal Storm Risk Management Draft Interim Integrated Feasibility Report and Environmental Assessment.

## 1.2 STUDY AUTHORITY

The Study authority is provided by Public Law 84-71, approved June 15, 1955, which calls for:

*“...an examination and survey to be made of the eastern and southern seaboard of the United States with respect to hurricanes, with particular reference to areas where severe damages have occurred... Such survey, to be made under the direction of the Chief of Engineers, shall include the securing of data on the behavior and frequency of hurricanes, and the determination of methods of forecasting their paths and improving warning services, and of possible means of preventing loss of human lives and damages to property, with due consideration of the economics of proposed breakwaters, seawalls, dikes, dams, and other structures, warning services, or other measures which might be required.”*

## 1.3 NON-FEDERAL SPONSORS

The USACE New York District is the lead Federal agency for this study, with the New Jersey Department of Environmental Protection (NJDEP) and New York State Department of Environmental Conservation (NYSDEC) acting as the non-Federal sponsors (NFS). Additionally, the New York State Department of State (NYSDOS) and the New York City Department of Environmental Protection, Bureau of Coastal Resiliency are Study partners.

# 2 REAL ESTATE REQUIREMENTS

The Actionable Element Sites include locations at Harlem River, East Riser, and Oakwood Beach. More information and detailed descriptions of each of these sites can be found in Section 1.7.2 of the Main Text.

## 2.1 HARLEM RIVER REAL ESTATE REQUIREMENTS

Two alignments are currently proposed for the Harlem River, the Seaward Alignment and the Landward Alignment. At this time, it is not known whether the Seaward or Landward Alignment will be selected as the constructible element for this site. As design maturity progresses and feedback is received from the public and stakeholders, the USACE New York District will determine which alignment will be selected for this site.

The Seaward Alignment consists of a channel-based floodwall. A minimum of 1.59 acres of acquisition, in the form of a Flood Protection Levee Easement, will be required for this alignment.

The Landward Alignment consists of a land-based floodwall and deployable flood barriers (vehicular gates). A minimum of 1.03 acres of acquisition, in the form of a Flood Protection Levee Easement and Temporary Work Area Easement, will be required for this alignment.

At this time, Geographic Information System (GIS) data, sufficient for real estate analysis purposes is not available. Acquisition of additional acreage and/or parcels may be required. Additionally, a real estate land value estimate has not been prepared. After sufficient GIS data is available, and prior to the development of a final REP, acreage requirements and a land value estimate will be provided.

Table 1: Minimum Real Estate Requirements for Harlem River by Alignment

Alignment:	Acres:	Parcels Impacted:
Seaward	1.59	5
Landward	1.03	3

2.2 EAST RISER REAL ESTATE REQUIREMENTS

The East Riser Actionable Element Site consists of channel modifications, culvert replacements, and replacement of a railroad bridge on the East Riser Ditch Channel.

At this time, GIS data, sufficient for real estate analysis purposes is not available. Acquisition of additional acreage and/or parcels may be required. Additionally, a real estate land value estimate has not been prepared. After sufficient GIS data is available, and prior to the development of a final REP, acreage requirements and a land value estimate will be provided.

2.3 OAKWOOD BEACH REAL ESTATE REQUIREMENTS

The Oakwood Beach Actionable Element site consists of a Nature-Based Solution (NBS) wetland enhancement that can help reduce risk of coastal storm flooding and wildfires within the Actionable Element Site. Wetland enhancement includes three primary components: removal of non-native invasive plants, creation of a vegetative mosaic with native plants and tidal channels, and dune restoration.

At this time, GIS data sufficient for real estate analysis purposes is not available. Acquisition of additional acreage may be required. Additionally, a real estate land value estimate has not been prepared. After sufficient GIS data is available, and prior to the development of a final REP draft, acreage requirements and a land value estimate will be provided.

3 REAL ESTATE OWNED BY NON-FEDERAL SPONSORS

At this time, any real estate needed for the Actionable Element Sites that may be owned by the NFS has not been identified. GIS data sufficient for this determination is not yet available. As design efforts progress, the USACE Project Development Team will produce the GIS data necessary to identify any real estate that may be owned by the NFS. This information will be provided in the final draft of this REP.

## **4 NONSTANDARD ESTATES**

At this time, it is unlikely that any Nonstandard Estates will be needed to support the implementation of the measures proposed for any of the Actionable Element Sites. As design efforts progress, the USACE Project Development Team will produce the GIS data necessary to identify the real estate requirements for these sites. After analyzing this data, a determination of the need for a nonstandard estate(s) will be made.

## **5 EXISTING FEDERAL PROJECTS**

There are a number of existing federal projects within the Study Area that are in close proximity to the Actionable Elements sites, including the New York and New Jersey Harbor Deepening Project and the South Shore of Staten Island Coastal Storm Risk Management Project. Further details regarding existing federal projects are available in section 7.4.6 of the Draft Feasibility Report.

At this time, because of a lack of sufficient GIS data, it is not known whether any of the Actionable Element Sites contain real estate requirements that may be part of or impacted by an existing Federal project. Once sufficient GIS data is available, and prior to the release of a final REP draft, an analysis to determine the Study's impact on existing Federal projects will be performed.

## **6 FEDERALLY OWNED LAND**

At this time, because of a lack of sufficient GIS data, it is not known whether any of the Actionable Element Sites contain LER requirements on land owned by the Federal Government. Tentative mapping shows that the Harlem River Alignments do not impact any federally owned land, but this determination cannot be made for the East Riser or Oakwood Beach sites. Once sufficient GIS data is available, mapping will be analyzed to determine whether the Study's LER requirements fall on Federally owned land.

## **7 FEDERAL NAVIGATIONAL SERVITUDE**

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. Generally, the Federal government does not acquire interests in real property that it already possesses or over which its use or control can be legally exercised. If navigational servitude is found to be applicable, then the Federal Government will generally exercise its right thereunder and, to the extent of such rights, will not acquire a real property interest in the land to which the navigational servitude applies.

At this time, because of a lack of sufficient GIS data, it is not known whether any of the Actionable Element Sites contain real estate that may fall under the purview of navigational servitude. It is anticipated that navigational servitude may be applicable for the Harlem River Seaward Alignment if it is selected as the constructible element. Once sufficient GIS data is available, an analysis to determine if the Study has the required navigation nexus to justify navigational servitude will be documented in a memo by the USACE New York District, Office of Counsel.

## **8 REAL ESTATE MAPPING**

At this time, real estate mapping is not available for the three Actionable Element Sites. Once sufficient GIS data has been provided by the USACE Project Development Team, real estate mapping will be developed. This mapping will be available as an exhibit to the final draft of this REP.

## **9 INDUCED FLOODING**

At this time, induced flooding is not anticipated as a result of implementation of the features in the three Actionable Elements Sites. If this changed and induced flooding is anticipated, a legal opinion from the USACE New York District, Office of Counsel would be conducted to address whether the projected flooding would rise to the level of a taking of an interest in real property. Additionally, if induced damages are determined as a result of the study, mitigation would be investigated and recommended, if appropriate. This analysis will occur prior to the final draft of this REP.

## **10 BASELINE COST ESTIMATE FOR REAL ESTATE**

At this time, a Baseline Cost Estimate for Real Estate is not available. After sufficient GIS mapping is provided, USACE New York District's Real Estate Division will provide cost estimates for the value of the LER, along with estimated incidental costs for acquisition. This information will be compiled and provided in a final draft of this REP.

However, for planning and cost estimating purposes, a placeholder value was assigned for the 01 Lands and Damages Account. This placeholder value, provided by New York District's Planning Division, assumes that 01 Account costs will be 10% of the Project's total construction costs. This placeholder value has not been reviewed or verified by a USACE Appraiser. Upon receipt of sufficient GIS data, a more detailed cost estimate will be performed. For further information on real estate cost assumptions, please reference the Cost Engineering Appendix, Appendix C.

## **11 UNIFORM RELOCATION ASSISTANCE**

Public Law 91-646, as amended, provides uniform equitable treatment of persons and businesses displaced by a Federal or Federally assisted project. Along with the PPA, it requires the non-Federal partner to provide assistance and certain benefits be paid to all persons and businesses that are displaced and must be relocated from their residence or place of business due to a Federally funded project. The cost incurred by the non-Federal partner to provide relocation assistance is part of its LERRD responsibilities.

At this time, it is not known whether any relocation assistance will be provided under Public Law 91-646 for displaced persons or businesses that may be affected by the Actionable Element Sites. Once sufficient GIS data is available, analysis will be performed to determine whether any residential or business relocations are anticipated as a result of the measures proposed at for the Actionable Element Sites.

## **12 MINERALS AND TIMBER ACTIVITY**

There are no known present or anticipated mineral extraction or timber harvesting activities within the LER required for implementation of measures proposed for the Actionable Element Sites. This will be confirmed upon receipt of sufficient GIS data and disclosed in the final draft of this REP.

## **13 NON-FEDERAL CAPABILITY ASSESSMENT**

The New York State, Department of Environmental Conservation (NYSDEC), as the NFS for a Federal Civil Works project, has the legal authority to acquire and hold title to real property for project purposes however the State intends to have a local sponsor to obtain the property amicably, and through condemnation as necessary. The State of New Jersey, Department of Environmental Conservation (NJDEP), as the NFS for a Federal Civil

Works project, has the legal authority to acquire and hold title to real property for project purposes under N.J.S.A. § 58:16A-5.

Both NFS maintain the professional capability for land acquisitions and can reasonably obtain contract services if needed. The NJDEP has successfully completed real estate acquisition for similar USACE civil works projects located at Elberon to Loch Arbor, Newark, Green Brook, and Port Monmouth, among others. Similarly, the NYSDEC has successfully completed real estate acquisition for similar USACE civil works projects. The NYSDEC has acquired or overseen the real estate acquisition for the Atlantic Coast of New York City Rockaway Inlet to Norton Point (Sea Gate) Shore Protection Project; the Atlantic Coast of New York, Jones Inlet to East Rockaway Inlet, Long Beach Island, New York, Storm Damage Reduction Project; and the Fire Island Inlet to Moriches Inlet Project.

The NFS are aware of Public Law 91-646 requirements as well as the requirement to document all LERRD expenses for its claim of credit. The sponsors are highly capable of performing or ensuring the performance of its LERRD responsibilities.

## 14 LAND USE ZONING

No application or enactment of local zoning ordinances is anticipated in lieu of, or to facilitate, the acquisition of the Tentatively Selected Plan's required real estate.

## 15 REAL ESTATE ACQUISITION SCHEDULE

The NFS, Project Manager, and Real Estate Technical Lead will formulate the milestone schedule upon project approval to meet dates for advertisement and award of the construction contract. Table 3, provided below, demonstrates an estimated acquisition milestone schedule for the TSP. This schedule is preliminary in nature and is subject to change through further project formulation.

*Table 3: Schedule of Acquisition Milestones*

Milestone	Forecasted Dates
PPA Execution	January 1, 2029
Notice to Proceed (NTP) with Acquisition to Sponsor	2 weeks after execution of PPA
Sponsor's Authorization for Entry for Construction	2 years after NTP
USACE's Certification of Real Estate	2 weeks after Authorization for Entry
USACE's Solicitation for Construction Contracts	1 week after Certification of Real Estate

## 16 FACILITY AND UTILITY RELOCATIONS

The NFS is required to relocate affected facilities and utilities necessary for the construction, operation, and maintenance of the Project. A relocation may take the form of an alteration, lowering, raising, or replacement (and attendant removal) of the affected facility/utility or part thereof. The cost to relocate a facility or utility is captured in the project's 02-Relocations cost account and is included as part of the sponsor's LERRD responsibilities.

At this stage, it is anticipated that facilities and/or utilities relocations will be required for the Harlem River Actionable Elements site. The estimated cost of these relocations is \$60,009,000. Please reference the Cost Engineering Appendix, Appendix C, for further details.

Any impacts of this on the real estate acquisition process are unknown at this time. As design efforts progress, the study team will identify any facility and utility relocations and identify any impacts on the real estate acquisition process. This will occur prior to completion of the final draft of this REP.

## **17 ENVIRONMENTAL CONTAMINATION**

The NYNJHATS regions are predominantly urban and have histories of anthropogenic activities typical of the New York Metropolitan Area. Accordingly, there exist many sites with either documented or potential contamination in the region, with some of these sites collocated or in the nearby vicinity of certain proposed measures of the NYNJHATS. Hazardous, Toxic, and Radioactive Waste (HTRW) sites identify the locations of potential contamination that may adversely impact human health and the environment. The NYNJHATS General Study Area Planning Regions are located within the New York City Metropolitan Area, where many Federal and state listed known contaminated sites, and other related sites of interest, are prevalent throughout.

Engineer Regulation 1165-2-132 states that HTRW collocated within the alternative footprints must be avoided where feasible, and where they cannot be avoided, those sites must be remediated at 100% non-Federal cost prior to construction.

At this time, the impact of environmental contamination on the real estate acquisition process is not known. This topic will be discussed in greater detail in the final draft of this REP.

## **18 PROJECT PUBLIC SUPPORT**

At this time, public support for the Actionable Element Sites has not been determined. USACE New York District plans to hold three public information sessions and six public meetings throughout the 30-day public comment period. At these meetings, USACE will gather comments and feedback, in order to determine the level of support displayed by the public. Any information received from stakeholders, neighborhood organizations, business groups, or other entities or persons in the area will be discussed in a final draft of this REP.

## **19 NON-FEDERAL SPONSOR RISK NOTIFICATION**

During instances when the NFS chooses to acquire real estate before the full execution of the PPA and before receiving the NTP letter from USACE New York District, they will assume full and sole responsibility for any and all costs and/or liabilities arising out of their acquisition effort. Generally, the risks include, but may not be limited to, the following:

1. Congress may not appropriate funds to construct the Tentatively Selected Plan;
2. The Tentatively Selected Plan may otherwise not be funded or approved for construction;
3. A PPA mutually agreeable to the Sponsor and the Federal Government may not be executed and implemented;
4. The Sponsor may incur liabilities and expenses 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 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended;

5. The Sponsor may acquire interests or estates that are later determined by the Federal Government to be inappropriate, insufficient, or otherwise not required for the Tentatively Selected Plan;

6. The Sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under PL 91646. This may also result in the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Federal Government's notice to commence acquisition; and

7. The Sponsor may incur costs or expenses in connection with its decision to acquire LER in advance of the executed PPA and issuance of the NTP letter which may not be creditable under the provisions of WRDA 86 or the PPA.

Prior to PPA execution, 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.

## **20 OTHER PERTINENT INFORMATION**

### **20.1 LIMITATIONS OF REAL ESTATE ANALYSIS**

This REP presents a preliminary assessment of potential real estate requirements associated with the NYNJHATS Actionable Element Sites. The analysis contained is constrained by a lack of sufficient GIS data. Consequently, much of the analysis provided in this REP should be treated as tentative and subject to substantial alteration. Limitations include, but are not limited to, the following:

- Accurate identification of parcels potentially affected by the Study.
- Accurate identification of ownership of affected parcels.
- Accurate assessment of any existing and/or needed real property interests (e.g., fee simple, easements, leases, rights-of-way).
- Inability to develop reliable preliminary cost estimates for land acquisition, relocation assistance, or incidental acquisition costs.
- Inability to develop comprehensive real estate mapping information.

Upon receipt of sufficient GIS data, USACE New York District Real Estate will perform further analysis to sufficiently address these issues.