

REAL ESTATE APPENDIX D
FOLLY BEACH, SOUTH CAROLINA

SEPTEMBER 2021



Prepared by:

U.S. Army Corps of Engineers, Savannah District

Real Estate Section

REAL ESTATE SUMMARY

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SECTION 1. THE REAL ESTATE REPORT

1.1 Statement of Purpose

The Real Estate Appendix is intended to support the Integrated Feasibility Report and Environmental Assessment for the Folly Beach Shore Protection Project. The author of this report is familiar with the Project area. The City of Folly Beach is the non-Federal sponsor for the project. This report is tentative in nature, focus on the recommend plan and is to be used for planning purposes only. All real estate requirements identified in the report are subject to change pending the completion of the final plans and specifications. The date of this report is August 2021.

1.2 Study Authority

The Folly Beach Shore Protection Project was authorized by Section 501 of the Water Resources Development Act of 1986 (WRDA 1986) Public Law (PL) 99-662, as amended, and modified by the Energy and Water Development Appropriations Act of 1992, Public Law 102-104.

The original authorizing language, as presented in PL 99-662 is as follows: “SEC. 501(a). The project for shoreline protection, Folly Beach, South Carolina: Report of the Chief of Engineers, dated March 17, 1981, at a total cost of \$7,040,000, with an estimate first federal cost of \$3,870,000 and an estimated non-federal cost of \$3,170,000.”

The amended authorizing language, as presented in PL 102-104 is as follows: “SEC. 108. The project for shoreline protection for Folly Beach, South Carolina, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4136), is modified to authorize the Secretary to construct hurricane and storm protection measures based on the Charleston District Engineer’s Post Authorization Change Report dated May 1991, at an estimated total cost of \$15,283,000, with an estimated federal cost of \$12,990,000 and an estimated non-federal cost of \$2,293,000, and an annual cost of \$647,000 for periodic beach nourishment over the life of the project, with an estimated annual federal cost of \$550,000 and an estimated non-federal cost of \$97,000.”

This study is authorized by Section 216 of the Flood Control Act of 1970, Public Law 91-611 (33 U.S.C. § 549a). Section 216 authorizes the Chief of Engineers to review the operation of projects constructed by the U.S. Army Corps of Engineers when found advisable due to significantly changed physical or economic conditions, and to recommend to Congress on the advisability of modifying the structures or their operations, and for improving the quality of the environment in the overall public interest. This study is funded through the Bipartisan Budget Act 2018. The Feasibility Cost Share Agreement was signed with the local project sponsor, the City of Folly Beach, on October 12, 2018.

Section 111 mitigation measures are also integrated into this study. These mitigation measures, discussed in further detail in the Section 111 Appendix, are authorized by the River and Harbor Act of 1968 (33 U.S.C. § 426i). This Act authorizes USACE to “plan . . . and implement structural and nonstructural measures for the . . . mitigation of shore damages attributable to Federal navigation works.”

1.3 Project Location

The project is located in Folly Beach, SC., in Charleston County, and is located about 12 miles south of Charleston, South Carolina on Folly Island. Kiawah Island lays to the south of Folly Island and Morris Island to the north. The south end of the island and Kiawah Island are separated by Stono Inlet while the north end of the island is bordered by Lighthouse Creek. The northwestern boundary to the island is Folly River while the Atlantic Ocean covers the southeastern side. Folly Island is 5.9 miles in length, of which 5.87 miles are

included in the Federal project. It is fully developed with a mix of cottages, condominiums, motels, hotels and various commercial establishments (Figure 1.3-1 and 1.3-2). A larger set of maps can be found at Exhibit B to this report.

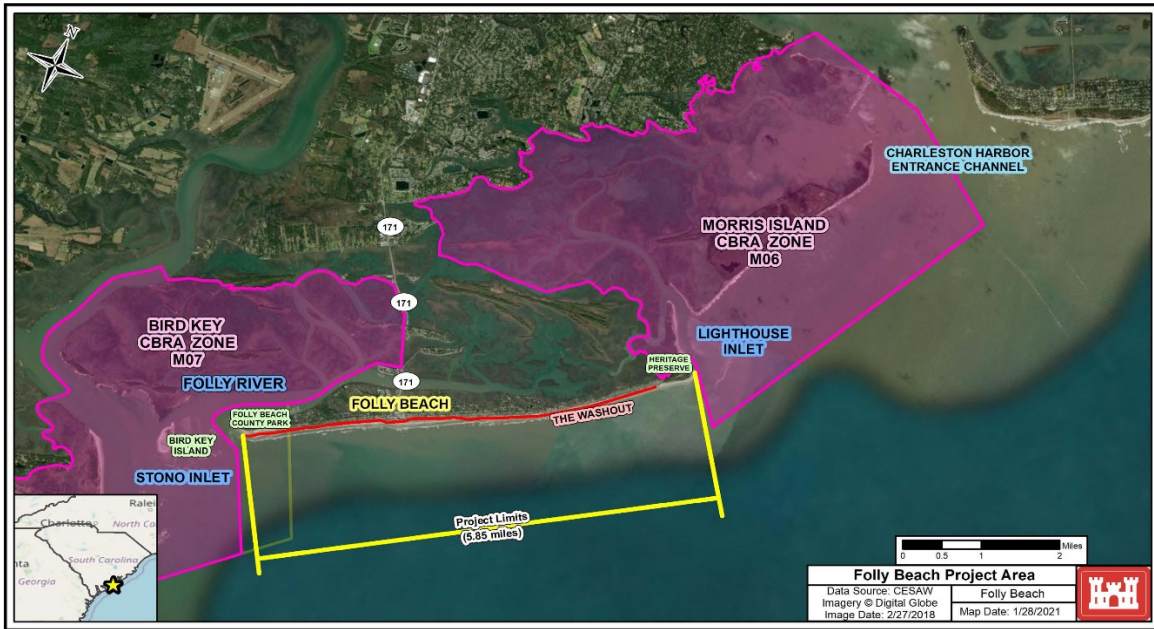


Figure 1.3-1. Project Vicinity/Location Map

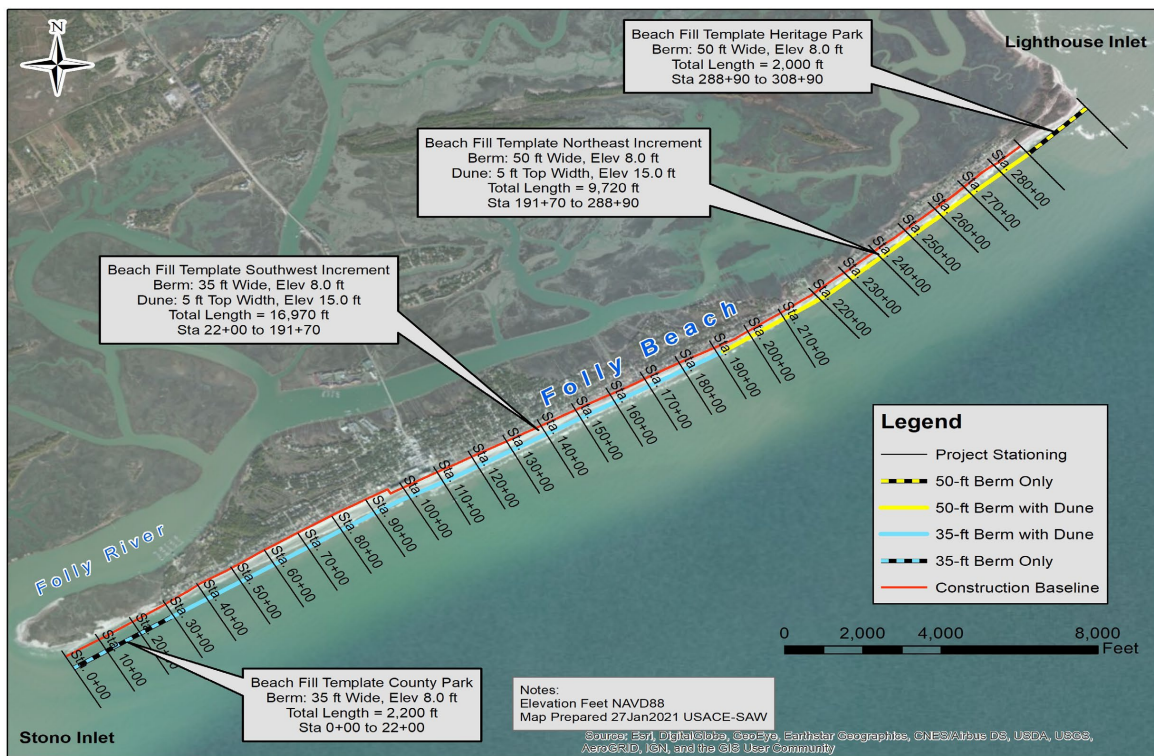


Figure 1.3-2. Location Map/Project Limits

1.4 Project Description

The Recommended Plan consists of a 5.85 mile (30,890 linear foot) main dune and berm combination beach fill. The southwest portion of the project includes a 35 ft wide berm between reaches 1 to 17 for 19,170 feet (ft), see Figure ES-1. This includes the 2,200 ft County Park portion of the Recommended Plan plus the 16,970 ft portion of the Recommended Plan that has a 35 ft wide berm. The northeast portion includes a 50 ft wide berm between reaches 18 to 26 for 9,720 ft, plus a 2,000 ft portion of the Recommended Plan which includes the County-administered Lighthouse Inlet Heritage Preserve. The berm will be at elevation 8.0 ft North American Vertical Datum 88 (NAVD88). The Plan includes constructing a new dune or raising the existing dune to a uniform elevation of 15 ft NAVD88 with a minimum top width of five (5) ft. Neither the County Park in the southern end of the Recommended Plan nor the Lighthouse Inlet Heritage Preserve at the northern end of the Recommended Plan would feature a dune. The beach fill includes a 750-foot tapered transition at the ends of the project and a 500 ft transition between the 35 ft and 50 ft wide berm. During the 50-Year period of recommended federal participation in the Recommended Plan.

The material for the beach fill would be dredged from two proposed offshore borrow sources (Figure 1.4-1) and likely transported to the beach by pipeline for the beach fill construction and all renourishments. The renourishment interval for the project is approximately twelve years. While environmental and construction permits may be required from Bureau of Ocean Energy Management (BOEM) or the State of South Carolina for the use of these borrow areas, there are no real estate requirements of the State associated with their use. All lands required for the placement of material below the mean high waterline were conveyed in fee by quit claim deed from the State of South Carolina to the City of Folly Beach.

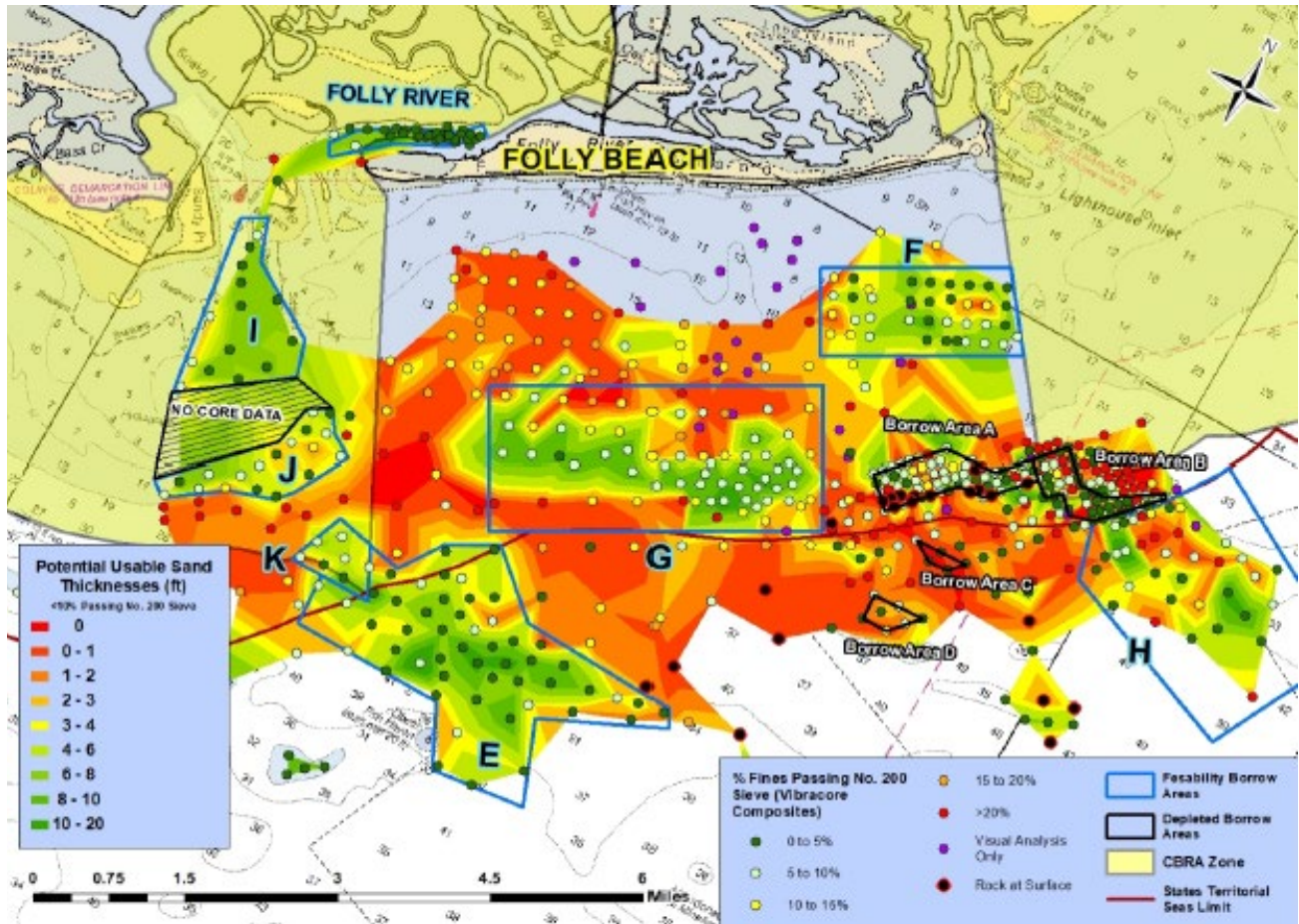


Figure 1.4-1. Project Borrow Area Map

1.5 Real Estate Requirements

Based on available information, for the original project approximately 18 acres in perpetual storm damage reduction easements will be needed over 375 properties, a 2.3 acre perpetual pipeline easement and approximately 0.70 of an acre for staging and access. In September 1992, two additional perpetual staging areas and pipeline easements were acquired on each end of Folly Beach from the Charleston County Park and Recreation Commission. All required lands needed to construct the TSP are owned by the NFS and were purchased by the NFS for the original project. The estates have been reviewed for sufficiency and were found to be acceptable for the project. The sponsor will receive no further credits for real estate for the nourishment activity as no additional real estate requirements have been identified. No Gross Appraisal was completed since lands have already been credited under another federal cost share project.

For the Section 111 portion of the project, two parcels consisting of a combined 2.9 acres in perpetual storm damage reduction easements will be required. The 2.9 acres are owned by the Charleston County Park and Recreation Commission and are located within the City Limits of Folly Beach. Should it be determined that additional lands are required during the design phase, the NFS will be required to purchase these lands using the appropriate standard estate.

1.6 Utility/Facility Relocation

There are no utility/facility relocations associated with this project.

1.7 Existing Projects

There are no existing Federal projects located within the foot print of the proposed project. However, the Charleston Harbor Navigation Project is located 4.5 miles northeast of the project has been deemed a contributing factor to the erosion problems on Folly Beach. This is further discussed in Appendix G to the main report.

1.8 Project Sponsor Responsibilities and Capabilities

Based on the information provided, no new land acquisition is required for the originally authorized project. For the Section 111 portion of the project, the NFS will be required to acquire approximately 2.9 acres in the Standard Perpetual Storm Damage Reduction Easement from the Charleston County Park and Recreation Commission.

The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall accomplish all alterations and relocations of facilities, structures and improvements determined by the government to be necessary for construction of the Project. The sponsor will have operation and maintenance responsibility for the project after construction is completed.

Title to any acquired real estate will be retained by the NFS and will not be conveyed to the United States Government. Prior to advertisement of any construction contract, the NFS shall furnish to the government an Authorization for Entry for Construction (Exhibit “A” to the Real Estate Appendix) to all lands, easements and rights-of-way, as necessary. The NFS will also furnish to the government evidence supporting their legal authority to grant rights-of-way to such lands. The NFS shall comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, approved 2 January 1971, and amended by Title IV of the Surface Transportation Uniform Relocation Assistance Act of 1987, Public Law 100-17, effective 2 April 1989, in acquiring real estate interests for the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act(s). An Assessment of the Non-Federal Sponsor’s Capability to Acquire Real Estate is at Exhibit “B” to the Real Estate Appendix.

In accordance with CEMP-CR Policy Memorandum – Policy Guidance on Real Estate Implementation of Supplemental Appropriations in the Bipartisan Budget Act of 2018, dated 26 November 2018, paragraph 3.c., should supplemental appropriations be used for the construction of this project, credit will not be afforded to the non-Federal sponsor.

The non-Federal sponsor is entitled to receive credit against its share of project costs for the value of lands it provides and the value of the relocations that are required for the project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LER is the fair market value of the real property interest, plus certain incidental costs of acquiring those interests, that the non-federal sponsor provided for the project as required by the Government. In addition, the specific requirements relating to valuation and crediting contained in the executed PPA for a project must be reviewed and applied. For storm damage reduction projects, lands subject to shore erosion, that are required for project purposes and that must be provided by the non-federal sponsor must be appraised for crediting purposes considering special benefits in accordance with relevant Federal statutes and Department of Justice guidance.

The NFS should not acquire lands required for the project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior to execution of the PPA, it is at the risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989.

1.9 Government Owned Property

There is no federally owned land within the areas proposed for construction of the project. For the portion of the borrow areas that are located in the Outer Continental Shelf (OCS), a Memorandum of Agreement between the U. S. Army Corps of Engineers and Minerals Management Service (MMS) is necessary, and a noncompetitive lease between the sponsor and MMS must be negotiated. The OCS is a zone that generally extends from 3 nautical miles seaward of the coastal State boundaries out to 200 nautical miles. Any required permitting to borrow from sources within the OCS will be addressed during the National Environmental Policy Act (NEPA) and Environmental Impact Statement (EIS) process. The exact acreage required for the borrow areas will be determined after project approval and before advertisement for construction.

1.10 Historical Significance

Several remote sensing archaeological investigations have been conducted in the past to identify historic properties in the offshore borrow area. Previous surveys identified 21 anomalies that are suggestive of submerged cultural resources that will require diver investigation and evaluation for the National Register of Historic Places that are located in the proposed borrow area. A 300-foot buffer area around the borrow area for dredge anchoring will also require investigation to identify and evaluate historic properties. The presence of these 21 anomalies will not change the real estate requirements of this project.

1.11 Mineral Rights

There are no known mineral activities within the scope of the proposed project. A visual inspection of the beach has confirmed that there will be no timber rights associated with the project.

1.12 Hazardous, Toxic, and Radioactive Waste (HTRW)

There are no known HTRW contaminants in the project area.

1.13 Navigation Servitude

In accordance with CECC-R Bulletin 14-05, Availability of the Navigation Servitude for Coastal Storm Damage Reduction Projects dated April 9, 2014, navigation servitude is not applicable to this project.

1.14 Zoning Ordinances

Zoning ordinances are not of issue with this project. Application or enactment of zoning ordinances is not to be used in lieu of acquisition.

1.15 Induced Flooding

There will be no flooding induced by the construction or the operation and maintenance of the project.

1.16 Public Law 91-646, Relocation Assistance Benefits

There are no relocations of individuals, businesses or farms for this project.

1.17 Attitude of Property Owners

The project is fully supported. There are no known objections to the project from landowners within the project area.

1.18 Acquisition Schedule

For the Section 111 portion of the project, the NFS will be required to acquire approximately 2.9 acres in the Standard Perpetual Storm Damage Reduction Easement from the Charleston County Park and Recreation Commission. The estimated time to acquire these easement rights can take between 3-6 months.

1.19 Recommended Estates

The following standard estate is recommended for the project.

PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract No. __) for use by the (Project Sponsor), its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach [a dune system] and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms [and dunes]; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the (Project Name), together with the right of public use and access; [to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas;] to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement (except ____); [reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the (designated representative of the Project Sponsor) and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project; and further] reserving to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

1.20 Real Estate Estimate

The estimated real estate costs are for administrative fees only and include the NFS cost of preparing the Authorization for Entry and Construction as well as the Federal cost for preparing the Real Estate Certification for the project. A 25% contingency is applied to the estimated total for these items. Should the need for any additional real estate be identified during the design, the estimated real estate cost would increase.

Table 1.20-1 Real Estate Estimate

a. Lands	Fee		\$	-
	Perp Easements	2.9 ac.	\$	-
	Temp Easements		\$	-
	Permit		\$	-
b. Improvements	Residential		\$	-
	Commercial		\$	-
c. Mineral Rights			\$	-
d. Damages			\$	-
e. P. L. 91-646			\$	-
f. Acquisition Cost - Admin			\$	3,500.00
	Federal	\$ 1,000.00		
	Non-Federal		\$2,500.00	
Sub-Total			\$	3,500.00
	25% contingencies		\$	875.00
	TOTAL		\$	4,375.00

1.21 Chart of Accounts

The cost estimate for all Federal and non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRD, and other items are coded as delineated in the Cost Work Breakdown Structure (CWBS). This real estate cost estimate is then incorporated into the Total Current Working Estimate utilizing the Microcomputer Aided Cost Engineering System (MCACES).

Table 1.21-1 Real Estate Code of Accounts

		FEDERAL	NON-FEDERAL	TOTALS
01A	PROJECT PLANNING			
	Other			
	Project Cooperation Agreement	\$ -	\$ -	\$ -
01AX	Contingencies (25%)	\$ -	\$ -	\$ -
	Subtotal	\$ -	\$ -	\$ -
01B	LANDS AND DAMAGES			
01B40	Acq/Review of PS	\$ 1,000.00	\$ -	\$ 1,000.00
01B20	Acquisition by PS	\$ -	\$ 2,500.00	\$ 2,500.00
01BX	Contingencies (25%)	\$ 250.00	\$ 625.00	\$ 875.00
	Subtotal	\$ 1,250.00	\$ 3,125.00	\$ 4,375.00
01H	AUDIT			
01H10	Real Estate Audit	\$ -		\$ -
01HX	Contingencies (15%)	\$ -		\$ -
	Subtotal	\$ -		\$ -
01R	REAL ESTATE LAND PAYMENTS			
01R1B	Land Payments by PS	\$ -	\$ -	\$ -
01R2B	PL91-646 Relocation Pymt by PS	\$ -	\$ -	\$ -
01R2D	Review of PS	\$ -	\$ -	\$ -
01RX	Contingencies (25%)	\$ -	\$ -	\$ -
	Subtotal	\$ -	\$ -	\$ -
	TOTALS	\$ 1,250.00	\$ 3,125.00	\$ 4,375.00

This Real Estate Appendix has been prepared in accordance with policy and guidance set forth in ER 405-1-12, Chapter 12, Real Estate Planning and Acquisition Responsibilities for Civil Works Projects.

Reviewed by:

John S. Hinely
Savannah District
Real Estate Division
Chief, Acquisition Branch

Exhibits

Exhibit A – Authorization for Entry for Construction/Attorneys Certificate of Authority

Exhibit B – Assessment of Non-Federal Sponsor’s Real Estate Acquisition Capability

Exhibit C – Project Maps

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I _____, _____ for the
(Name of accountable official) (Title)

(Sponsor Name) _____, do hereby certify that the _____ (Sponsor Name) has acquired the real property interest required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction for (Project Name, Specifically identified project features, etc.). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon _____ (Tract Numbers) to construct (Project Name, Specifically identified project features, etc.) as set forth in the plans and specifications held in the U. S. Army Corps of Engineers' (district, city, state)

WITNESS my signature as _____ for the
(Title)

(Sponsor Name) _____ this ____ day of _____, 20____.

BY: _____
(Name)
(Title)

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, _____ for the
(Name) (Title of legal officer)

(Sponsor Name), certify that _____ has
(Name of accountable official)

authority to grant Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name), this _____ day of _____, 20____.

BY: _____
(Name)
(Title)

Exhibit A

**Assessment of Non-Federal Sponsor's
Real Estate Acquisition Capability
Folly Beach, South Carolina
2021 Feasibility Report**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**
- b. Does the sponsor have the power to eminent domain for this project? **YES**
- c. Does the sponsor have “quick-take” authority for this project? **YES**
- d. Are any of the land/interests in the land required for this project located outside the sponsor’s political boundary? **NO, For the Section 111 portion**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **YES**

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? **NO**
- b. If the answer to II.a. is “yes”, has a reasonable plan been developed to provide such training? (yes/no)
- c. Does the sponsor’s in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **YES**
- d. Is the sponsor’s projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? **YES**
- e. Can the sponsor obtain contractor support, if required in a timely fashion? **YES**
- f. Will the sponsor likely request USACE assistance in acquiring real estate? **NO**

III. Other Project Variables:

- a. Will the sponsor’s staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones? **NO – Project Milestone will be developed during PED; will be joint effort between RE, PM and NFS**

**Exhibit A
1st page**

IV. Overall Assessment:

- a. Has the sponsor performed satisfactory on other USACE projects?
YES
- b. With regard to the project, the sponsor is anticipated to be: **Highly capable**

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? **YES**
- b. Does the sponsor concur with this assessment? **YES**

Reviewed and approved by:

John S. Hinely
Chief, Acquisition Branch
Real Estate Division

Exhibit A
2nd page

