

04

U.S. Army Corps of Engineers  
Baltimore District

---

# **NEW JERSEY BACK BAYS COASTAL STORM RISK MANAGEMENT PROJECT**

## **APPENDIX H DRAFT REAL ESTATE PLAN**

**NOVEMBER 2024**

# NEW JERSEY BACK BAYS COASTAL STORM RISK MANAGEMENT PROJECT

## NOVEMBER 2024 DRAFT REAL ESTATE PLAN

### Contents

1. Statement of Purpose .....	1
2. Real Estate Requirements .....	1
3. Real Estate Owned by the Non-Federal Sponsor .....	7
4. Non-Standard Estates .....	7
5. Existing Federal Projects .....	7
6. Federally Owned Land .....	7
7. Federal Navigation Servitude .....	7
8. Real Estate Mapping .....	8
9. Induced Flooding .....	8
10. Baseline Cost Estimate for Real Estate .....	8
11. Uniform Relocation Assistance (Public Law 91-646) .....	8
12. Minerals and Timber Activity .....	11
13. Non-Federal Sponsor Capability Assessment .....	12
14. Land Use Zoning .....	12
15. Real Estate Acquisition Schedule .....	12
16. Facility and Utility Relocations .....	14
17. Environmental Contamination .....	14
18. Project Public Support .....	15
19. Non-Federal Sponsor Risk Notification .....	15
20. Other Pertinent Information .....	15

### Exhibits

Exhibit A - NBS Measures – Aerial Photos (Borrow and Placement) .....	18
Exhibit B - Non-Federal Sponsor Capability Assessment Form .....	28

## **1. Statement of Purpose**

a. Purpose – This draft Real Estate Plan is provided in support of and as an appendix to the New Jersey Back Bays Coastal Storm Risk Management (CSRM) Supplemental Draft Integrated Feasibility Study and Environmental Impact Statement. It is tentative in nature and is for planning purposes only. It is intended to match the level of detail in the draft main report. All potentially affected parcels, planning value estimates of cost and value, rights required for project construction, and operation and maintenance requirements are subject to change even after approval of this draft Real Estate Plan.

b. Study Authorization – The New Jersey Back Bays (NJBB) Coastal Storm Risk Management Project, authorized by the New Jersey Shore Protection Authority (December 1987), is intended to recommend strategies to decrease storm damage from coastal storm events. The Atlantic Coast of New Jersey is protected by a series of Federal CSRM projects that consist of dunes, berms, and seawalls that reduce damage to limited sections of barrier islands along the coastline but provide no protection along the back bay side of the same barrier islands or adjacent mainland shorelines. The purpose of this study is to identify, evaluate, and recommend appropriate, coordinated, and implementable measures to address the identified water resource problems and opportunities. See Main Report Section 1.3 Study Authority for the specific authorization language.

c. Non-Federal Sponsor – The Non-Federal sponsor (NFS) for the study is the New Jersey Department of Environmental Protection (NJDEP). NJDEP will also serve as the non-Federal sponsor for the design and implementation phase of the Tentatively Selected Plan (TSP). The NFS will acquire and retain real estate responsibilities for the project. See Exhibit A, Assessment of Non-Federal Sponsor Acquisition Capabilities, for additional information. Construction will be cost shared at a 65% (Federal) and 35% (non-Federal).

## **2. Real Estate Requirements**

This Real Estate Plan has been formulated using the 22 July 2024 CECW Guidance for Nonstructural Project Planning and Implementation (NS Guidance). At the time of this report, the guidance only covers residential elevations with commercial floodproofing guidance still in progress. For the purposes of this report, similar process and documentation requirements will be used for both residential elevations and commercial floodproofing project activities.

a. Tentatively Selected Plan (TSP) – The entirely non-structural plan for the study area is the combined plan of:

(1) The elevation of 6,421 residential structures with the 20% AEP (5-year) floodplain to the 1% base elevation in 2080 accounting for the intermediate rates of sea level rise 1 (A) (Figure 1);

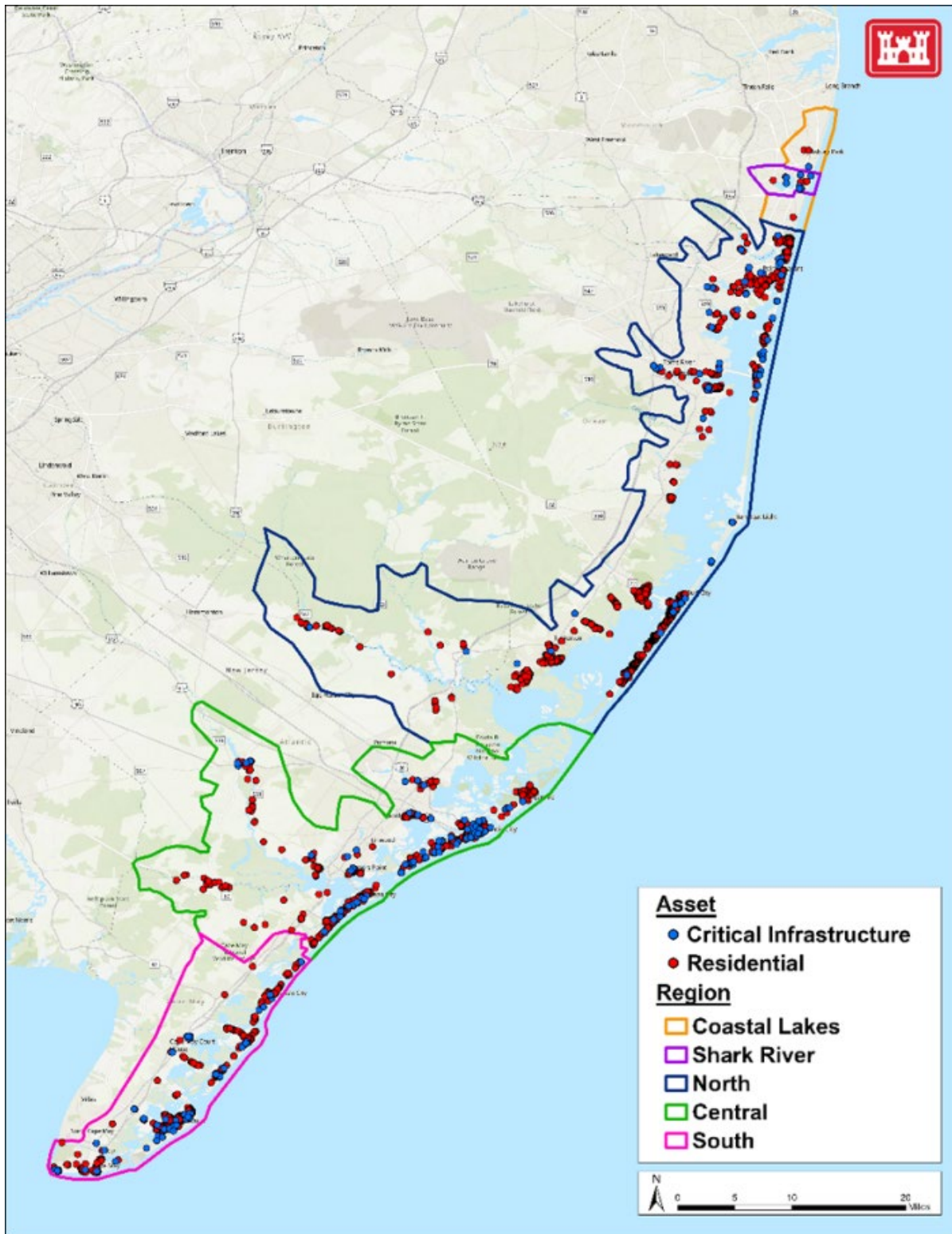
(2) The dry floodproofing of ~279 Critical Infrastructure elements (Police, Fire, Ambulance, Hospital, Pharmacy) 1 (CI) up to +3 feet above existing ground elevation (Figure 1); and

(3) The use of dredged material to enact Nature Based Solutions (NBS) by restoring approximately 7 degraded salt marsh habitats with dredged material in the back bay area 1 (H). The NBS plan consists of augmenting sediment supply to 7 strategic and future degraded saltmarshes. Sources of material for marsh augmentation include the beneficial use of dredged shoals from traditional channel maintenance dredging and the removal of material from existing Dredged Material Placement Facilities (DMPFs). See Exhibit A for arials of proposed NBS placement areas and borrow area DMPFs.

Due to large project area, residential elevations and dry floodproofing will take place in phases/by municipalities, the order of which will be determined after project authorization during the Pre-Construction Engineering and Design (PED) Phase with further detailed investigation not possible during the feasibility stage due to time and expense constraints. All participation in the residential elevations or commercial floodproofing is voluntary, but a 100% participation rate will be used for project planning report purposes.

{This space intentionally left blank.}

Figure 1: Potential Elevations/Floodproofing Structures Array



b. Required Lands, Easements, and Rights-of-Way –

(1) The LER required for residential elevations and critical infrastructure dry floodproofing is broken out in Table 1 below.

**Table 1 – LER Requirements (Elevations and Floodproofing)**

	Residential Elevations	Commercial/Industrial
ROEs	12,842	558
TWAEs	642	28
Perpetual Elevation Easement	6,421	-
Perpetual Floodproofing Easement	-	279
Application	6,421	279
Participation Agreement	6,421	279

i. Rights-of-Entry (ROE): All properties require inspections for suitability for project participation. Although there is a standard Temporary Easement for Exploration, the use of Rights-of-Entry not conferring a real property interest is anticipated for the inspection of properties for eligibility.

ii. Temporary Work Area Easements (TWAEs): A standard Temporary Work Area Easement (Standard Estate No. 15) will be used for anticipated laydown and storage areas located proximate to elevations and floodproofing activities.

iii. Perpetual Restrictive Easement for Residential Elevations (Perpetual Elevation Easement): A standard Perpetual Restrictive Easement for Residential (Elevation/Basement In-Fills) is provided for use in the NS Guidance. This easement will only cover the lands occupied by the structure to be raised (not the entire parcel) and a perpetual right of ingress and egress over and across other portions of the property for Operation & Maintenance (O&M) activities including inspection and monitoring once construction is complete. A perpetual easement is required to protect the project measures and the maintain the project benefits for as long as the project is authorized or as long as the structure exists.

iv. Perpetual Floodproofing Easement: At this time, guidance for conducting commercial floodproofing activities is still in progress. Any guidance issued is anticipated to include a standard estate for floodproofing activities. If no such guidance is completed before project construction authorization, a nonstandard estate will be required. If a nonstandard estate is required, the required nonstandard estate approval process will be followed.

v. Application: An application is required for all participants in residential elevations. Although an approved application is not included in the NS Guidance, it does provide all required information to be provided by the applicant for review. For the purposes of this report, it is assumed that commercial dry floodproofing activities will also require some form of application outlining requirements.

vi. Participation Agreement: A participation agreement is required for all participants in residential elevations. It details the responsibilities of both the NFS and the Owner for both before and after construction is complete. The NS Guidance provides a Model Participation Agreement for Non-structural Projects. For the purposes of this report, it is assumed that commercial dry floodproofing activities will also require some form of participation agreement outlining responsibilities and requirements.

(2) As a late addition to the TSP, a full review of all possible required LER for the NBS plan segment could not be completed in the time required for production of this draft REP. Additional NBS study is anticipated for the Recommended Plan. Based on the available information, NBS 1(H) entails the environmental restoration of salt marshes (augmentation of sedimentation and restoration of the marshes) and dredged material obtained from either ongoing regular maintenance dredging supplemented using dredged material from existing proximate DMPFs. There are currently no anticipated TWAEs for the NBS plan. Note: The main report states that there is no operation or maintenance associated with the NBS. However, there will be periodic sediment placement, and a monitoring and adaptive management plan covering at least the 50-year study period. Since access is required for ongoing monitoring and additional dredged material placement, standard project LERRD requirements are included.

i. Standard Estate No. 1 Fee: The estate required for all environmental restoration actions is Fee. If the wetlands in question are not considered submerged or otherwise owned or controlled by the NFS, a fee acquisition is required for initial construction and operation and maintenance of the wetlands.

ii. Standard Estate No. 14 Borrow Easement: The removal of material from dredged material sites not already owned or controlled by the NFS requires a perpetual Borrow Easement, permitting the excavation and removal of soil, dirt, and other materials.

(3) Land Value Estimate – Real property acquisition for non-structural projects that meet all of the conditions in 49 CFR § 24.101(b)1 do not fall within the procedural requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC §§ 4601, et seq.). The three conditions in that regulation include: (i) The property will not be acquired by eminent domain if voluntary negotiations are unsuccessful, and the following conditions are met: (A) The agency will not acquire the property if negotiations fail to result in an amicable agreement; and (B) The agency's estimate of fair market value for the property to be acquired, (ii) Where an agency wishes to purchase more than one property within a general geographic area on this basis, all owners are to be treated similarly, and (iii) the property is not part of a group of properties where all (or substantially all) must be acquired within a specific timeframe.

The NS Guidance requires a recorded easement for non-structural plan implementation. It has further indicated that, as a condition of participation in this

voluntary program, property owners will not be provided compensation for that easement. While property owners are generally entitled to know, in writing, the value of the easement they provide and impact to their property value under the Uniform Act, the NS Guidance states that the property owner must waive their right to be informed of the market value of the restrictive easement to participate in the program as a condition of voluntary participation. Therefore, no appraisals or other valuations are required for the Perpetual Elevation Easements.

Also, at this time, it is currently unknown whether or not the NFS is statutorily required by state law to pay just compensation for lands under voluntary programs. The issue is under investigation by the NFS. While, in general, this payment would not be creditable to the NFS because it is a State requirement and not a Federal requirement, USACE is reviewing the possible impacts this might have on NFS project participation and future changes to the crediting guidelines if such a payment is required under State law.

Temporary Work Area Easements (Laydown and Materials/Equipment Storage): In accordance with USACE Real Estate Policy Guidance Letter No. 31, CEMP-CR, 11 Jan 2019, subject: Real Estate Policy Guidance Letter No. 31-Real Estate Support to Civil Works Planning (hereinafter referred to as “PGL 31”), a preliminary land value/cost estimate was completed for the TSP since the value of real estate (land, improvements, and severance damages) was not expected to exceed fifteen percent (15%) of the total TSP project cost. The cost estimate (referred to in this report as a Planning Value Estimate (PVE)) represents a preliminary estimate of the fair market value for the real estate required for the TSP. It also serves to identify the estimated compensation amount paid to landowners for the purchase of the required real estate interests. A cost estimate is not a full appraisal. To establish a more accurate estimate for the value of the required real estate, a full land appraisal based on surveyed easement boundaries based on the TSP’s final design plans and location selection is required. Additionally, the PVE does not include the incidental costs (e.g., appraisals, surveys, title, attorney fees, etc.) that would be incurred to facilitate and complete the acquisition of real estate. The PVE is incorporated into the 01-Lands & Damages cost as provided in the Baseline Cost Estimate for Real Estate (BCERE) (see Section 10).

TWAEs (Laydown/Storage):	\$43,550,000
<u>Real Estate Risk Contingency:</u>	<u>\$15,242,500</u>
Total (670 Estimated Esmts):	\$58,792,500

NBS Fee and Borrow Area Easement PVEs: As a late addition to the TSP, there was inadequate time to prepare a Planning Value Estimate for estates required for project construction and operation and maintenance of the NBS plan segment features. Additional real estate contingency will be added to the Baseline Cost Estimate for Real Estate to address the risk of not having this information for this draft Real Estate Plan.



### **3. Real Estate Owned by the Non-Federal Sponsor**

The NFS owns no LER required for the residential elevations and critical infrastructure dry floodproofing portions of the TSP. The NFS may own or be in control of the real estate rights necessary for the environmental restoration of the salt marsh areas under consideration for the NBS 1(H) portion of the TSP.

### **4. Nonstandard Estates**

At this time, no nonstandard estates are required for the construction and operation and maintenance of the TSP. However, if the anticipated Guidance for Non-structural Commercial Floodproofing either is not available in time, does not contain a standard estate, or no longer will be completed, there will be a nonstandard estate specifically created to cover dry floodproofing requirements. Per Policy Guidance Letter (PGL) No. 31, dated 11 Jan 2019, the appropriate request for approval for a nonstandard estate and the draft easement document will be forwarded for review and approval at the same time the TSP is submitted for approval. HQUSACE approval of any nonstandard estate is required before project use.

Risk Discussion: A later requirement for a nonstandard dry floodproofing estate may create a schedule delay due to the requirement for Division and HQUSACE review and approval of all nonstandard estates.

### **5. Existing Federal Projects**

There are no other known existing or planned Federal projects that lie either partially or fully within the LER required for the TSP.

### **6. Federally Owned Land**

The TSP includes no Federally owned lands as part of the LER requirements.

### **7. Federal Navigation Servitude**

Navigational Servitude is not applicable for the TSP since none of the upland structures to be elevated or floodproofed are located within a navigable waterway or are related to a navigable project. Navigational servitude may be applicable to the NBS portion of the TSP if dredged materials from the maintenance dredging of Federal Navigation Channels will be used to restore and maintain the salt marshes. However, any LER required for the operation and maintenance of the restoration lying below the mean high water line not already owned or controlled by the NFS will require acquisition for perpetual use. A determination of applicability as required by the 19 March 2014 memorandum, Availability of the Navigational Servitude for Coastal Storm Damage Reduction Projects, will be completed for the final REP if NBS 1(H) is carried over to the Recommended Plan and additional information is provided.

## 8. Real Estate Mapping

Detailed mapping will be developed in subsequent project phases as more detailed information is developed.

## 9. Induced Flooding

The TSP is not expected to result in any induced flooding.

## 10. Baseline Cost Estimate for Real Estate

The first table is the estimated total financial costs attributed to the TSP's LERRD requirements. For this project, LERRD requirements under Account 01 include all administrative costs for the NFS, the Planning Value Estimate of the LERRD (see Section 3b, previous), and the real estate risk contingency estimates.

<b>TOTAL PROJECT</b>	<b>Estimated Cost - Total TSP New Jersey Back Bays</b>			
<b>Project Cost Category</b>	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 351,644,332	\$ 123,075,516	\$ 474,719,848
Total 30-PED	\$ 152,143,465	\$ -	\$ 53,250,213	\$ 205,393,678
			<b>TOTAL:</b>	<b>\$ 680,113,526</b>

**Table 2 – TOTAL BCERE for NJBB TSP**

The remaining tables are breakouts of the individual study regions.

<b>SHARK RIVER</b>	<b>Estimated Cost - Total TSP New Jersey Back Bays</b>			
<b>Project Cost Category</b>	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 687,061	\$ 240,471	\$ 927,533
Total 30-PED	\$ 321,397	\$ -	\$ 112,489	\$ 433,886
			<b>TOTAL:</b>	<b>\$ 1,361,418</b>

**Table 3 – SHARK RIVER BCERE (TSP)**

<b>NORTH</b>	<b>Estimated Cost - Total TSP New Jersey Back Bays</b>			
<b>Project Cost Category</b>	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 198,322,226.72	\$ 69,412,779.35	\$ 267,735,006
Total 30-PED	\$ 84,385,776.00	\$ -	\$ 29,535,021.60	\$ 113,920,798
			<b>TOTAL:</b>	<b>\$ 381,655,804</b>

**Table 4 – NORTH BCERE (TSP)**

<b>CENTRAL</b>	Estimated Cost - Total TSP New Jersey Back Bays			
Project Cost Category	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 82,097,071.00	\$ 28,733,974.85	\$ 110,831,046
Total 30-PED	\$ 33,371,168.00	\$ -	\$ 11,679,908.80	\$ 45,051,077
			<b>TOTAL:</b>	<b>\$ 155,882,123</b>

**Table 5 – CENTRAL BCERE (TSP)**

**Table 6 – COASTAL LAKES BCERE (TSP)**

<b>COASTAL LAKES</b>	Estimated Cost - Total TSP New Jersey Back Bays			
Project Cost Category	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 36,202.00	\$ 12,670.70	\$ 48,873
Total 30-PED	\$ 30,000.00	\$ -	\$ 10,500.00	\$ 40,500
			<b>TOTAL:</b>	<b>\$ 89,373</b>

<b>SOUTH</b>	Estimated Cost - Total TSP New Jersey Back Bays			
Project Cost Category	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 70,501,771.00	\$ 24,675,619.85	\$ 95,177,391
Total 30-PED	\$ 34,035,124.00	\$ -	\$ 11,912,293.40	\$ 45,947,417
			<b>TOTAL:</b>	<b>\$ 141,124,808</b>

**Table 7 – SOUTH BCERE TSP)**

## **11. Uniform Relocation Assistance (Public Law 91-646)**

For typical residential elevations, the occupants generally only need to be out of the residence from when the utilities are cut for raising until after the raising is complete and the utilities reconnected (generally 1-2 weeks). Due to several unknown factors, including phasing, number of structures working in each area at the same time, and construction risks, a relocation estimate for the entire estimated time (3 months) for construction is included in the BCERE.

The project area contains known vacation and second-home destinations. Vacation homes and short-term rentals are not eligible for temporary relocation benefits. For the purposes of this planning report, all residential properties are considered either owner-occupied or long-term rentals until a more-detailed design/property review is available.

a. Public Law 91-646 (Uniform Act): The Uniform Act provides uniform equitable treatment of eligible persons and businesses displaced by a Federal or Federally assisted project. Along with the PPA, it requires the NFS to provide assistance and to pay certain benefits to all eligible persons and businesses that are displaced from their residence or place of business due to a Federally funded project. The cost incurred by

the NFS to provide relocation assistance is part of its LERRD responsibilities. At this time, only residential elevations will require occupants to temporarily vacate the premises for project work. No relocations are currently anticipated for critical infrastructure dry floodproofing activities.

Under the Uniform Act, tenants may qualify for temporary relocations if the owner of the residence elects to participate in the residential elevations program under this project. However, since the residential elevation option is entirely voluntary, owner-occupants are not eligible for temporary relocation benefits as a displaced person under the Uniform Act if they choose to participate in the program.

Table 8 below used Census Tract data from representatives to determine owner-occupancy rates. The lowest owner-occupancy rate was used for the purposes of this calculation in order minimize the risk of underestimating the number of persons who may be eligible. Relocation costs were estimated for a family of four with 2 pets (2 adults, 2 kids, and 2 pets) for a period of 90 days for both a location with a kitchen and without a kitchen (requiring per diem). Since this is a risk-based report, the higher of the temporary relocations benefit estimates, a location without a kitchen requiring per diem, was used.

**Table 8 – Uniform Act Calculations - Displaced Persons (Without Contingency)**

<b>Region</b>	<b>Displaced Persons</b>	<b>Benefits</b>	<b>Total Benefits</b>
Shark River	4	\$22,803	\$85,990
North Region	2936	\$23,540	\$69,112,687
Central Region	700	\$32,000	\$22,400,768
South Region	1274	\$16,000	\$20,379,712
<b>Totals</b>	<b>4913 (4913.5)</b>		<b>\$111,979,157</b>

b. Section 8154 of the Water Resources Development Act of 2022:

Section 8154 of the Water Resources Development Act (WRDA) of 2022 directs the Secretary of the Army to establish a pilot program to evaluate the extent to which the provision of temporary relocation assistance to voluntary participants enhances the completeness, effectiveness, efficiency, acceptability, and equitable implementation of covered water resource development projects. This project is specifically included in the pilot program legislation. Under the Uniform Act, owner-occupants are not eligible for temporary relocation benefits as voluntary participants of a residential elevation action, often placing an undue burden on economically disadvantaged population that would benefit most from such non-structural measures. Section 8154 adds “temporarily displaced persons” as eligible for benefits under the Uniform Act.

The term “temporarily displaced person” means an individual who is required to temporarily move from a dwelling that is the *primary residence* of the individual as a direct result of the elevation or modification of the dwelling as a part of a covered water resources development project, and who is not otherwise entitled to temporary relocation under the Uniform Act. Section 8154 limits the crediting of benefits paid to temporarily displaced persons to \$20,000 per household plus administrative costs. For the purposes of this REP, the statutory crediting limit of \$20,000 is used for Section 8154 Pilot Program benefits payment estimates. Per Section 8154, the NFS must request its use for project prosecution. At this time, the NFS is undecided on requesting the use of Section 8154 for this project.

**Table 9 – Uniform Act Calculations – Temporarily Displaced Persons (Without Contingency)**

<b>Region</b>	<b>Temporarily Displaced Persons</b>	<b>Benefits</b>	<b>Total Benefits</b>
Shark River	5	\$20,000	\$100,000
North Region	662	\$20,000	\$13,240,000
Central Region	678	\$20,000	\$13,560,000
South Region	162	\$20,000	\$3,240,000
<b>Totals</b>	<b>1507 (1507.5)</b>		<b>\$30,140,000</b>

## **12. Minerals and Timber Activity**

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

### **13. Non-Federal Sponsor Capability Assessment**

The Assessment of the Non-Federal Sponsor's Real Estate Acquisition Capability is attached to this report as Exhibit B. The assessment was coordinated with NJDEP. At the time of this draft REP, the NFS has been determined to be fully capable of the acquisition activities required for this TSP.

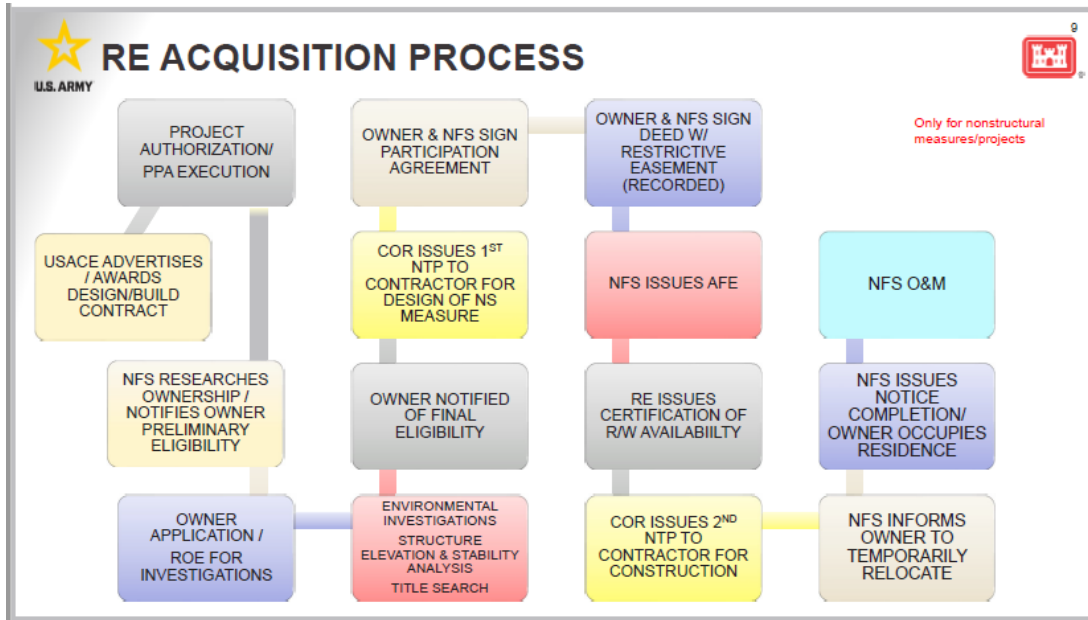
### **14. Land Use Zoning**

No application or enactment of local zoning ordinances is anticipated in lieu of or to facilitate the TSP's LERRD requirements.

### **15. Real Estate Acquisition Schedule**

The NFS will officially initiate real estate acquisition activities after final execution of the Project Partnership Agreement (PPA) and once the final list of Structures for Inspection and Inclusion under the initial phase of the TSP is complete. The list of structures for inclusion in non-structural project measures, any additional LER activities required, and associated real estate mapping will be provided to the NFS along with a Notice to Proceed with real estate acquisition activities. At this time, there is an estimated PPA execution date but no location/phase plan. The residential elevations acquisition schedule below has been coordinated with the NFS and is a best-guess estimate based on the process provided in the NS Guidance. The acquisition of storage and laydown TWAEs will occur concurrently with the residential elevation acquisition process and commercial floodproofing acquisition process. Since the NS Guidance for commercial floodproofing activities is not yet available, the process and timeline used for current planning purposes will be the same as residential elevations.

Figure 2: Real Estate Acquisition Process from NS Guidance



**Table 10 – Residential Elevations Per-Property Schedule Timeline**

<b>Estimated Residential Elevations Timeline</b>	<b>Estimated Duration (DAYS)</b>	<b>Total Days</b>	<b>Total Months</b>
PPAs/Locality PCAs w. NFS	August 2026 (Estimated)		
Notice to Proceed to NFS	30	30	1 Months
NFS Notifies Owners of Preliminary Eligibility (Incl. Ownership Research Time)	180	210	7 Months
Owner Application/ROE for Investigations	365	575	19 Months
Environmental and Structural Investigations and Title Searches	365	940	31 Months
Owner Notified of Final Eligibility	30	970	32 Months
NTP for Design/Design Period	180	1150	38 Months
Owner and NFS Sign Participation Agreement/Easement Deed	180	1330	44 Months
NFS Issues Authorization for Entry to USACE	30	1360	45 Months
USACE Real Estate Issues Certification of Availability	30	1390	46 Months

An acquisition schedule for the NBS measures requiring fee and perpetual borrow easement acquisition will be provided when additional detail is available.

**Risk Discussion:** There is a moderate risk to the schedule caused by the unknown time on average needed for an owner to complete the requirements included in the Participation Agreement. While every owner's situation will be different, there will eventually be an "average" or a required (set by the NFS and PDT) length of time to completion of tasks for future residential elevations projects.

## **16. Facility and Utility Relocations**

For coastal storm damage reduction projects, the non-Federal Sponsor is required to relocate affected public facilities and utilities necessary for the construction, operation, and maintenance of a project. A relocation may take the form of an alteration, lowering, raising, or replacement (and attendant removal) of the affected public facility/utility or part thereof. Since the TSP consists of a nonstructural plan in which the construction of the nonstructural features, both residential elevations and critical infrastructure dry floodproofing, will take place within existing structural footprints, there is no expectation to perform a relocation of a public utility or facility. However, permission from servicing utilities will be needed for this work, and in many cases the utilities may need to perform the utility work themselves. All service utilities will be elevated to the designed flood elevation for the nonstructural feature as part of the overall construction cost.

## **17. Environmental Contamination (Hazardous, Toxic, and Radioactive Wastes)**

A desktop review of the NJBB CSR Study area was combined with District and personnel knowledge of the area to develop information regarding the potential for HTRW issues. Per Section 2.4.15 of the Main Report, the need for environmental data reviews (Phase I) and field investigation work (Phase II) will be highly dependent upon the locations and type(s) of measures carried forward in the study. No substantive detail is currently available at this time to provide any discussion of the possible impact



of environmental concerns on real estate acquisition activities. If the Phase 1 ESA indicated the presence of potential HTRW, additional real estate requirements may occur including additional ROEs and/or other access documents.

No elevation or flood-proofing will occur on structures with asbestos and/or asbestos-containing materials if the proposed actions may affect the asbestos and/or asbestos-containing material. Prior to any actions being conducted, the asbestos and/or asbestos containing material that may be disturbed by the elevation or floodproofing activity must be removed by the property owner at their sole cost and expense and do so in compliance with all applicable local, state, and federal laws and regulations. Asbestos and asbestos-containing materials that would not be affected when carrying out the non-structural flood risk management treatment would not need to be removed prior to commencing such work.

## **18. Project Public Support**

Public meetings conducted in 2016 and 2018 revealed public opinion to be mixed regarding the use of policy measures, structural measures, nonstructural measures, bayside beneficial use sand placement, use of NBS, and the level of engagement of affected municipalities. Support and opposition regarding all proposed and discussed measures exist regarding this study. Additional public input and review as the study measures are selected will provide a more focused public discussion.

## **19. Non-Federal Sponsor Risk Notification**

The NFS, NJDEP, will be notified in writing regarding the risks associated with the acquisition of LER ahead of PPA execution before the completion of the final Real Estate Plan. The NFS has been notified verbally while discussing the NFS Assessment and the Acquisition Schedule.

## **20. Other Pertinent Information**

The TSP for this project is entirely non-structural, covering thousands of structures in various states of repair, high-density and more rural areas, covered by the NS Guidance. Combined with the lack of a detailed structure list, difficulty estimating construction timelines for such a large number of structures (even in phases), unknown laydown and access requirements, and the late addition of NBS features possibly requiring fee acquisition of land and the acquisition of perpetual borrow area easements creates a substantive critical risk factors list. Specific Critical Risk Factors are included in this section, along with possible associated costs. A Contingency Summary is included at the end of this section.

### **a. Acquisition and Relocation of Structures Unable to be Elevated Safely:**

Discussed in the Main Report, but not specifically included in the TSP and estimated project costs after Project Team discussion with the National Non-structural Committee,

---

it is important to account for the probability of this occurring since it is a named possible course of action. Due to the size of the study area and minimal level of detail available, the region containing the largest numbers of affected structures (North Region) will be used for this risk calculation. The numbers:

Beach/Island Median Home Cost: \$1,150,000

Mainland Median Home Cost: \$395,000

Percentage of Rentals: 81.6%

Permanent Relocation Uniform Act Cost: \$23,540

Using 15% as a conservative estimate for buyout due to structural issues, there are a potential 540 buyouts over the North region study area (out of 3,598 residential structures). Those buyouts would include 440 relocations payments for the 81.6% of structures containing Displaced Persons eligible for Permanent Relocation Benefits of \$51,000 per household containing 2 adults, 2 kids, and 2 pets. Owner-occupants are not eligible for permanent relocation benefits since the acquisition would be voluntary.

Based on the distribution of points on the structures affected map, the percentages below are used to estimate acquisitions for the Island and the Mainland. Based on experience with shore protection, this report posits that very few "Gold Coast" Island properties will be found unsound to elevate. It is more likely that they are too large to elevate and would require floodproofing instead. However, those not on the shoreline and in vulnerable areas may have buyout potential:

Beach/Island:  $50\% \times 540 = 270$  acquisitions

Mainland:  $50\% \times 540 = 270$  acquisitions

Beach/Island Buyouts Estimate:  $\$1,150,000 \times 270 = \$310,500,000$

Mainland Buyouts Estimate:  $\$395,000 \times 270 = \$106,650,000$

**Unadjusted Total Risk Calculation Buyouts (Lands): \$417,150,000**

**Total Relocations:  $\$23,540 \times 440 = \$10,357,600$**

Risk Calculation for Acquisitions:

Unadjusted Acquisitions Total, Lands: \$417,150,000

PLUS Relocations Costs: \$10,357,600

**Unadjusted Total Risk Calculation for Buyouts: \$427,507,600  
(Including Lands and Relocations)**

Note: Possible demolition costs were not included in the construction budget estimate although acquisition/demolition are an option in the non-structural process. They have been left out of this calculation. Also, no adjustments made to relocations

payments moving from temporary to permanent as the amount is low and within acceptable contingency considerations.

Note: Funds that are already included in the construction account for elevations would be diverted to the fee acquisition of the parcels instead. To reduce double counting these costs, the final REP contingency calculation for voluntary buyouts will adjust the amount of the contingency to deduct the average cost of elevation construction from the estimated voluntary buyouts.

- a. Probability: High, since it is included as an option in the Main Report
- b. Risk: High, due to cost
- c. Effect on Contingency: No contingency is included in the BCERE for this Risk for the draft REP outside of the across-the-board risk contingency. An added calculated risk contingency may be included in the final REP BCERE based on additional detail obtained in the next study phase.

b. Other Critical Risk Factors included extended temporary relocations, additional TWAEs required, unknown laydown and access requirements, possible HTRW affecting real estate acquisition, and NBS features requiring fee and perpetual easement acquisitions have been included in the BCERE as a 35% across-the-board contingency.

PREPARER:

---

Heather Sachs  
Realty Specialist  
Team Lead, Philadelphia District  
Baltimore District

DISTRICT CHIEF OF REAL ESTATE

---

Stanley H. Graham  
Chief, Real Estate Division  
Baltimore District

## **Exhibit A**

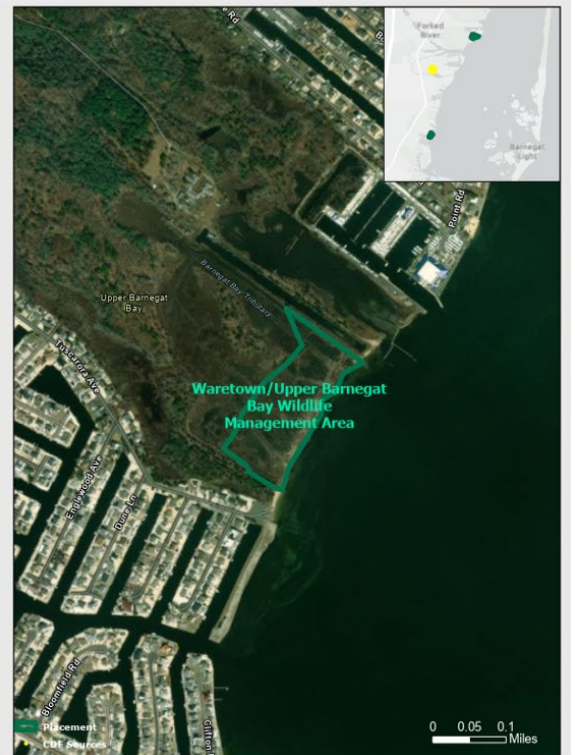
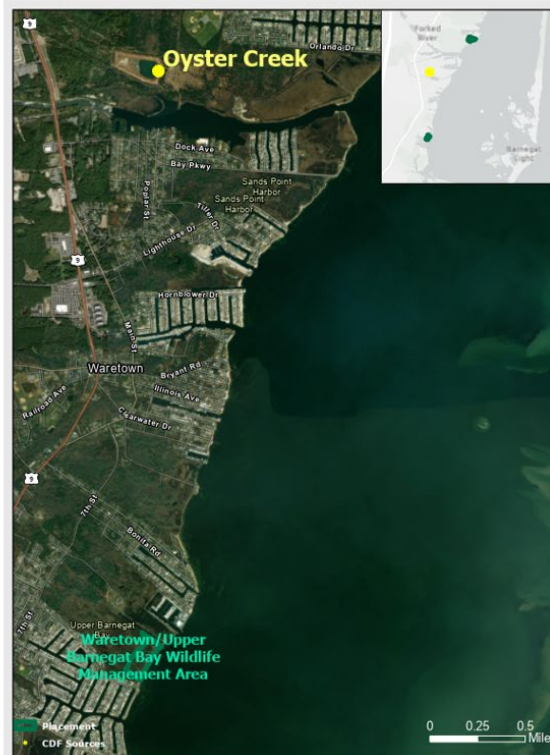
### **NBS Measures – Aerial Photos (Placement and Borrow Area)**

# 

Lacey/USFWS Sun  
Beach



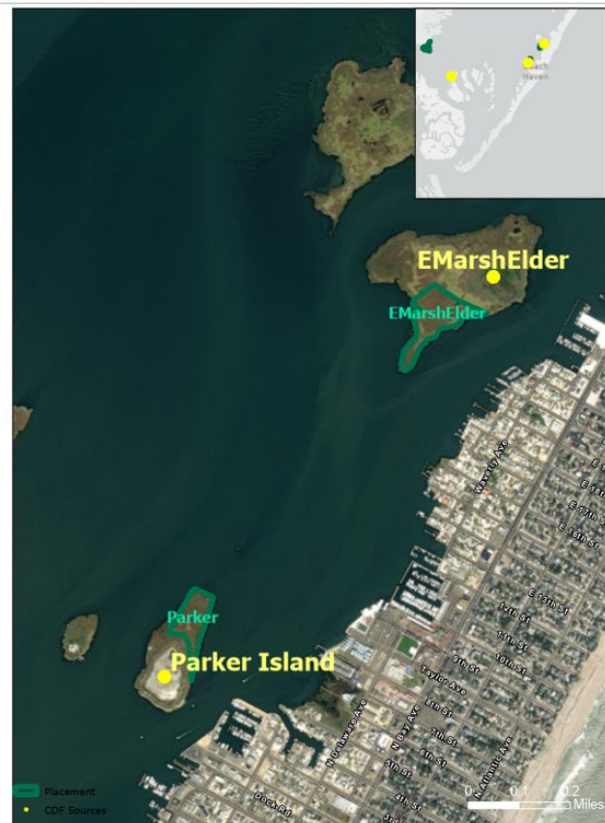
Waretown/  
Upper Barnegat  
Bay Wildlife  
Management  
Area



## Mystic Island Site



## E Marsh Elder Parker Island





Placement Site

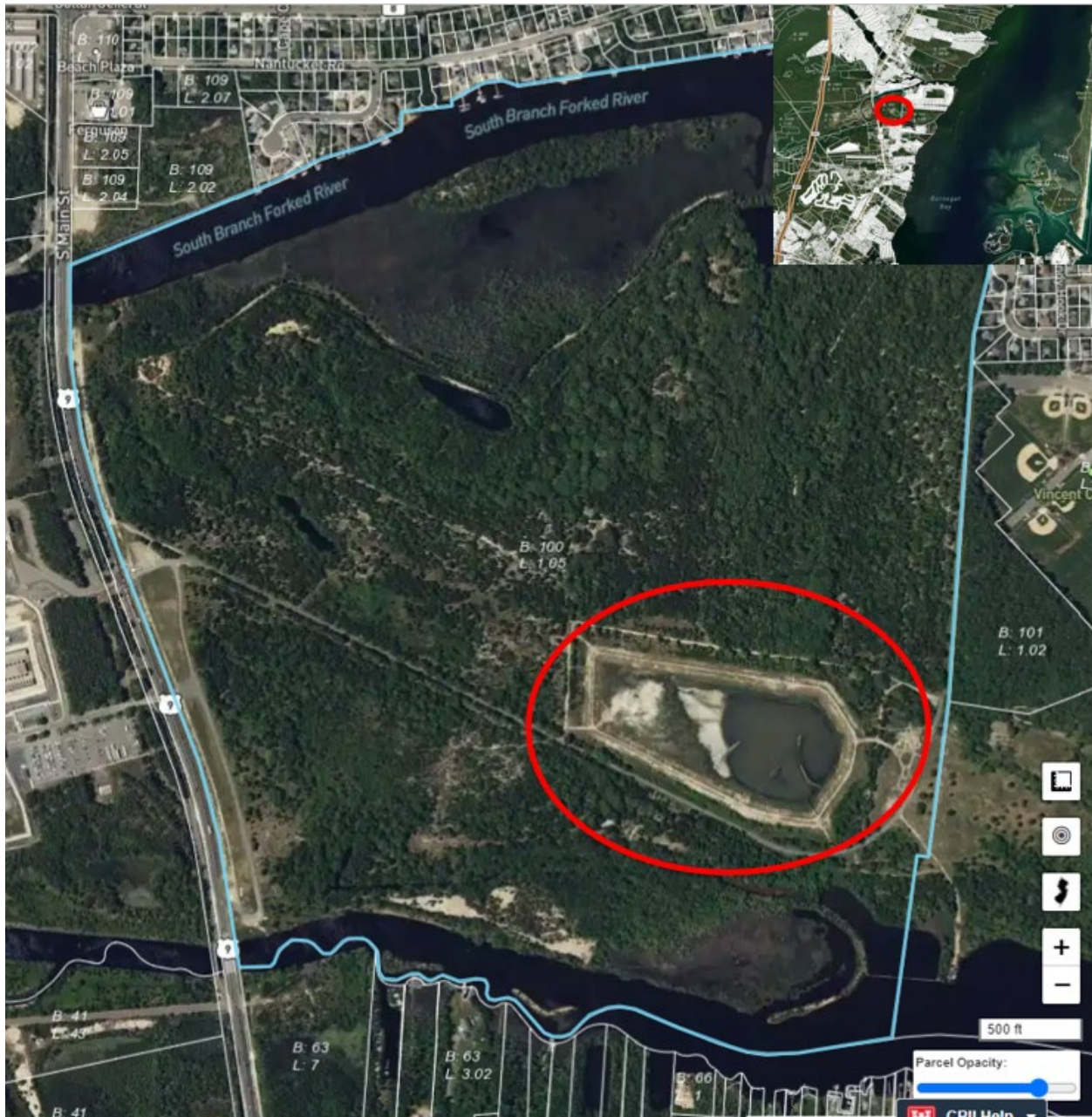


Tuckerton Beach



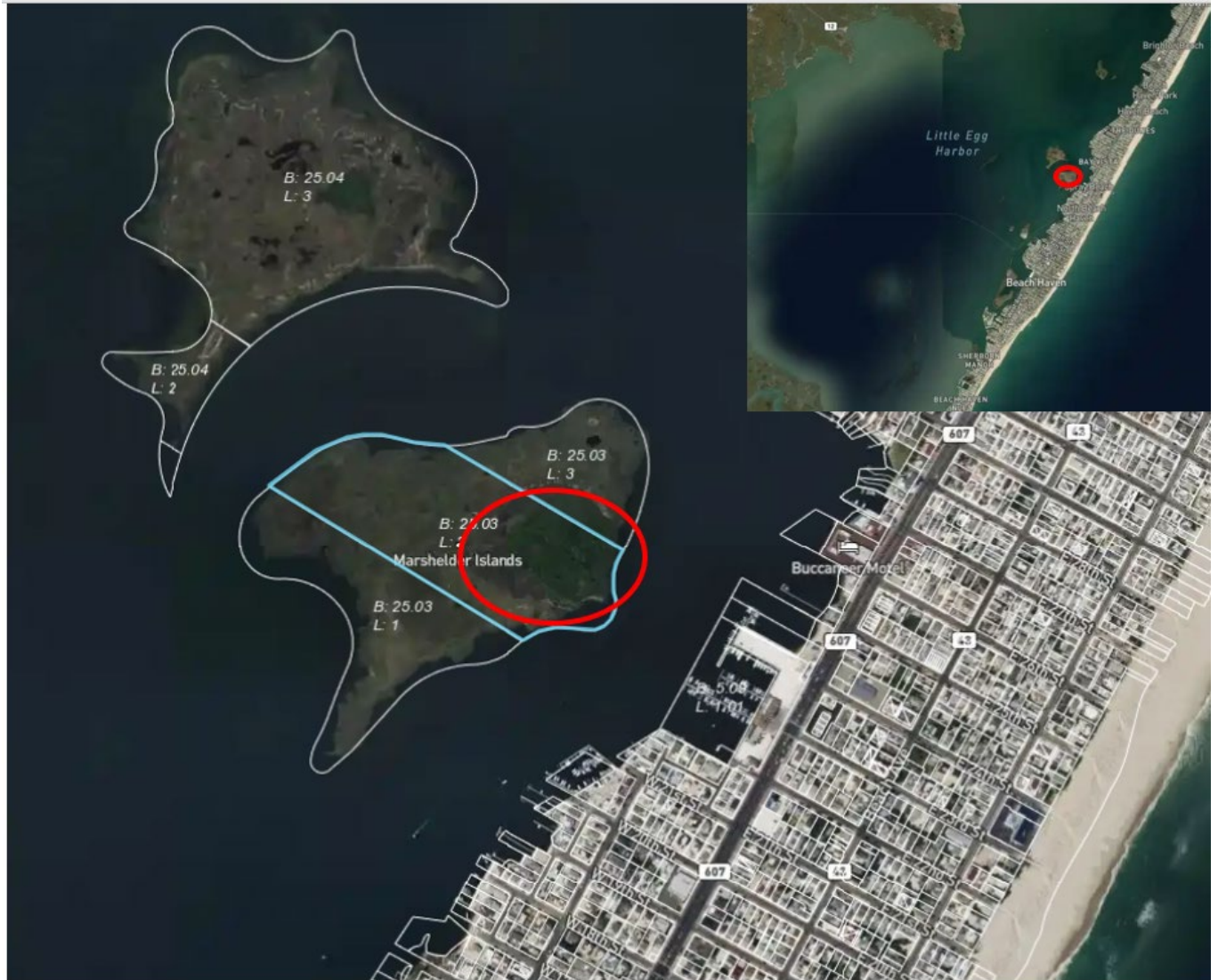
# BORROW AREA CANDIDATE AERIALS

## OYSTER CREEK DMPF

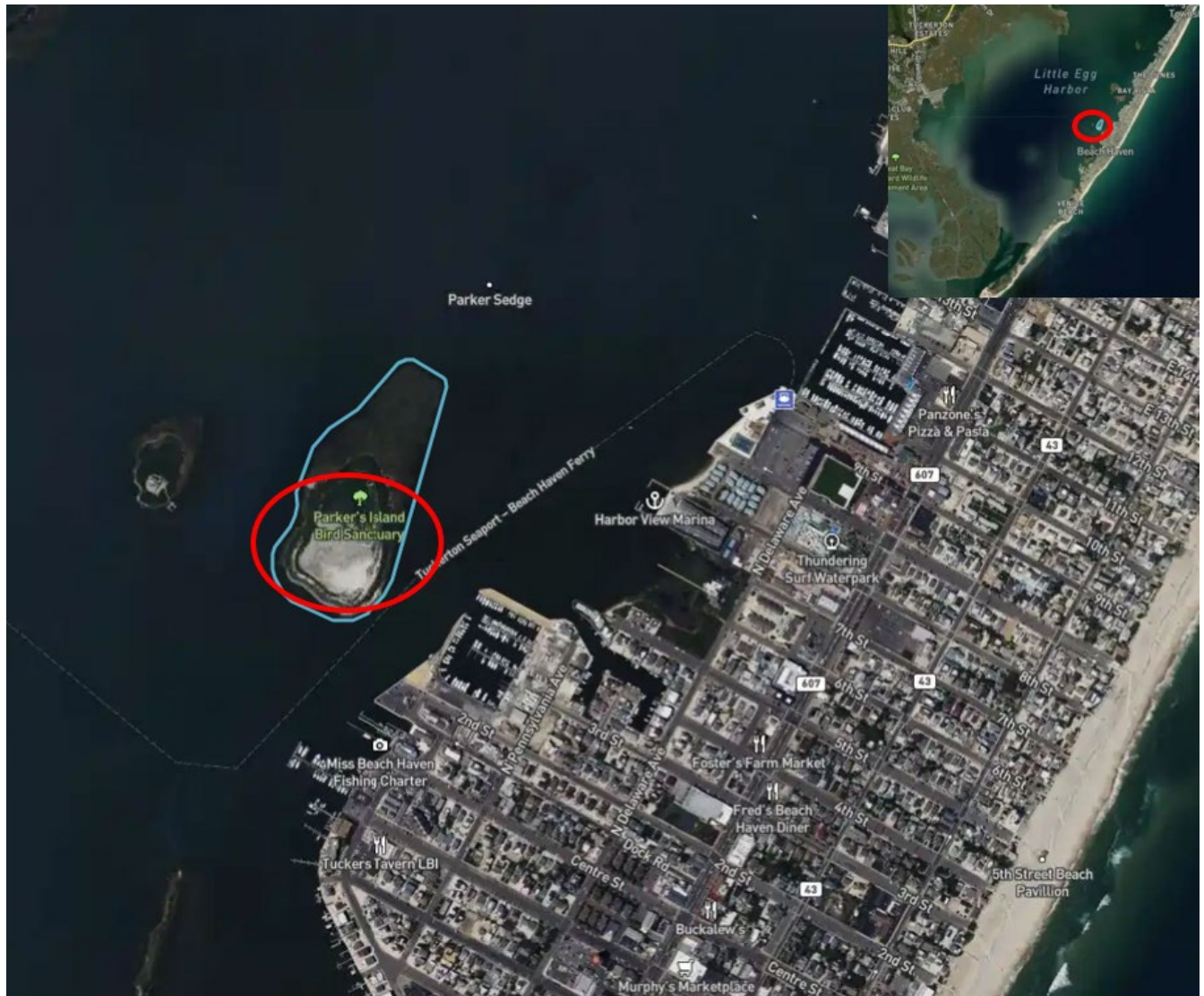




## E MARSH ELDER DMPF



# PARKER ISLAND DMPF



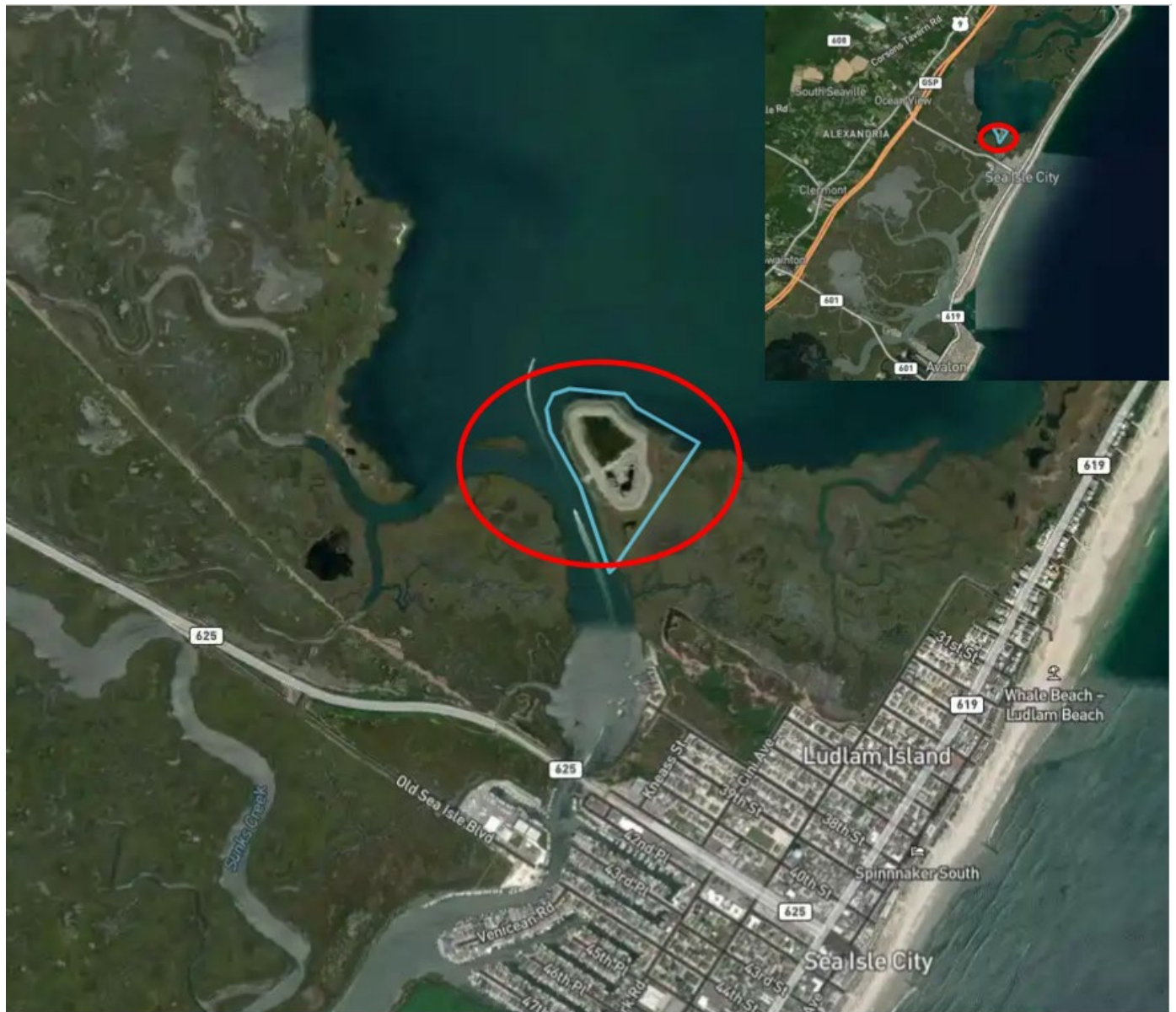
## STORY ISLAND DMPF





## TUCKERTON CREEK #1





**LUDLAM THOROFARE NO. 2 DMPF**

**Exhibit B**

**Non-Federal Sponsor Real Estate Acquisition  
Capability Assessment Form**

ASSESSMENT OF NON-FEDERAL SPONSOR'S  
REAL ESTATE ACQUISITION CAPABILITY

Non-Federal Sponsor: **New Jersey Department of Environmental Protection**

Project: **New Jersey Back Bays Coastal Storm Risk Management Project**

I. Legal Authority:

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

**Yes. N.J.S.A. § 58:16A-5 gives the State of New Jersey, as the non-Federal Partner for a Federal Civil Works project, the legal authority to acquire and hold title to real property for project purposes.**

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

**Yes. The Sponsor has the power of eminent domain under the authority of the Eminent Domain Act, N.J.S.A. § 20:3-1 et seq. However, condemnation is not expected to be utilized for the non-structural component of this project, given that participation in the tentatively selected non- structural plan is voluntary on the part of landowners. Any property once acquired by the sponsor whether it was purchased or condemned will be the Sponsor's possession.**

c. Does the Sponsor have "quick-take" authority for this project?

**No. However, it should be noted that quick-take is not expected to be utilized for the non-structural component of this project, given that participation in the tentatively selected non-structural plan is voluntary on the part of landowners.**

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

**No. All real estate requirements for the project are within the Sponsor's political boundary.**

e. Are any of the lands/interests in land required for the project owned by an entity whose property the Sponsor cannot condemn?

**Currently, there are no real estate requirements required that the Sponsor cannot acquire via condemnation. However, use of condemnation is not anticipated for the non-structural component of this project, given that participation in the tentatively selected non-structural plan is voluntary on the part of landowners.**

## 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 Public Law 91- 646, as amended?

**Yes – The project anticipates relocation assistance to be paid under PL 91-646 for persons meeting the eligibility criteria for displaced persons. The Sponsor also anticipates requesting temporary relocation assistance under the pilot program authorized under WRDA 2022 Section 8154. The Sponsor has asked USACE to research training opportunities on the subject matter. The District will be coordinating with the Sponsor for the appropriate training. The Sponsor requests to be trained by USACE in order to increase its knowledge of process and procedure and increase compliance and reduce errors regarding property acquisition for Federally Funded projects including Public Law 91-646.**

b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training?

**Not at this point in time, but the Sponsor is open to discussing making training available to the Sponsor.**

c. Does the Sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?

**The Sponsor's in-house staff has ample real estate acquisition experience for more conventionally-sized Federal and non-Federal construction projects. However, for a project of this size and scale the Sponsor would need to scale up a much larger program in order to handle acquisition efforts. Therefore, the Sponsor may request that USACE Real Estate Division take the lead or assist with real estate acquisition to ensure enough resources are dedicated to the real estate process.**

d. Is the Sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?

**Yes. However, in order to carry out a non-structural plan for a project of this scale the Sponsor would require additional full-time staff for real-estate acquisition.**

e. Can the Sponsor obtain contractor support, if required, in a timely fashion?

**Yes. However, the actual process and contracting arrangements the Sponsor would use is to be determined.**



f. Will the Sponsor likely request USACE assistance in acquiring real estate?

**As of this assessment, the Sponsor may require assistance from USACE in acquiring real estate. No written request has been received by USACE at this time. However, it is unlikely USACE would acquire the real estate on behalf of the Sponsor because the Sponsor: (1) possesses that professional capability to acquire the real estate needed for the project; (2) can reasonably obtain, if necessary, real estate acquisition contracting services from sources other than the Federal Government; (3) have sufficient general and legal acquisition authority to acquire all the real estate required for the project; and (4) may intend on entering into a partnership agreement with the local municipality to assist with real estate acquisition activities. However, since the standard project partnership agreement offers the Sponsor the opportunity to request USACE assistance with real estate acquisition, the option remains open to the Sponsor.**

### III. Other Project Variables

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

**Yes – The Sponsor's staff is located within a reasonable proximity to the project site and additionally the Sponsor will be in partnership with the local municipality which offers representation within the immediate area.**

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

**This is a work in progress. The sponsor is working with USACE to develop an acceptable schedule and milestones.**

### IV. Overall Assessment

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

**Yes - The Sponsor has performed satisfactorily on several other USACE projects, all structural coastal storm damage reduction projects which involved several miles of barrier island oceanfront uplands and submerged lands. A representative list of projects is as follows:**

**Brigantine Inlet to Great Egg Harbor Inlet, NJ, Absecon Island HSDR Project  
Great Egg harbor Inlet to Peck Beach, NJ HSDR Project  
Lower Cape May Meadows Cape May Point, NJ, HSDR and Environmental  
Restoration Project  
Townsend's Inlet to Cape May Inlet, NJ, HSDR Project  
Barnegat Inlet to Little Egg Inlet HSDR Project**

b. With regard to this project, the Sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/ insufficiently capable.

**With regards to this project, based on answers provided and the ongoing discussions regarding nonstructural project processes and implementation, the Sponsor at the time of this draft report is considered fully capable.**

V. Coordination

a. Has this assessment been coordinated with the Sponsor?

**Yes, this assessment was coordinated with the Sponsor. The Sponsor provided answers regarding their capabilities, acquisition authorities, and staffing. The Capability Assessment has also been discussed with the Sponsor.**

b. Does the Sponsor concur with this assessment?

**Yes - Completion of the assessment was accomplished by a coordinated effort between USACE and the Sponsor.**

---

Dennis Reinknecht  
Director, Division of Resilience Engineering and Construction  
New jersey Department of Environmental Protection

---

Stanley H. Graham  
Chief, Real Estate Division  
Baltimore District