



**APPENDIX E
REAL ESTATE PLAN**

**BLUE HILL HARBOR
HANCOCK COUNTY, MAINE
NAVIGATION IMPROVEMENT PROJECT**

PREPARED BY:

**U.S. ARMY CORPS OF ENGINEERS
REAL ESTATE DIVISION
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751**

EFFECTIVE DATE:

AUGUST 2021

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Exhibits:

- A. Assessment of Non-Federal Sponsor Acquisition Capability
- B. Full Size Figure E-5, Map Showing Intertidal and Subtidal Areas to be Dredged
- C. Larger maps of Intertidal Area, Town Assessors Map 15 and Town Assessors Map 17

APPENDIX E REAL ESTATE PLAN

1. STATEMENT OF PURPOSE

The purpose of this Real Estate Plan is to describe the minimum Lands, Easements, Rights-of-Ways, Relocations, and Disposal Areas (LERRD) required for the construction, operation and maintenance of the Blue Hill Harbor, Hancock County, Maine Navigation Improvement Project (the “project”). A previous REP supported a 1971 Detailed Project Report that did not proceed due to project sponsor funding limitations. This REP is the first prepared for the current project and is an appendix to the project’s Detailed Project Report and Environmental Assessment. This REP was prepared during a feasibility level study. The LERRD requirements and costs presented herein are preliminary in nature and are subject to change with the optimization of the Recommended Plan.

2. PROJECT AREA DESCRIPTION

Blue Hill Harbor is the principal commercial fishing harbor of the Town of Blue Hill, located on the western shore of Blue Hill Bay in Hancock County, Maine. The harbor is located about 30 miles southeast of Bangor and 13 miles southwest of Ellsworth, Maine, as shown in Figure E-1. Blue Hill Harbor is comprised of several small coves hosting a mix of inshore commercial fishing and lobster boats and seasonal recreational craft. Much of the commercial fleet works year around and shifts the locations of their operations seasonally due to available mooring space, active offloading and servicing facilities and icing of portions of the harbor.

The purpose of the Blue Hill Harbor Project is to improve the existing navigation conditions, including navigation delays, shallow conditions and congestion issues, by creating a new federal navigation channel and dredging a waterfront turning basin from the town’s public landing 1.1 miles southeast into deep water past Sculpin Point. Improvements to the channel would allow for safe passage of both commercial and recreational craft. If approved, the project will be authorized under the authority and provisions of Section 107 of the River and Harbor Act of 1960, as amended. The non-Federal Sponsor (NFS) for the project is the Town of Blue Hill.

Figure E-1: Location Map Blue Hill, ME & indicating Bay Area.



3. RECOMMENDED PLAN

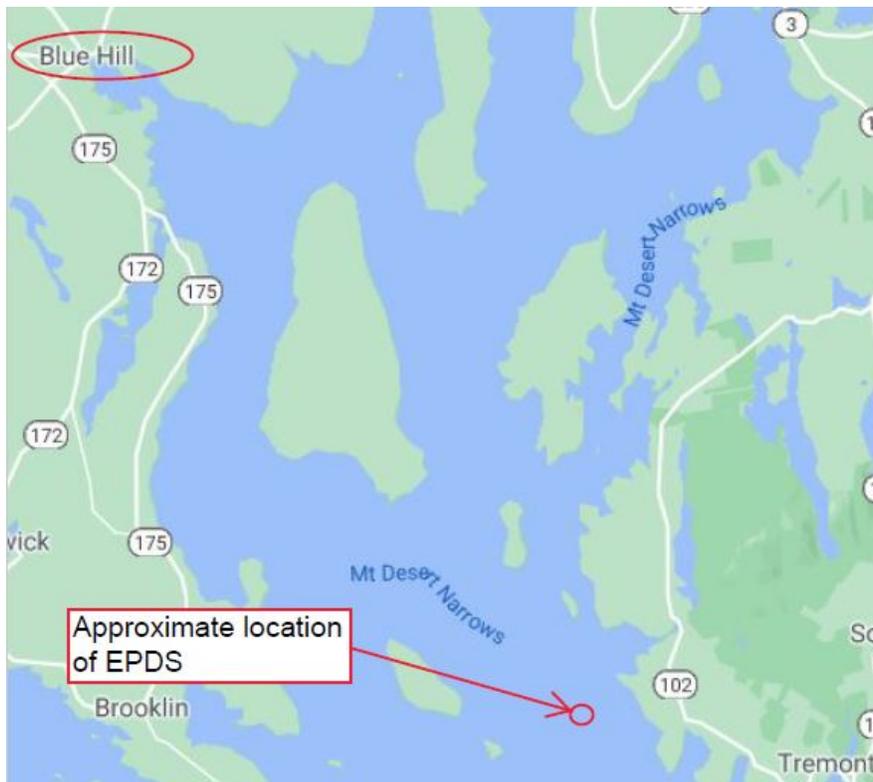
a. New Channel Dredging - The principal federal interests at Blue Hill Harbor are improving the safety and efficiency of commercial navigation for vessels accessing the Town Wharf where grounding damages and tidal and congestion delays hinder vessel operation. The proposed navigation improvements would establish a new channel extending from deep water off Parker point up-harbor to the Blue Hill town landing. The Recommended Plan would establish a channel 6 feet deep by 80 feet wide by 5,400 feet in length extending from deep water off Parker Point up-harbor to the Blue Hill town Landing. Only the upper 2,600 feet of the channel length would require dredging. A turning basin, 0.6 acre in size, at the head of the channel at the Town Landing, would also be constructed by dredging. Both the turning basin and the new channel would be dredged to depth of -6 feet Mean Lower Low Water (MLLW). The proposed action would involve dredging approximately 71,500 cubic

yards of mixed silty and sandy material from the channel and turning basin. Most of the dredged material will be placed at the Eastern Passage Disposal Site (EPDS). The dredged material from the upper channel reaches includes about 10,600 cubic yards of the upper two feet of material that has been determined unsuitable for unconfined open water placement and will be placed at a Confined Aquatic Disposal (CAD) cell 1.8 acres in size to be created in the harbor north of the channel by dredging approximately 15,500 cubic yards of material. That material will be placed at the EPDS.

b. Disposal Sites – The EPDS, consisting of 72 acres, is located approximately 14 miles southeast of Blue Hill Harbor and has been previously used for disposal of material from the maintenance dredging of the nearby existing Federal Navigation Projects. It was last used in 2010-2011 for disposal of material from the maintenance and improvement dredging of the nearby Bass Harbor Federal Navigation Project. The site is located in state regulated waters and is managed under the New England District Disposal Area Monitoring System (DAMOS) program. DAMOS is a program started in 1977 by the New England District to manage and monitor offshore dredged material disposal sites from Long Island Sound to Maine.

The CAD cell, consisting of 1.8 acres, will be created in the harbor north of the channel. Approximately 10,600 cubic yards of material unsuitable for placement at the EPDS will be placed in the CAD cell, and about 3,300 CY of suitable material dredged from the lower channel reached will be used to cap the CAD cell.

Figure E-2: Eastern Passage Disposal Site (EPDS)



4. REAL ESTATE MAPS

The below maps show the new federal navigation channel to be dredged and the area needed for temporary access, parking and placing an office trailer.

Figure E-3: Project Overview



Figure E-4: New Channel Showing Limits of Dredging



Figure E-5a - Northerly Section of Dredging Area

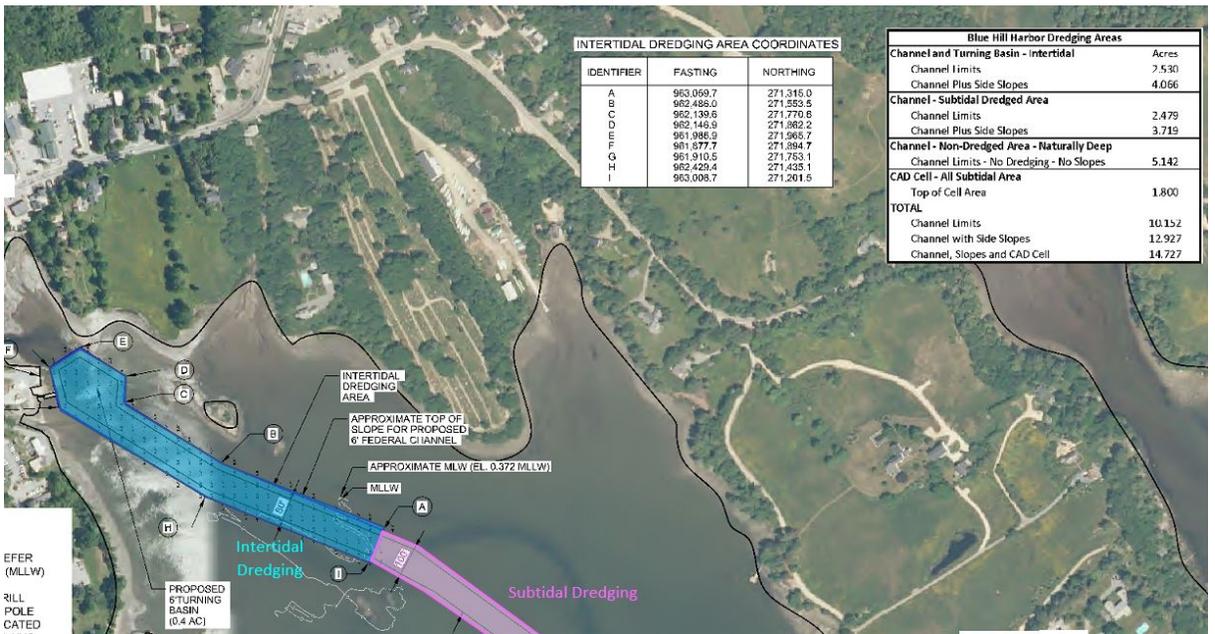
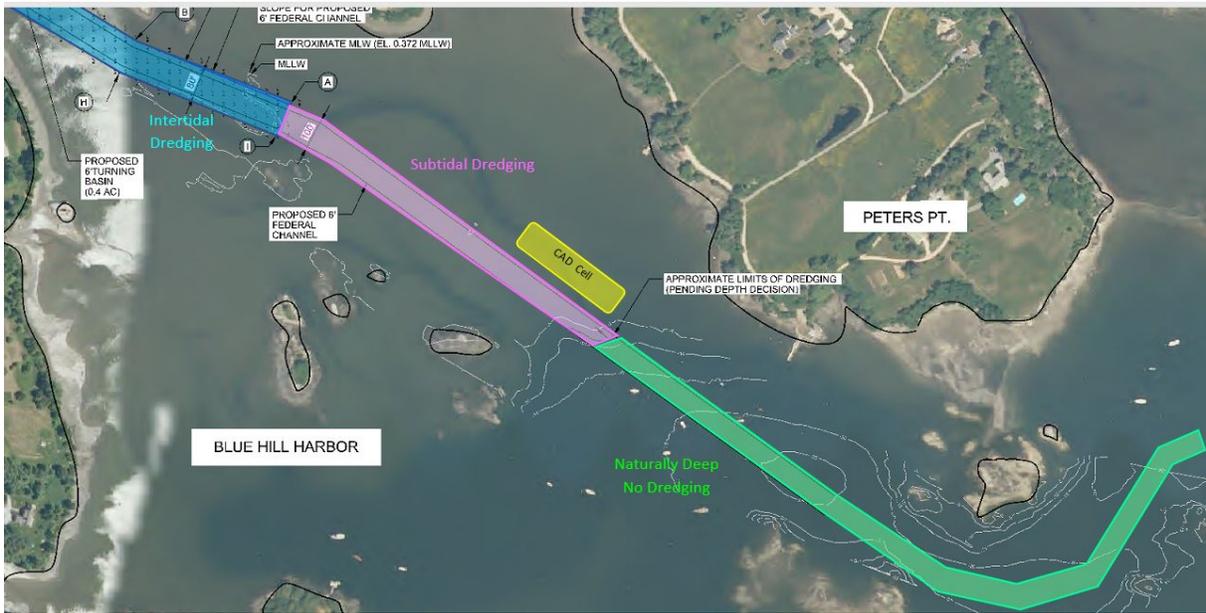


Figure E-5b – Southerly Section of Dredging Area



Figures E-6a and E-6b: Parcels Affected by Intertidal Dredging

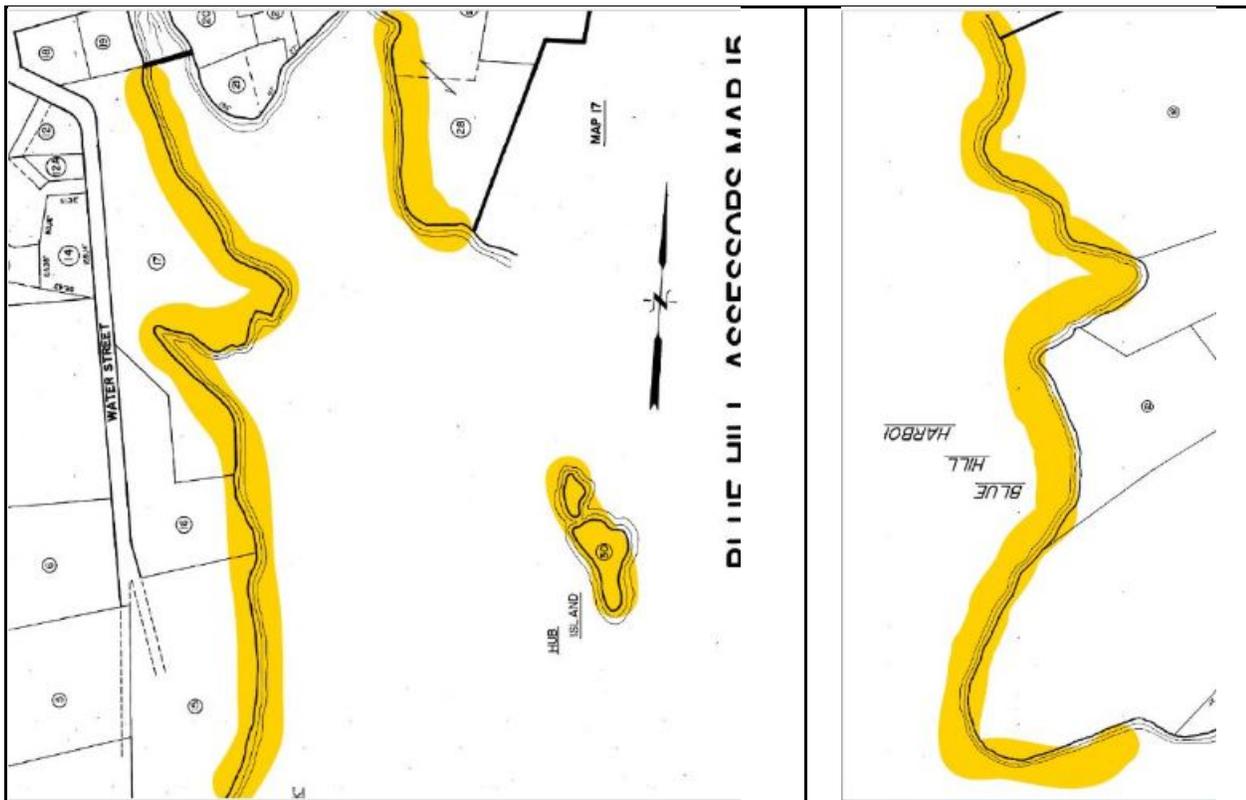


Figure E-7: Map of Temporary Easement Area (Parcel 015-017)



Parcel ID	Site Address	Owner	Required Acres	Estate Required
015-017	42 Water Street	Town of Blue Hill	0.79	Temporary Work Area Easement [TWAE] (access, parking, and office trailer)

5. REAL ESTATE REQUIREMENTS / RECOMMENDED ESTATES

The project footprint and associated LERRDs—Land, Easements, Rights-Of-Way, Relocations, and Disposal Areas—are still being identified/refined. It is anticipated that access areas may be required, mainly for parking and launching purposes and placing an office trailer, on property owned by the NFS. Approximately 0.79 acre of land (Assessors’ Parcel 015-017), containing a parking lot and the Town Wharf, will be used for launching and fueling the smaller work boats, parking vehicles, and placing an office trailer. Other required equipment (dredge, scows, and tugs) will be waterborne plant. The NFS must provide a Temporary Work Area Easement (TWAE) (USACE Standard Estate No. 15). The Project does not require the use of any non-standard estates.

TEMPORARY WORK AREA EASEMENT (Standard Estate No. 15)

A temporary easement and right-of-way in, on, over and across the land described in Schedule A for a period not to exceed one year, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a work area, including the right to move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Blue Hill Harbor, Hancock County, Maine Navigation Improvement Project, together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

An NAE appraiser made a cost estimate of the 0.79-acre TWAE as being in the \$4,000 range plus administrative costs. This is reflected in the BCERE in Paragraph 12.

Lands required for dredging and creating the CAD cell will be used through exercise of the Federal Navigation Servitude. In Maine, coastal property rights extend to the mean low water line. The intertidal land between the high and low tide lines is considered private tidelands. There are approximately 9 parcels of land within the project boundaries that are owned to mean low water by public and private owners. The intertidal dredging area for the channel and turning basin, consisting of approximately 4.066 acres, is shown in blue in Figure 5, and the parcels with intertidal ownerships are shown in Figure 6. The subtidal dredging area, consisting of approximately 3.719 acres for the channel and 1.8 acres for the CAD cell, is shown in magenta in Figure 5. All lands required for dredging the new channel and turning basin and creating the CAD cell lie within the Federal Navigation Servitude, and Navigation Servitude will be exercised for the Recommended Plan (See paragraph 9, Navigation Servitude). NAE will notify the 9 landowners of the exercise of FNS.

Suitable dredged material will be deposited at the EPDS as discussed in paragraph 3(b). USACE is the federal agency that determines if dredged material from its Civil Works projects is suitable for placement at open water disposal sites and relies on EPA's ocean dumping criteria when evaluating dredged material suitability. The USACE prepared a Dredged Material Suitability Determination (DMSD) (See Appendix H) based on the results of sediment sampling and testing. The DMSD was coordinated with both EPA and the State. EPA concurred in the DMSD in October 2018. Both the EPDS and the in-harbor CAD cell site are located in State regulated subtidal waters. The Maine Department of Environmental Protection (MEDEP) under its delegated Clean Water Act authority reviews proposals for dredging projects and the disposal of dredged material in state regulated waters. Detailed Project Report

and Environmental Assessment, including the DMSD were submitted to the State for review and approval. The MEDEP issued a Water Quality Certification for the Blue Hill Harbor project on 10 March 2021. The Maine office of Coastal Zone Management issued its concurrence with the District's Federal Consistency Determination on 16 March 2021, concluding state coordination for the project. There are no real estate acquisition requirements for the disposal of dredged material.

6. NON-STANDARD ESTATES

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

7. EXISTING FEDERAL PROJECTS

There are no existing Federal Projects within the proposed channel dredging and turning basin area. As discussed in paragraphs 3(b) and 5, the 72-acre EPDS site is a federally designated ocean disposal site under the control of the EPA and managed by USACE through the DAMOS program. Through the completion of the DMSD and approval of the project's Detailed Project Report Environmental Assessment, the use of the EPDS to deposit dredge material from the channel is authorized for the Recommended Plan. There is no other existing Federal project that lies fully or partially within the lands required for the Recommended Plan.

8. FEDERALLY OWNED LANDS

a. The channel to be dredged and the CAD cell to be created lie within a navigable waterway subject to the Federal Navigation Servitude. Under the Federal Navigation Servitude, the Federal Government maintains ownership and the dominant right over the navigable waters and submerged lands within the channel and turning basin area (see paragraph 10, Federal Navigation Servitude).

b. The EPDS is in state regulated waters under the control of the MEDEP and managed by USACE through the DAMOS program. Through the completion of the DMSD, approval of the project's Detailed Project Report and Environmental Assessment, and MEDEP issuance of Water Quality Certification on 10 March 2021, the use of the EPDS to deposit dredged material from the channel is authorized for the Recommended Plan.

9. LANDS OWNED BY THE NON-FEDERAL SPONSOR

The NFS owns in fee parcel 015-017 for which the NFS must provide a 0.79-acre TWAE. Following a future vote of the Town selectmen, which meets weekly, the NFS will provide an Authorization for Entry for Construction to make the lands available for the project. The existing interest is sufficient and available for the project purposes for which the NFS lands are required. Federal appraisal principles will be applied to determine market value of the NFS lands for crediting purposes.

10. FEDERAL NAVIGATION SERVITUDE

The Federal Navigation Servitude is the dominant right of the Federal Government under the Commerce Clause of the U.S. Constitution to use, control, and regulate the navigable waters of the United States, and the submerged lands thereunder, for various commerce-related purposes, including navigation and flood control. In tidal areas, the servitude extends to all lands below mean high water mark. Generally, the Federal Government does not acquire interests in real property that it already possesses or over which its use or control is, or can be, legally exercised. If navigation servitude is found to be available, 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 navigation servitude applies.

The determination of the availability of the navigation servitude is a two-step process. First, the Federal Government must determine whether the project feature serves a purpose which is in the aid of commerce. Such purposes recognized by the courts include navigation, flood control, and hydro-electric power. If it is so determined, the second step is to determine whether the land at issue is located below the mean ordinary high water mark of a navigable watercourse. Since the project is a navigation project that aids in commerce and since the lands required for dredging the channel, the turning basin, and the CAD cell lie below the mean high water mark, the application of Navigation Servitude for the Recommended Plan is available. Navigation Servitude will be exercised over 9.585 acres (4.066 acres intertidal for the channel and turning basin; 3.719 acres subtidal for the channel; and 1.8 acres subtidal for the CAD cell) . The conclusion of the availability of Navigation Servitude for the Recommended Plan was coordinated with New England District Office of Counsel.

11. INDUCED FLOODING

The project will not induce flooding in new areas or increase flooding in existing flood prone areas.

12. BASELINE COST ESTIMATE FOR REAL ESTATE

Project Cost Category	Non-Federal Cost	Federal Cost	Total Costs
01-Lands and Damages	\$4,000	\$5,000	\$9,000
Total BCERE	\$4,000	\$5,000	\$9,000

13. PUBLIC LAW 91-646 RELOCATION ASSISTANCE BENEFITS

As of this report, there is no need for displacement of residences and/or businesses.

14. MINERAL AND TIMBER ACTIVITY

There is no present or anticipated mining and drilling activity in the vicinity of the project that may affect project purposes and the operation thereof. No timber harvesting activities are anticipated to occur within the proposed project footprint.

15. ASSESSMENT OF NON-FEDERAL SPONSOR ACQUISITION CAPABILITY

The Recommended Plan requires no acquisition of real estate (the NFS must provide a TWAE over land it owns). However, the NFS is fully capable of acquiring real property rights, including utilization of condemnation authority, should a change of the real estate requirements occur. The Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability is provided in Exhibit "A".

16. LAND USE ZONING

There are no zoning ordinances currently proposed in lieu of or to facilitate land acquisition in connection with this project.

17. ACQUISITION SCHEDULE

A projected schedule has been developed based on the assumption that funding will be available. The tentative schedule for project completion is represented as follows:

ESTIMATED SCHEDULE

Milestones	Date
Execution of the Project Partnership Agreement	Dec 2021
Notice to Proceed with Real Estate Acquisition to Sponsor	July 2022
Sponsor's Authorization for Entry for Construction	July 2022
USACE's Certification of Real Estate	July 2022
Solicitation of the First Construction Contract	Sept 2022

18. UTILITY AND FACILITY RELOCATIONS

There are no utility or facility relocations anticipated or currently required within the proposed project footprint.

19. HAZARDOUS, TOXIC AND RADIOACTIVE WASTE (HTRW)

There are no known or suspected presence of HTRW contaminants regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) within the submerged lands of the proposed dredging site and EPDS. There are no known "Superfund" sites or sites presently under CERCLA remediation or response orders identified in the project area.

20. PROJECT SUPPORT

Residents and business interests will benefit from safe passage of both commercial and recreational craft resulting from the proposed project. Public review of the draft report was conducted in March to April 2020. State regulatory review of the project, incusing further public outreach, was concluded in March 2021. No adverse comment was received and there is no anticipated opposition to the project.

21. RISK NOTIFICATION TO NON-FEDERAL SPONSOR

Although there are no real estate acquisition requirements for the Recommended Plan (the NFS must provide a TWAE over lands they currently own), should changes to the real estate requirement occur, by letter dated April 6 2021, a formal written notice was provided to the NFS informing them of the risks associated with acquiring real estate in advance of an executed Project Partnership Agreement and USACE's written notice to acquire real estate.

Prepared by:

BRADSTREET
PAMELA S. 1239
511682

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Pamela S. Bradstreet
Realty Specialist

Approved by:



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Date: 2021.06.28 10:13:15 -07'00'

Timothy W. Shugert
Chief, Real Estate Division

Exhibit A (Assessment of Non-Federal Sponsor Acquisition Capability)

Project Name: Blue Hill 107 Navigation Improvement Project

Project Location: Blue Hill Maine

Non-Federal Sponsor: Town of Blue Hill, Maine

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

There are no acquisitions involved in this action.

I. Legal Authority:

Name and Title of Sponsor’s representative providing answers to this section

Shawna Ambrose, Town Administrator

a. Does the Town of Blue Hill (the “sponsor”) have legal authority to acquire and hold title to real property for project purposes?

Yes. The legal authority is the Town Charter/Maine State Law. This authority is generally set forth in Article VIII, Part Second, of the Maine Constitution, which establishes the home rule authority of municipalities. Section 2 discusses the authority to issue notes and bonds for the purpose of purchasing land. In addition, a municipality is established as a “body corporate” in 30-A M.R.S.A. Sec. 2002

b. Does the sponsor have “quick-take” authority for this project?

Yes, the town has condemnation authority, however it is not necessary at this time as there are no acquisitions anticipated for this project. If the situation were to change the town has “quick take” authority.

c. Are any of the lands/interests in land required for the project located outside the sponsor’s political boundary?

No, all lands required for the project are located inside the sponsor’s political boundary.

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

No, there are no acquisitions required for this project.

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?

Project Name: Blue Hill 107 Navigation Improvement Project
Project Location: Blue Hill Maine
Non-Federal Sponsor: Town of Blue Hill, Maine

No, due to no acquisitions/relocations, at this time there is not a need for training regarding P.L. 91-646. However, if the situation should change training would be available.

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

Yes, the in-house staff and counsel would have the experience, but in this project acquisition experience is not necessary as there are no acquisitions.

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

Yes, however due to no acquisitions for this project, the in-house staffing is sufficient to work on any requirements necessary.

d. Can the sponsor obtain contractor support, if required in a timely fashion?

Yes, the town can obtain contract support in a timely fashion if at any time acquisition is deemed necessary.

e. Will the sponsor likely request USACE assistance in acquiring real estate?

Yes, the sponsor would likely request assistance, but no acquisition of real estate is anticipated at this time.

III. Other Project Variables

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

Yes, the NFS staff is located less than 2 miles from the project site.

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

Yes, the NFS is aware of the project real estate schedule/milestones as indicated below. A projected schedule has been developed based on the assumption that funding will be available. The tentative schedule for project completion is represented as follows:

Project Name: Blue Hill 107 Navigation Improvement Project
Project Location: Blue Hill Maine
Non-Federal Sponsor: Town of Blue Hill, Maine

Estimated Dates

Milestones	Date
Execution of the Project Partnership Agreement	Dec 2021
Notice to Proceed with Real Estate Acquisition to Sponsor	Jul 2022
Sponsor's Authorization for Entry for Construction	Jul 2022
USACE's Certification of Real Estate	Jul 2022
Solicitation of the First Construction Contract	Sept 2022

IV. Overall Assessment

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

The NFS has had no other projects with the USACE.

- b. With regards to this project, the sponsor is anticipated to be, highly capable/fully capable/moderately capable/marginally capable/ insufficiently capable.

The NFS is moderately capable regarding this project.

V. Coordination

- a. Has this assessment been coordinated with the sponsor?

This assessment was coordinated with the sponsor to obtain feedback and ensure a factual assessment on the sponsor's capabilities and experience. There are no LERRDs required for the project. Coordination is shown by the sponsor's signature on the assessment.

Project Name: Blue Hill 107 Navigation Improvement Project

Project Location: Blue Hill Maine

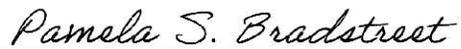
Non-Federal Sponsor: Town of Blue Hill, Maine

b. Does the sponsor concur with this assessment?

Yes, see signature of the NFS below.



Shawna Ambrose
Town Administrator
Town of Blue Hill



Pamela S. Bradstreet
Realty Specialist



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Timothy W. Shugert
Chief, Real Estate Division

Exhibit C-1 – Table of Intertidal Area Owners

BLUE HILL HARBOR, BLUE HILL, MAINE, NAVIGATION IMPROVEMENT PROJECT						
LIST OF INTERTIDAL REAL ESTATE OWNERS						
Assumed from shore frontage adjacent to intertidal dredging areas of project's upstream end						
Date of Assessor's Sheet - 17 March 2021						
Assessor's Map #	Lot #	Address	Owner	Owner Address	Notes	
Southwest Shoreline						
Listed Upstream to Downstream						
15	17	42 Water Street	Town of Blue Hill, Fire Department	P.O. Box 1301 Blue Hill, ME 04614	Town Landing	
15	16	82 Water Street	Blue Hill Memorial Hospital	43 Whiting Hill Road, Suite 350 Brewer, Maine 04412		
15	15	Water Street-Town Park	Town of Blue Hill	P.O. Box 1301 Blue Hill, ME 04614	Town Park	
Northeast Shoreline						
Listed Upstream to Downstream						
15	28	119 Main Street	Estate of Rufus Helendale	c/o William Helendal 533 1/2 Diamond Street San Francisco, CA 94114-3223		
17	16	151 Main Street	Christopher A. Austin and Marcia A. McKeague	P.O. Box 951 Blue Hill, Maine 04614		
15	30	Hub Island	Christopher A. Austin and Marcia A. McKeague	P.O. Box 951 Blue Hill, Maine 04614	Ledge Outcrop	
17	17	169 Main Street	Chalmers C. Clark	FAMA Nancy P. Clark 61 Simonson Avenue Staten Island, NY 20303		
17	19	33 Greens Field Lane	Daniel G. Colt and Catherine M. Colt	402 East 64th Street, Apt 7D New York, NY 10021		
17	20	Seaside Cemetery 18 Union Street	Town of Blue Hill	Seaside Cemetery 18 Union Street Blue Hill, Maine 04614	Town Cemetery	

Exhibit C-2 – Town Assessors Map 15

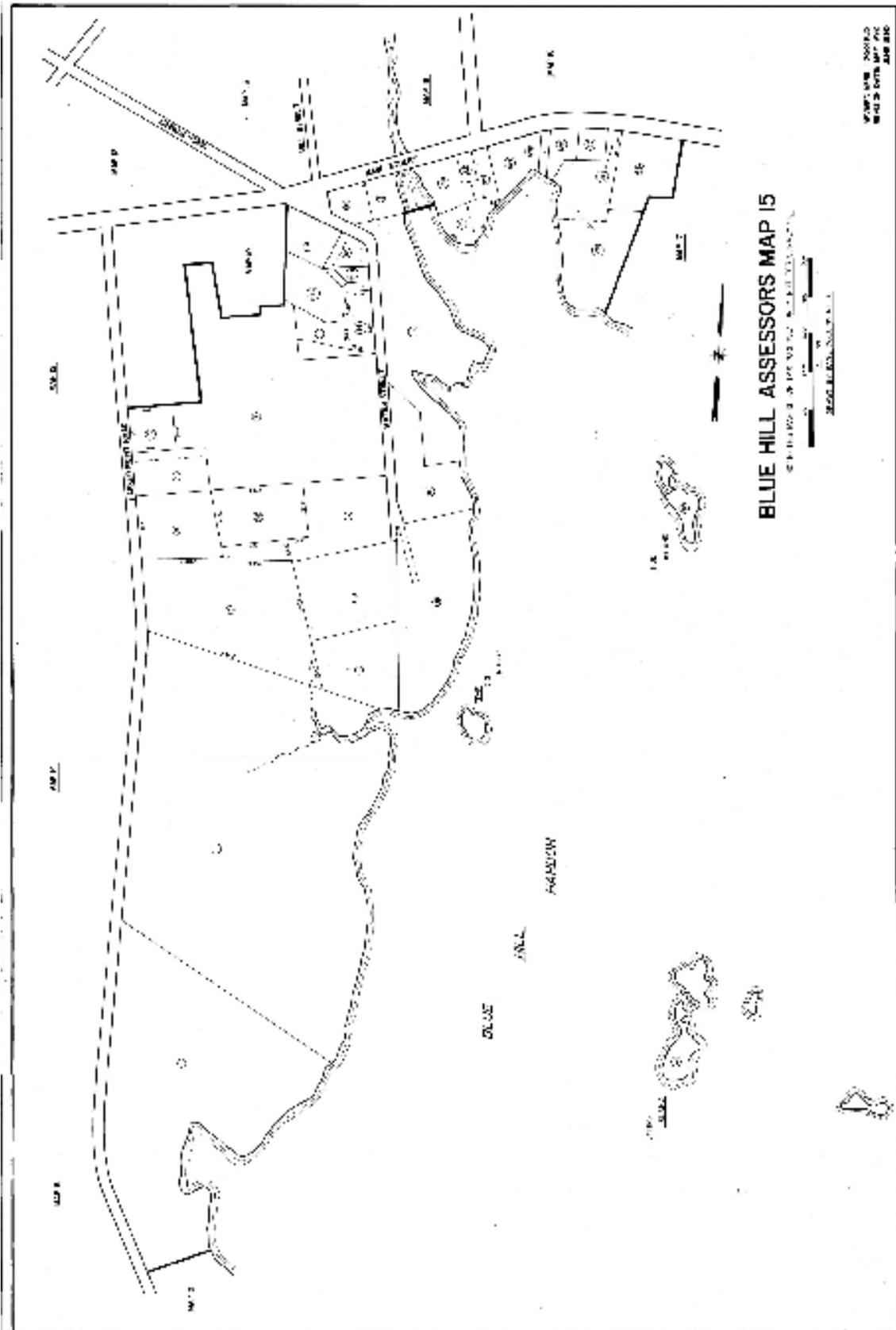


Exhibit C-3 – Town Assessors Map 17

