US Army Corps of Engineers
New England District

Appendix F

Real Estate Planning Report

In support of

Pawcatuck River, Rhode Island
Coastal Storm Risk Management Feasibility Study
Draft Integrated Feasibility Report & Environmental Assessment

Prepared by:
R. Jeffrey Teller
New England District

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December 12, 2017

U.S. ARMY CORPS OF ENGINEERS
New England District

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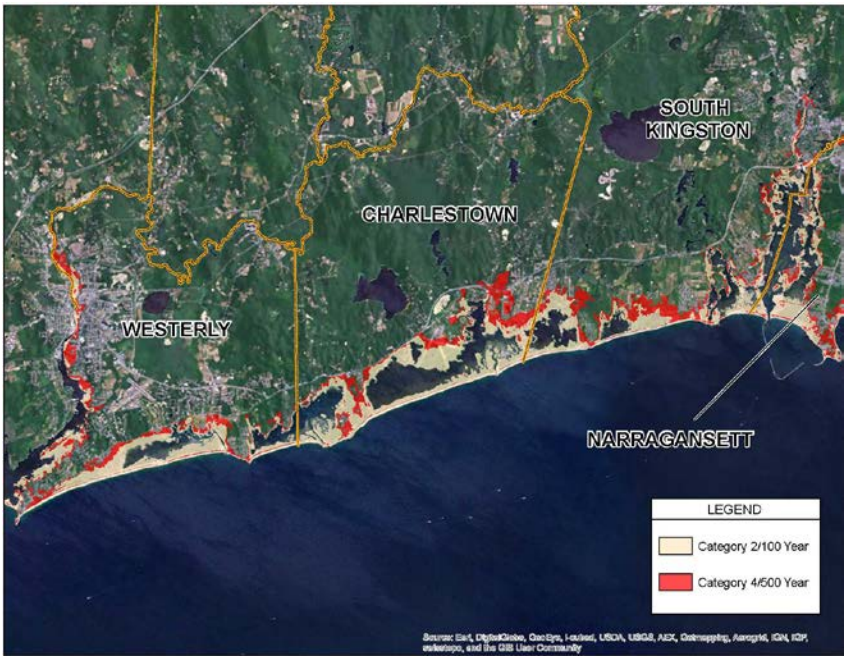
1. **<u>PROJECT PURPOSE</u>**: The USACE coastal storm damage reduction (CSDR) feasibility study is authorized via resolution approved by the Committee on Public Works of the United States Senate, dated September 12, 1969 (also known as the Southeastern New England (SENE) resolution). This resolution by the Committee on Public Works of the United States Senate gives the Army Corps of Engineers the authority to investigate solutions for "flood control, navigation, and related purposes in southeastern New England authorization and funding is also provided under investigations heading, Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 23) enacted January 29, 2013 (hereinafter "DRAA 13"). The USACE New England District initially conducted a focus area analysis in 2013 regarding the coastal portion of the Pawcatuck River watershed. This analysis was part of the larger North Atlantic Coastal Comprehensive Study (NACCS) which concluded that there was a federal interest in continuing with the feasibility study to examine coastal storm damage reduction (CSDR) along the southern coast of the State of Rhode Island. Accordingly, this real estate planning report (REPR) supports the selected plan (locally preferred plan), as annotated within the draft Integrated Feasibility Report and Environmental Assessment for the Pawcatuck River, Rhode Island (Washington County), Coastal Storm Risk Management Feasibility Study. The study area is on the south coast of Rhode Island and includes approximately 28 miles of moderately developed coast in the towns of Westerly, Charlestown, South Kingstown, and Narragansett. The project area is located in the coastal floodplain along the south facing shore of Rhode Island on Block Island Sound. The study area includes a series of coastal barrier beaches that front seven coastal ponds. The floodplain completely encompasses the barriers and ponds as shown in the figure below.



Residential and commercial properties in the Pawcatuck River coastal floodplain are all vulnerable to inundation from coastal storms. Property on the coastal barriers are subject to wave attack as well and to a lesser extent, erosion. The study area includes about 4000 structures most of which are residential, however there are some commercial property in Westerly, South Kingstown, and Narragansett which were analyzed for flood-proofing purpose. Point Judith in Narragansett has the largest concentration of commercial property and is home to the third largest fishing port in New England.

The total value of the existing residential and commercial inventory is estimated to be worth over $600 million. Rock revetments are located along approximately 23% of the beach front properties within Westerly and 31% in the Matunuck area of South Kingstown; typical shoreline consists of sandy barrier beaches. The feasibility study considered a range of structural and nonstructural measures to reduce the risk of storm damage in the study area. Through an iterative planning process, potential coastal storm risk management measures were identified, evaluated and compared. The initial screening of alternatives determined that detailed study of structural (sheet pile flood walls and tide gates), soft structural (beach fill/nourishment), and nonstructural (elevation and buyout of properties) should be conducted in Westerly RI due to the amount of denser development there. Conversely, only non-structural alternatives made sense for full evaluation in the towns of Charlestown, South Kingstown, and Narragansett. Evaluation of costs and benefits (damage assessment) of the alternatives showed that the cost of several of the structural alternatives in Westerly exceeded the benefits to be provided by the alternative. This included beach fill alternatives, proposed west flood wall, combination of east and west flood walls, tide gate and west flood wall in Misquamicut village in Westerly. The east flood wall and a stand-alone tide gate in the Winnapaug Pond breach way were determined to be marginally justified (i.e. >1.0 benefit to cost ratio) but not as economically attractive as the non-structural alternatives. Based on an evaluation of the costs and benefits of the non-structural alternatives, elevation of individual structures and flood-proofing measures were identified as the recommend NED plan by the U.S. Army Corps of Engineers, New England District in order to reduce coastal storm risk for all four communities in the study area. Following USACE and public review of the TSP, it was decided to optimize the analysis to determine the final federal recommended NED plan. Accordingly, the USACE (NAE) recommended NED plan for coastal storm risk management (CSDR) in the Pawcatuck River coastal watershed proposed to elevate the first floors of 357 residential structures, flood-proof 7 structures and acquire 7 properties located in Coastal Barrier Resource region; the project spans four communities +1' above the FEMA designated base flood elevation.

The non-Federal sponsor, the Rhode Island Coastal Resources Management Council (RI CRMC), indicated support for most of the elevation portion of the non-structural plan. However, RI CRMC, determined that there were over 100 structures found to not be owned by the owner of the land the structure sits on, as result are not eligible according to our implementation plan requirements and were dropped. Therefore, the *selected plan* recommends the *locally preferred plan* (LPP) which proposes to elevate 247 and flood proof another 21 properties, be implemented. At the request of RI CRMC, the seven properties identified for acquisition were not carried forward in the selected plan (LPP). The first floors will be elevated to a height corresponding to the FEMA designated Base Flood Elevation (BFE), ranging from +11 feet North Atlantic Vertical Datum of 1988 (NAVD88) to +17 feet NAVD88, plus 1 additional foot in accordance with Corps/NFIP standards, state building code and another 0.8 feet to account for intermediate historic sea level rise over the next 50 years. The overall construction duration of this project is estimated for five years assuming five contractors are working on the project simultaneously. As referenced, the locally preferred plan (LPP) was selected and will be carried forward for the remainder of report analysis. The non-federal project partner for the *study phase* is the Rhode Island Coastal Resources Management Council (RI CRMC) and they have also agreed to become the non-federal sponsor for project implementation. In accordance with the USACE policy and regulations, the federal and non-federal cost shares are as follows: initial construction cost shared 65% federal and 35% non-federal.

As referenced above, the selected plan is the locally preferred plan (LPP) which consists of elevating the first floors of 247 structures and flood-proofing 21 properties in the four study area communities. The first floors will be elevated to a height corresponding to the FEMA designated Base Flood Elevation (BFE), ranging from +11' North Atlantic Vertical Datum of 1988 (NAVD88) to +17' NAVD88, plus 1' in accordance with state building code. In addition, 21 properties have been identified for flood-proofing. The properties reported eligible for elevation and flood-proofing are identified by town as follows:

- Westerly: Elevate 49 Structures, flood proof-6
- Charlestown: Elevate 45 Structures
- South Kingstown: Elevate 72 Structures flood proof-4
- Narragansett: Elevate 81 Structures flood proof-11

Elevation of individual structures will rely on conventional residential construction methods. First, existing foundations for the participating homes will be demolished and temporary utility connections put into place to allow occupants to remain in the structure throughout construction. The structures will then be elevated using lifting jacks and supported on temporary cribbing while a new foundation is constructed. Those structures located in the AE-zone of the floodplain will be provided with a new concrete wall foundation, those in the VE-zone will be placed on new concrete piers. Once ready, the structures will then be lowered onto the new foundations and the permanent utility connections made. The program requirements mandated by both USACE and the non-federal sponsor (NFS) are outlined in the participation agreement (Attachment #1) and project implementation plan (Attachment #2).

2. REAL ESTATE REQUIREMENTS: Currently, the USACE New England District (CENAE) is awaiting nonstructural flood-proofing implementation guidance from USACE Headquarters. The forthcoming guidance may alter the real estate instruments used to enable construction of the proposed project. Pending receipt of further guidance, the New England District offers the following real estate requirements. In accordance with policy, USACE projects require the non-federal sponsor (NFS) to provide lands, easements, rights-of-way and relocations, and disposal/borrow areas (LERRDs) for a project. In accordance with the selected plan, identified as the locally preferred plan (LPP) there are approximately 247 residential structures eligible for elevation and 21 properties eligible for flood-proofing. The nonstructural flood-proofing measures will be offered to owners of structures that have been determined to be eligible for program participation. In accordance with USACE policy and regulations, the federal and non-federal cost share are indicated as follows: initial construction cost shared 65% federal and 35% non-federal. In the initial project phase USACE will require rights of entry to enter upon identified properties in order to determine eligibility. In the subsequent project phase(s), once eligible properties have been identified, the non-federal sponsor will be required to obtain temporary work area easements (Temporary Standard Estate No. 15) for construction, staging and storage, in accordance with construction requirements. The acquisition of the temporary work area easements are not anticipated to be an impediment to project execution.

TEMPORARY WORK AREA EASEMENT (Standard Estate No. 15)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a 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 _____ 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.

In accordance with USACE program requirements, the non-federal sponsor will also be required to obtain *permanent easements* limiting alteration of the elevated structure for human habitation below a height corresponding to the FEMA designated Base Flood Elevation (BFE). The easement shall be recorded by the NFS in the public records of the county in which the property is located prior to commencement of the nonstructural improvements on the property. The non-standard estate language (Attachment #3) has been approved by the District Office of Counsel and is included as an attachment to this report.

Appraisal Information: there are 247 residential structures identified as potentially eligible for elevation and 21 properties eligible for the flood-proofing program. USACE will require temporary work area easements and permanent easements that will need to be appraised in order to determine diminution in value and/or benefits to the remainder, determined through the Before/After analysis. The non-federal sponsor will be required to contract for appraisal services subject to USACE concurrence and oversight.

3. EXISTING FEDERAL PROJECTS: Based on discussions with PDT and study manager, there are no existing federal projects at this location or modification of an existing federal project. The following three federal projects are located within the overall general investigation study footprint.

A. Sand Hill Cove Beach, Narragansett. This beach erosion control project, east of the entrance to Point Judith Pond, was completed in 1955 and consists of widening the beach by 65 feet, constructing five stone groins and a steel bulkhead behind the eastern half of the beach.

B. Misquamicut Beach, Beach Erosion Control Project. The project was authorized by the River and Harbor Act of 14 July 1960 (PL 86-645), as amended. The authorized beach erosion control project, completed in 2014, involved the placement of approximately 90,000 cubic yards of a suitable sand fill along 3,250 feet of shoreline. The beach is roughly 150 feet wide shoreward of the mean high water line with a top elevation of +7.5 feet MLW.

C. Ninigret Pond, Habitat Restoration Project. This restoration project was constructed under Section 206 of the Continuing Authorities Program. The project restored aquatic vegetation, in the form of eelgrass, to the flood tidal shoal of Ninigret Pond. About 40 acres of the flood tidal shoal were dredged to a depth of 0.75 meters (2.5 feet) below Mean Low Water. Eelgrass was restored in the dredged areas through a combination of natural succession and seeding. A 3.5-acre sedimentation basin was dredged to 8 feet below MLW to prevent future shoaling in the restored eelgrass areas. About 200,000 cubic yards of dredged sand was pumped directly to East and Charlestown beaches for disposal.

4. EXISTING FEDERALLY OWNED LANDS: There are no federally owned lands, or interest(s) therein, included within the LERRDs required for the project.

5. LANDS OWNED BY THE NON-FEDERAL SPONSOR: The Rhode Island Coastal Resources Management Council (RI CRMC) has been identified as the non-federal sponsor for project implementation; they do not own any real estate requirements (LERRD) required for this project.

6. NAVIGATIONAL SERVITUDE: There is no linkage between the selected plan (LPP) and navigation purpose. As result, navigation servitude does not apply in accordance with project authorities and the proposed construction alternative.

7. INDUCED FLOODING: Induced flooding is not anticipated to result from implementation of this project.

8. BASELINE COST ESTIMATE FOR REAL ESTATE: The real estate cost estimate is based on the selected non-structural plan (locally preferred plan/LPP) which proposes the elevation of 247 residential properties, with an additional 21 properties eligible for flood-proofing. The real estate costs at this time primarily relate to administrative costs regarding required execution of real estate instruments between the NFS and landowner, to include right of entry agreement, temporary work area easement and permanent easement. Additional costs annotated below include an estimate of administrative costs associated with temporary relocation assistance costs for tenants (PL 91-646) and the federal administrative costs required for review of NFS program requirements; in addition, an overall 10% contingency fee is recommended by the study manager. Project real estate appraisals will be required for analysis of the temporary work area easement and permanent easement. When the final planning report is approved by USACE HQ and the project moves into planning, engineering, and design, the real estate planning report will be updated with an estimate of acquisition costs (easements) based on Before/After appraisal analysis.

The administrative costs associated with NFS acquisition of required easements was based on an allocation of an administrative cost of $10,000/parcel, in accordance with similar USACE projects, project estimate follows:

NFS Incidental Administrative Costs	$2,680,000
PL 91-646 Relocation Assistance (displaced tenants)	$60,000
Fed Review of NFS Costs	$50,000
Subtotal	$2,790,000
Contingency 10%	$279,000
	$3,069,000
Say	**$3,100,000**

9. PUBLIC LAW91-646 RELOCATIONS: Property owners and occupants of eligible residential structures who willingly participate in the proposed elevation program are not considered displaced persons (in accordance with 49 CFR Part 24), and therefore are not entitled to receive relocation assistance benefits. However, *displaced tenants* of eligible residential structures to be elevated, may be eligible for temporary relocation assistance benefits in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs of 1970 (49 CFR 24.101(a)(2). Eligible tenants that temporarily relocate may be reimbursed for the cost of temporary alternate housing, meals and incidentals and the fees for disconnection and connection of utilities at the temporary residence. All temporary housing costs would need to be approved in advance by the non-federal sponsor and USACE. Hotel costs, meals and incidental expenses are reimbursed based on the applicable General Services Administration per diem rates, which is $95.00 per day (hotel), meals and incidental expenses are $59.00 per day. Based on analysis of the 247 residential properties, it was estimated that approximately 25% of the residential properties (62 properties) may be subject to displacement of tenants, projected at three tenants per dwelling, for period of 2 nights. Therefore, the estimated temporary relocation benefits are projected as follows, utilizing the per diem hotel rate ($95.00/lodging) and ($59.00 M&I) results in a total of $154.00/daily, applied to three occupants per dwelling, for two nights, results in an estimated temporary relocation cost of $924.00 dollars per displaced household (62 properties). Accordingly, the total estimated relocation assistance cost is $57,288 say $60,000 dollars.

10. MINERAL/TIMBER ACTIVITY: There is no anticipated mineral activity or timber harvesting anticipated to occur within the project footprint.

11. ASSESSMENT OF NON-FEDERAL SPONSOR ACQUISITION CAPABILITY: The non-federal project sponsor (NFS) has been identified as the Rhode Island Coastal Resources Management Council (RI CRMC). The assessment of the NFS acquisition capability has been completed and is included as an attachment to this report.

12. ZONING: There is no application or enactment of zoning ordinances anticipated in lieu of, and/or to facilitate, the acquisition of LERRDs in connection with this project.

13. ACQUISITION SCHEDULE: The acquisition schedule will be developed in accordance with the selected plan (LPP), subject to the project entering the planning, engineering and design phase. It is important to note the project will require both congressional authorization and appropriation prior to advancing to the execution phase. Since this project is still in feasibility stage it is impractical to accurately estimate project milestones at this time, based on discussions with PDT members, acquisition timelines will be established during plans, engineering, and design phase upon project approval. The project partnership agreement is projected to be executed in December 2018

14. UTILITY AND FACILITY RELOCATIONS: At the time of this report, no facility/utility relocations have been identified by the study team, therefore no relocations are anticipated to be required for the selected plan. Should it be determined during PED that facility/utility relocations are required, costs will be developed.

15. HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW): There have been no environmental studies completed to date. USACE and the NFS will confirm that structures and appurtenant land are not contaminated with hazardous, toxic or radioactive waste or materials (HRTW), the plan is to complete the initial study after the project partnership agreement is executed. The Phase 1 environmental assessments will be conducted during the planning, engineering and design phase, as an integral part of eligibility determination. According to the study manger, environmental assessment responsibilities will be detailed within the project partnership agreement with the non-federal sponsor.

16. ATTITUDES OF THE LANDOWNERS: The local stakeholders in the project study area have been regularly briefed on the study's progress. In addition, the 30-day public review period has been completed in which a number of local residents voiced opposition to the spending of federal funds on private homes. Comments received during this review period will be integrated into the final feasibility report.

17. NOTIFICATION TO NON-FEDERAL SPONSOR: The non-federal sponsor (NFS) for the feasibility study has been identified as the Rhode Island Coastal Resources Management Council (RI CRMC). Final notification to the non-federal sponsor regarding project responsibilities will be provided upon project approval.

Attachment #1

Property Owner Participation Agreement
Pawcatuck River, Rhode Island
Coastal Storm Risk Management Project

The Rhode Island Coastal Resources Management Council (hereinafter referred to as the "RI CRMC"), has undertaken the implementation of the Pawcatuck River, Rhode Island Coastal Storm Risk Management Project, located in Washington County, Rhode Island. The implementation of the project will include, the flood-proofing of certain structures so that the habitable floors thereof are elevated to levels or protected by other means in such a manner which will protect the structures from certain flooding to the greater extent practicable by allowing the free movement of floodwater beneath and around the structures. In addition, project alternatives include a flood-proofing component which will involve any combination of nonstructural additions, changes, or adjustments to structures which reduce the risk of coastal storm surge damage to property improvements, water and sanitary facilities, structures and contents. In consideration of the flood proofing program requirements, the mutual agreements and covenants hereinafter set forth, the property owner agrees to the following:

1. I/we, who wish to have their residential structure flood-proofed, attest to owning the structure and the land on which the structure is located. Proof of ownership is attached, which includes a certificate of title and a certificate of mortgage that identifies the names of all of the owners of the property, as well as any third party interest holders and any holders of a lien or encumbrance against the property.
2. I/we certify that there are no outstanding real estate taxes due on the subject property. Written verification from the tax assessor is attached.
3. I/we understand that the government reserves the right to determine which flood-proofing measure shall be implemented.
4. I/we understand that the program requires that the residential structure can/may be elevated to meet the required base flood elevation so that the habitable floors are raised to levels which will protect the residential structures from storm surge flooding to reduce future losses from the likelihood of the 100-Year Flood Event to the extent practicable. I/we understand that in no event will a structure be raised greater than 12 feet above the ground level.
5. I/we understand that dry flood proofing consists of sealing all areas from the ground level up to approximately 3 feet of a structure to reduce the risk of damage from storm surge resulting from hurricanes of a certain magnitude, by making walls, doors, windows and other openings resistant to penetration by storm surge waters. Walls are coated with sealants or waterproofing compounds, or are covered by plastic sheeting, and mechanisms to prevent back-flow from water and sewer lines such as drain plugs, standpipes, grinder pumps, and back-up valves are installed. Openings, such as doors, windows, sewer lines and vents, may also be closed temporarily or permanently with sandbags or removable closures.
6. I/we attest that, based on visual assessment, the residential structure does not have signs of actual or potential significant structural defects, distress or failure (i.e. no evidence of corrosion of steel framing or concrete; no water or insect damage to wood framing; no framing that is in obvious need of repair or replacement; no settlement, cracking, buckling, or collapse of the foundation; no damage to load bearing or masonry walls; no damage to veneer or siding; no evidence of unrepaired roof leaks). Further, I/we, agree to grant a right of entry (attached) to the RI CRMC and United States of America, acting by and through the Department of the Army (“Government”), to conduct initial site investigations and engineering assessments to determine structural integrity in regards to flood-proofing capabilities of eligible properties. Based on a visual assessment and due diligence, the Government will determine whether the structure has signs of actual or potential significant structural defects, distress, or failure.
7. I/we agree that, to the best of our knowledge, the structure and appurtenant land is not contaminated with hazardous, toxic or radioactive waste or materials. I/we understand that a Phase I HTRW/asbestos investigation may be required, with all asbestos abated and disposed of properly. If contaminated material is found during such an investigation, I/we understand that I/we will be afforded the opportunity to cure the contamination in order to qualify for the government program.

8. I/we am/are willing to expend any costs that *may* be necessary in connection with the flood-proofing of the structure which are not eligible project costs. In cases where properties do not meet project eligibility due to structural defects; if cure is possible, I/we understand that I/we will be afforded the opportunity to cure structural defects.
9. I/we understand that if the subject property is utilized as a rental property (qualified year-round tenant), tenants who reside in structures being flood-proofed may be eligible for certain benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Public Law 100-17, 101 Stat. 246-256; 49 Code of Federal Regulations 24. I/we agree to notify the NFS if there are year round tenants leasing/occupying the subject premises and to provide a copy of the lease/agreement. I/we understand that all temporary housing costs must be approved in advance in writing by the NFS and the federal government.
10. If it is determined that my/our property is eligible for participation in the program, I/we agree to grant, upon project approval, a temporary work area easement and permanent easement for project construction, operation and maintenance (sample easements attached). I/we understand that the easement will be binding on the owners, heirs, assigns, transferees and any other successors in interest.
11. I/we further acknowledge that my/our participation in the program is contingent upon my/our obtaining, as may be acceptable to the Government, the consent of any lienholder or tenants to the terms of this Agreement and the easement.

EXECUTED this the _____ day of _____ 20____

_____ _____

Notes:

1) Property owner will be required to reimburse program 35% of project cost share.
2) Attachment: Right of entry (including restoration clause) will be attached to the application/document requirements. Hybrid right of entry agreement, will be titled as NFS (CMRC), agents & assigns, and/or Department of the Army. Executed Right of entry agreement is required as part of the owner's program application.
3) Attachment: sample temporary and permanent Easement (non-standard estate)

Attachment #2

APPENDIX H

NONSTRUCTURAL IMPLEMENTATION PLAN

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APPENDIX H

Nonstructural Implementation Plan

A. Definitions

Term	Definition
Base Flood	Defined by the National Flood Insurance Program (NFIP) as the "flood having a 1% chance of being exceeded in any given year and is also called the 100-year flood".
Base Flood Elevation (BFE)	The computed elevation to which floodwater is anticipated to rise during the base flood. The BFE is shown on community's Flood Insurance Rate Map (FIRM).
Dry Flood Proofing	Dry flood proofing makes the structure watertight below the level for which coastal storm surge risk reduction is provided by preventing flood waters that derive from storm surge from entering the structure. Dry flood proofing may include one or more of the following methods: using waterproof membranes or sealants to reduce seepage of floodwater through walls and wall penetrations; use of watertight shields for doors and windows; and/or installing measures to prevent sewer backup.
Economically Justified	The cost to flood-proof the structure does not exceed the total monetary cost of the coastal storm surge damages that are anticipated to be avoided over the 50-year period of analysis (years 2020-2070).
Eligible structures	Structures that are determined by the United States Army Corps of Engineers (USACE) to be eligible for flood proofing after the completion of the investigations and analyses as described herein.
Flood Proofing	Any combination of nonstructural additions, changes, or adjustments to structures which reduce the risk of coastal storm surge damage to improved real property, water and sanitary facilities, structures and their contents.
Historic Structure	As defined in 44 CFR Part 59, means any structure that is (1) listed individually in the National Register of Historic Places (maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places with historic preservation programs which have been approved by the Secretary of the Interior; and (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by (a) an approved state program as determined by the Secretary of the Interior or; (b) directly by the Secretary of the Interior in states without approved programs.
Hazardous, Toxic, or Radioactive Waste (HTRW)	HTRW means hazardous, toxic and radioactive waste as more specifically defined in Engineer Regulation (ER) 1165-2-132, "Hazardous, Toxic, and Radioactive Waste (HTRW) Guidance for Civil Works Projects".

Non-Federal Sponsor (NFS)	The NFS is the cost-sharing partner for the study, design, construction of the project, as well as for the Operation, Maintenance, Repair, Rehabilitation and Replacement (OMRR&R) of the project.
Nonstructural Measures	Nonstructural Measures are permanent or contingent measures applied to a structure and/or its contents that reduces the risk of damages that could result from coastal storm surge. Nonstructural measures differ from Structural measures (i.e., levees, floodwalls, etc.) in that they focus on reducing the consequences of damages from coastal storm surge instead of focusing on reducing the probability of damages from coastal storm surge.

B. Introduction

This Nonstructural Implementation Plan describes the general process for the implementation of nonstructural measures, as described in this Final Report, designed to reduce the risk of damages caused by coastal storm surge in the study area. The primary goal of the NED Recommended Plan (RP) is to reduce the risk of damage from coastal storm surge for structures that have a FFE at or below the Base Flood elevation and that have been shown to be economically justified, based on hydrologic conditions predicted to occur in 2020 (the beginning of the 50-year period of analysis).

The NED RP consists of the following measures:

1. Elevation of the Finished First Floor (FFE) of eligible structures to the 100-year BFE plus an additional 1-foot of freeboard plus an additional 0.8 feet to account for 2070 hydrology due to sea level rise.

2. Flood proofing (e.g. flood shields, sealants) of eligible structures that cannot be elevated.

Property owners located in the project area will be informed of the details of implementation of the NED feature of the project, including eligibility criteria, the eligibility process, and the related duties and obligations of USACE, the NFS, and the property owner. Based upon present information, the anticipated duties and obligations are generally outlined below; however, some of this information may be modified as the Nonstructural Implementation Plan is finalized as part of planning, engineering, and design (PED). While each individual eligible structure has been evaluated for the most cost effective nonstructural measure, the government reserves the right to determine which measure shall be implemented at each structure location. It is anticipated that implementation of the Nonstructural plan will occur over an approximate 5-year period (assuming funding of ~$9 million/year). However, the scale of the Project is highly dependent upon the participation rate and the amount of funding allocated in any given year.

If the property owner does not want to participate in the Project, USACE and the NFS would defer any further action on that structure until such time as the property owner elects to participate or until the period of construction ends. However, the Government reserves, at its sole discretion, the right to determine whether or not a structure may participate in the Nonstructural plan after a property owner has declined participation, and if allowed to participate, the timing and scheduling of such participation in the Project.

C. Elevation of Eligible Residential Structures

Owners of eligible residential structures may participate by having their structure elevated to the FFE elevation described in section B, above. If the required elevation is greater than 12 feet above ground level, the structure would not be eligible for elevation and would be ineligible to participate due to engineering and risk related factors.

1. Determining Eligibility: 2-Step Eligibility Process

Step 1- Preliminary eligibility: Structures that meet the following eligibility criteria will have met this first step in the eligibility process and will be eligible for further consideration in the process.

- The structure must have a FFE at or below the 100-year BFE, based on hydrologic conditions predicted to occur in 2020 (the beginning of the 50-year period of analysis); and
- Elevation of the structure is deemed to be economically justified.

At the time of this Final Report, a structure inventory has been compiled which identifies 247 structures in the Study Area that, based on present information, have been deemed to be preliminarily eligible to participate in the Project. These structures will require additional structure-specific analysis during PED to determine final eligibility.

Step 2 - Eligibility Determination – Investigations: The following is a general overview of Step 2 in the eligibility process for those structures meeting the Step 1 eligibility requirements. Additional details concerning the process, what makes up the eligibility criteria, and related requirements will be developed during PED and provided prior to Project implementation.

- Once preliminary eligibility is determined, property owners will be asked to execute an application/participation agreement (See Enclosure 1), and will also be required to grant a temporary right-of-entry to USACE and the NFS to enter upon the property to conduct such property and structural investigations deemed necessary to determine final eligibility for participation in the Project. These investigations may include: structural inspections, surveys, limited environmental testing and site assessments, verifying current elevation and determining elevation requirements, and conducting such other activities deemed necessary by USACE and the NFS to make a final determination of eligibility. A property owner may elect not to participate at any time prior to execution of an easement for the performance of the nonstructural measure upon the property. Refusal to grant temporary right-of-entry will constitute the election not to participate.
- The property owner shall submit satisfactory documentation as outlined in the application/participation agreement (Enclosure 1).
- The NFS shall conduct title research to confirm the property has clear title; and appraisals that may be necessary.
- An ASTM Phase I Environmental Site Assessment (ESA) and asbestos investigation will be conducted to confirm the absence of HTRW and damaged or friable asbestos or asbestos-containing materials, and, if warranted, additional HTRW investigations and a Phase II ESA will be conducted at the property. If the presence of HTRW, asbestos, or asbestos-containing materials in a damaged or friable form is confirmed on the property, the property owner shall be obligated, at his sole cost and expense, to conduct all necessary response and remedial activities in full compliance with applicable local, state, and federal laws and regulations and provide proof of same before the property can be deemed to have met the eligibility requirements;
- The structure will be evaluated by USACE to ensure that all of the following eligibility requirements are satisfied:
    - The structure can be elevated to meet the required BFE. However, in no event will a structure be raised greater than 12 feet above the ground level;

- Based on a visual assessment, the structure is in a condition that is suitable for elevation without the need for repair or rehabilitation. Any repair or rehabilitation necessary to achieve that condition will be at the sole cost and expense of the property owner (see paragraph 5 "Eligible and Ineligible Improvement Costs" below);
- Implementation of nonstructural measures will not impact threatened or endangered species;
- Implementing nonstructural measures on the property will not require discharging fill into the waters of the United States and would not result in any impact to wetlands; and

2. **Easement Requirements**

Upon project approval, the property owners and the NFS will be required to execute a temporary work area easement for project construction, as well as a permanent easement, which will be binding upon the owners, their heirs, assigns, transferees, and any other successors in interest. The provisions of this easement have been developed and are included as an attachment to the Real Estate Planning Report.

3. **Commencement of Nonstructural Improvements.**

Following the eligibility determination and receipt of proof of recordation of the required documentation, elevation of the structure will commence. The entire structure will be lifted and placed on a new foundation (i.e., columns, piers, posted or raised foundation walls) so that the FFE is at the target elevation described in Section B, above. All utilities and mechanical equipment, including air conditioners and hot water heaters, will also be raised to the required elevation. Property owners may choose to raise the structure, utilities, and/or mechanical equipment in excess of the predicted targeted elevation; however, costs attributable to elevations in excess of the minimum requirements set forth herein are not deemed eligible costs (described below) and would be performed at the sole cost, risk, and expense of the property owner.

4. **Notice of Construction Completion (NCC).**

Upon completion of the improvements, an inspection will be performed by USACE and upon final approval by the District Engineer, or his designee, a notice of construction completion will be issued to the NFS and the individual elevation project will be closed out as complete.

5. **Eligible and Ineligible Project Costs.**

Eligible Project Costs: All elevations will require local permits prior to any onsite construction. Only the costs of elevation and foundation retrofitting are eligible costs. No Federal funds will be used to restore, replace, or repair the structure. No additions to the habitable spaces of the structure will be permitted in the performance of the elevation work. Eligible project costs of structure elevation include: design costs; costs of obtaining all required permits (i.e., zoning or land use approvals, environmental permits or required certifications, historic preservation approvals, and building permits), unless identified as an ineligible project cost; costs of title searches (in review of title information submitted by the property owner), surveys, appraisal fees and costs for the following tasks:

- elevating the structure;
- raising the roof and extending the walls of a side structure attached to the main structure (i.e., garage);
- raising mechanical equipment (i.e., air conditioner, furnace, water heater, electrical panel, fuel storage, valves, or meters);
- connecting, disconnecting, and extending utility connections for electrical power, fuel, incoming potable water, wastewater discharge;
- meeting access requirements of applicable building codes (i.e., stairs with landings, guardrails);
- creating large vent openings in the foundation and walls to meet requirements for flood water entry and exit;

- in instances where special access improvements (i.e., elevators, lifts, ramps, etc.) may be required (i.e., in the case of physically handicapped or elderly homeowners or occupants) special handicapped access can be considered an eligible improvement cost when documented by the medical certificate of a licensed physician. Multiple special access points may also be eligible for funding where necessary to meet state or local building code compliance;
- removal of any trees which restrict the elevation of a structure;
- site grading and site restoration including restoring landscaping to its preconstruction condition;
- for historic structures that are listed or eligible for listing on the National Register of Historic Places, costs associated with maintaining the historic designation as determined by the Rhode Island State Historic Preservation Office (including such costs to preserve the historic façade and character of the building whether through exterior structural modifications, landscaping, lighting, paint, disguising and/or blending of the nonstructural measure with the building, etc.);
- temporary site protection measures during site work; and
- allowable relocation assistance funds for displaced tenants in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Public Law 100-17, 101 Stat. 246-256. Relocation assistance for tenants may include, among other things, advisory services, reimbursement of costs of moving personal property, or rental assistance to supplement the costs of leasing a comparable replacement dwelling,. (See Appendix F, Real Estate Plan for more detailed information.) Note that a structure is ineligible for nonstructural measures if it would require elevation over 12 feet above ground level due to engineering and risk related factors. Landowners whose properties are voluntarily elevated will not be eligible for benefits in accordance with URA; however, tenants of these structures may be eligible for these benefits.

Ineligible Project Costs: The costs that exceed that which is necessary to safely elevate and or flood-proof an eligible structure are deemed ineligible costs, and any such costs remain the sole responsibility of the property owner. These costs may include, among others, costs associated with:

- any structural and system repair due to existing deficiencies;
- modifications or improvements to a septic system except for extension of lines from the raised structure to the existing system;
- cost for elevation above the targeted FFE;
- modifications to structures that are not attached to the eligible structure;
- modifications to tubs, pools, spas, hot tubs, and related structures or accessories;
- modifications to decks and patios not connected to or immediately adjacent to the structure except for modifications that are expressly required by building codes (i.e., stairways and landing modifications);
- the proper remediation, removal and disposal of environmental contaminants including but not limited to HTRW, asbestos, and asbestos-containing materials in damaged or friable form;
- costs associated with bringing a non-conforming structure into compliance with current building code, housing code, and/or other applicable codes;
- costs associated with special access improvements (i.e., elevators, lifts, ramps, etc.) that are deemed ineligible; and
- improvements to structures not considered the primary residence (i.e., detached garage, shed and/or barns).

D. Dry Flood Proofing of Eligible Non-Residential Structures

Dry flood proofing consists of sealing all areas from the ground level up to approximately 3 feet of a structure to reduce the risk of damage from storm surge resulting from coastal storm events, as described in this report, by making walls, doors, windows and other openings resistant to penetration by storm surge waters. Walls are coated with sealants or waterproofing compounds, or are covered by plastic sheeting, and mechanisms to prevent back-flow from water and sewer lines such as drain plugs, standpipes, grinder pumps, and back-up valves are installed. Openings, such as doors, windows, sewer lines and vents, may also be closed temporarily or permanently with sandbags or removable closures.
Some common flood proofing measures include:

- Backflow valves;
- Closures on doors, windows, stairwells, and vents--they may be temporary or permanent;
- Rearranging or protecting damageable property--e.g., relocate or raise utilities;
- Sump pumps and sub-drains; and
- Water resistant material; metal windows, doors and jambs; waterproof adhesives; sealants and floor drains.

While each individual eligible structure will be evaluated for the most cost effective nonstructural measure, the government reserves the right to determine which measure shall be implemented at each structure location.

Determination of Eligibility. The process of determining eligibility would be substantially similar to the process followed above in connection with the elevation of residential structures. Identification of eligibility criteria and details concerning the process will be developed during PED and provided prior to Project implementation. At the time of this Final Report, a structure inventory has been compiled which identifies 21 preliminarily eligible structures in the Study Area. Eligible property owners who request application of the dry flood-proofing measures to their structures must execute an application/participation agreement (Enclosure 1) and temporary right-of-entry, undergo similar site and structural assessments, present the requisite documentation, and undergo a structure-specific analysis performed during the design phase that is substantially similar to that which is described above in connection with the elevation structures.

Commencement of Improvements and NCC. Upon determination that a structure is qualified for dry flood proofing, a scope of work will be developed. Each structure must have an approved sanitary disposal system and be in compliance with local and state health and building codes. The property owners and the NFS will be required to execute a temporary work area easement for project construction, as well as a permanent easement, which will be binding upon the owners, their heirs, assigns, transferees, and any other successors in interest. The provisions of this easement have been developed and are included as an attachment to the Real Estate Planning Report. After the easement is recorded in the public records of the county in which the property is located, the dry flood proofing work will be commenced, completed, inspected by USACE, and after final approval by the District Engineer, or his designee, a notice of construction completion will be issued to the NFS and the individual dry flood-proofing project will be closed out as complete.

E. Implementation Method: Federal Procurement

The traditional method of implementation is generally described in publications of the USACE National Flood Proofing Committee and Flood Risk Management Planning Center of Expertise. This method of implementation utilizes a Federal procurement process to obtain design and construction contractors for the various flood proofing measures. The Government will procure contracts that will allow a contractor to perform flood proofing work on multiple structures through a series of one or more task orders. The contractor will also be responsible for all work associated with the elevation from approval of the elevation plans for each structure to final inspection.

Real Estate regulations (ER. 405-1-12, paragraph 12-9d(3)) allow for small quantities of borrow material to be supplied by the construction contractor through the use of readily available commercial sites, if supported by an analysis conducted by the Government and the NFS, and if no other constraints exist.. For purposes of this Final Report, it has been assumed that the analysis performed pursuant to the above cited ER 405-1-12 will determine that the required borrow quantities constitute a small quantity that can be obtained through a commercial site that meets the Project requirements. Prior to issuing a construction task order, the Government will conduct the necessary analysis in accordance with ER 405-1-12. Contractors would be required to demonstrate that any proposed commercial borrow site is environmentally cleared and contains geo-technically suitable borrow material. In evaluating the suitability of the proposed commercial borrow site, impacts to wetlands would be prohibited. Costs of utilizing a commercial borrow site would be considered an item of construction cost, and not an item of LERRD cost.

F. Various Methods for Prioritizing the Nonstructural Elevation Work

NED Implementation Strategy

This Final Report recommends a strategy to implement the nonstructural project for eligible structures. Structures that have been identified as preliminarily eligible as part of the NED RP are located across the 28 mile, four town study area. In order to effectively implement the NED RP, clusters of eligible structures that represent the highest risk for storm surge damages (i.e. those with the highest Benefit to Cost Ratios, BCRs) would be identified and prioritized for construction. Individual structures would be addressed based on a ranking of risk from highest to lowest within the cluster. The ranking of individual structures would be revisited as elevation work is completed, as additional funding is distributed, and as new clusters are identified. Addressing groups of structures within a small geographic area would be more cost-effective, efficient, and would also allow for a more strategic methodology for applying nonstructural measures to at-risk structures. Additional work on this process would occur during the design phase of the Project.

Any structure scheduling or prioritization will be subject to the availability of Federal funds. The locations for scheduling or prioritizing the implementation of nonstructural work will be determined during PED but will be fully assessed for implementing the nonstructural plan in an efficient and cost-effective manner. Some of the methods for scheduling or prioritizing nonstructural work that will be considered as part of the prioritization process are as follows; however, additional methods of scheduling or prioritizing such work will also be considered for the priority locations to implement the nonstructural plan

Clustering

The eligible property owners in a contiguous neighborhood or subdivision (i.e. small scale area) would be targeted for priority in nonstructural plan implementation. A focus on clustered properties would create a ranking hierarchy of which properties to address first. The size of a cluster would need to be defined but would consist of an area where multiple eligible structures would be constructed simultaneously. This approach would rank efficiency as the main factor in determining which eligible properties should be prioritized.

Risk-Level

Within the clustered area, structures of various risk levels would be identified. In such cases, the focus would be on willing property owners that exhibit the highest risk for flood damages (i.e highest BCRs). For example, if 100 property owners execute easements within the clustered area, the owners who reside in the lowest portions of the floodplain would be prioritized for construction. Once these properties are elevated, the next highest-risk properties would be targeted. This approach couples risk exposure and clustering to determine which eligible properties should be prioritized.

G. Operations, Maintenance, Repair, Rehabilitation, and Replacement (OMRR&R)

For all structure types OMRR&R costs are expected to be 'de minimis' and will be confined to regular, periodic surveys and site visits of structures where nonstructural measures have been applied in order to determine that the requirements of the OMRR&R Manual are being met. A minimal cost for these efforts has been calculated as part of NFS OMRR&R responsibilities. Once the NED nonstructural measures have been implemented and NCC'd, the owner of the property will be responsible for all cost and risk of maintaining, repairing, rehabilitating and replacement the flood proofing measures that were utilized for the subject property. A draft OMRR&R Manual shall be provided to the NFS as early as possible in the period of implementation because USACE will issue a NCC for each flood proofed structure once the flood proofing is complete. At the time of the issuance of an NCC, the NFS's obligations for operation and maintenance for the subject structure or lands commences. Flood proofed structures shall be considered a separable element and functional portion of the Project. The NFS is responsible for the enforcement of the provisions of the easement executed by the owners of property benefiting from the nonstructural measures and for enforcement of the requirements of the OMRR&R Manual, including by not limited to, compliance with the requirements of Section 402 of the Water Resources Development Act of 1986, as amended. Upon NCC for NED implementation for a given structure or contract, the USACE will furnish to the NFS a final OMRR&R manual addressing, among other things, the NFS responsibility for enforcement of terms of the easement, as well as other OMRR&R requirements. The NFS shall conduct periodic inspections at the intervals specified in the OMRR&R Manual to ensure that the owners, their heirs, and assigns, are in compliance with the terms and conditions of the executed easements and shall provide written certifications to USACE that the structures and lands have been inspected and that no violations have been found. Regarding the elevated residential structures, the inspections will determine among other things, that no part of the structure located below the level of the lowest habitable finished floor has been converted to living area for human habitation, or otherwise altered in any manner which would impede the movement of waters beneath the structure; that the area below the predicted target FFE is being used solely for the parking of vehicles, limited storage, or access to the structure and not for human habitation; that mechanical, electrical or plumbing devices have not been installed below the target FFE; that the property is in compliance with all applicable floodplain ordinances and regulations. USACE shall have the right, but not the obligation, to perform its own inspections of the flood proofed structures pursuant to the Project.

Attachment #3

EASEMENT

Pawcatuck River, Rhode Island Coastal Storm Risk Management Project

WHEREAS, pursuant to the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 23) Chapter 4, Title X, Division A, enacted January 29, 2013 and pursuant to the provisions of the Project Partnership Agreement (hereinafter referred to as the "PPA") dated [DATE] between the United States of America (hereinafter referred to as the "Government") and the Rhode Island Coastal Resources Management Council (hereinafter referred to as the "RI CRMC"), RI CRMC has undertaken the implementation of the Pawcatuck River, Rhode Island Coastal Storm Risk Management Project (hereinafter sometimes referred to as the "Project") located in Washington County, Rhode Island.

WHEREAS, implementation of the Project includes, inter alia, the flood-proofing of certain structures so that the habitable floors thereof are raised to levels or protected by other means in such a manner which will protect the structures from certain flooding to the greater extent practicable by allowing the free movement of floodwater beneath and around the structures;

WHEREAS, [PROPERTY OWNER]; (hereinafter sometimes referred to as the "Owner"), is the Owner of a certain property located at [STREET ADDRESS] in the City of [CITY NAME], County of Washington and State of Rhode Island, being shown on [INSERT ASSESSOR'S PARCEL REFERENCE] (hereinafter sometimes referred to as the "Property") which has qualified as eligible and shall be flood-proofed under the voluntary non-structural component of said Project.

NOW THEREFORE, in consideration of the financial assistance received pursuant to said Project, the Owner hereby grants certain easement rights and imposes certain restrictions on the property as follows:

1. The Owner hereby agrees that the Owner shall not encumber the property by conveyance of any interest in and to said property to any third party or create any liens thereon prior to the recordation of this Easement by the RI CRMC in the land records of Washington County, Rhode Island, without the prior written approval of the RI CRMC.

2. The Owner shall maintain all structures on the property in accordance with the flood plain management criteria set forth in Title 44 of the Code of Federal Regulations (CFR) Part 60.3, State of Rhode Island Building Code SBC 1 & SBC2 in its entirety to include any other technical manuals referenced and the [LOCAL CITY ZONING ORDINANCE].

3. The Owner, for himself and his heirs and assigns, hereby agrees that no construction or alteration of the flood proofed structures shall take place unless the lowest floor thereof to be used for human habitation, commercial or business purposes is elevated above [base flood elevation] feet North American Vertical Datum. This restriction also prohibits the placement of water damageable material of any kind below the stated elevation of [base flood elevation] North American Vertical Datum, and any use of materials below this elevation must meet the requirement of "Flood Resistant Material" as defined in the Federal Emergency Management Agency's (FEMA) FIA-TB-2(4/93)(Technical Bulletin 2-93). This restriction and requirement shall be specifically included in every instrument subsequent hereto conveying title to any interest in said land or structures thereon. The easement area requirements are annotated on the attached plan sheet.

4. Further, that for and in the consideration aforesaid, the receipt and sufficiency of which are hereby acknowledged, the owner, for himself, his heirs and assigns, does hereby grant a perpetual right in, on, over and across the property to RI CRMC, to enter upon the land and any structures thereon at all reasonable times considered necessary by RI CRMC, its contractors, assigns or representatives to inspect the flood-proofing work. The easement access requirements are annotated on the attached plan sheet.

5. The Owner, for himself, his heirs and assigns, hereby agree to forever save and hold harmless the Government and the RI CRMC, and its assigns, from all claims for damages or injuries resulting either directly or indirectly from any flood-proofing work and any flooding of said land or of the flood-proofed structure.

6. The Owner, for himself, his heirs and assigns, recognize and agree that the grant of easement hereby made to the RI CRMC in connection with the Project, is necessary and appropriate to ensure the purposes of said Project to afford a level of protection against flooding at least sufficient to prevent any future losses from the likelihood of flooding as [LEVEL OF PROTECTION], whichever is greater; and, that for those purposes the RI CRMC, and its assigns, shall forever have the right to seek legal enforcement of all of the provisions contained herein, it being the intentions of the parties that said provisions shall attach to and run with the land forever.

IN WITNESS WHEREOF, the parties have executed this Easement effective as of the date of acceptance hereof by the RI CRMC.

[OWNER'S NAME PRINTED]: _____
[SIGNATURE]

[OWNER'S NAME PRINTED]: _____
[SIGNATURE]

STATE OF RHODE ISLAND

WASHINGTON COUNTY

Personally appeared before me, a Notary Public in and for the State and County above mentioned, _____, the within named Owner(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that they executed the foregoing instrument for the purposes stated therein

This the _____ day of _____, 20__.

_____
Notary Public

My Commission expires: _____

ACCEPTED:

RHODE ISLAND COASTAL RESOURCES MANAGEMENT COUNCIL

BY: _____ _____
[NAME, TITLE] [DATE]

ACKNOWLEDGEMENT

STATE OF RHODE ISLAND

WASHINGTON COUNTY

On this _____ day of _____, _____, the undersigned officer, personally appeared _____, [TITLE], Rhode Island Coastal Resources Management Council, known to me to be the person described in the foregoing Easement, and acknowledged that they executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission expires: _____

DEPARTMENT OF THE ARMY
RIGHT OF ENTRY FOR SURVEY AND EXPLORATION

_____	_____
Project, Installation, or Activity	(Tract Number or Other Property Identification)

The undersigned, hereinafter called the “Owner,” hereby grants to the Rhode Island Coastal Resources Management Council (hereinafter referred to as the "RI CRMC"), its representatives, agents, and contractors, a right-of-entry upon the following terms and conditions:

1. The Owner hereby grants to the RI CRMC an irrevocable right to enter upon the lands hereinafter described at any time within a period of _____ (_____) months from the date of this instrument, in order to conduct such site investigations, structural inspections, surveys, limited environmental testing, engineering assessments, and other exploratory work as may be necessary for the RI CRMC to determine the flood-proofing capabilities and eligibility of certain structures on the land for participation in the Pawcatuck River, Rhode Island Coastal Storm Risk Management Project [reference PPA].

2. This right-of-entry includes the right of ingress and egress on real property of the Owner, provided such ingress and egress is necessary and not otherwise conveniently available to the RI CRMC.

3. All tools, equipment, and other property taken upon or placed upon the land by the RI CRMC shall remain the property of the RI CRMC and may be removed by the RI CRMC at any time within a reasonable period after the expiration of this right-of-entry.

4. If any action of the RI CRMC’s employees or agents in the exercise of this right of entry results in damage to the real property of the Owner, the RI CRMC will, at its option, either repair such damage to the pre-damage state of the real property, subject to the reasonable satisfaction of the Owner, or make an appropriate monetary settlement with the owner. In no event shall such repair or settlement exceed the fair market value of the fee interest of the real property at the time immediately preceding such damage. The RI CRMC’s liability under this clause may not exceed appropriations available for such payment and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any other damages than provided herein.

5. The land affected by this right-of-entry is located in the State of _____, County of _____, and is described as follows: _____

_____

WITNESSES MY HAND AND SEAL this _____ day of _____, 20____

_____(SEAL)

_____(SEAL)

WITNESSES MY HAND AND SEAL this _____ day of _____, 20____

Rhode Island Coastal Resources Management Council

BY_____
(Title)

Attachment #4

Project Name: Pawcatuck River Coastal Storm Risk Management Feasibility Study

Project Location: Rhode Island

Project Sponsor: RI-CMRC

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

The preliminary real estate acquisition information is attached to this document.

Legal Authority: -

Name and title of sponsor's representative providing answers to this section.
Mr. Grover Fugate, Executive Director, RI-CMRC

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes, list the basis for the legal authority: Section 4623 of RI General Laws
b. Does the sponsor have the power of eminent domain for this project? (yes) If yes, list the basis for the legal authority: RI General Law, Department of Administration
c. Does the sponsor have "quick-take" authority for this project? (no)
d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? (no) CMRC will partner with other government agencies that will have the authority to acquire all real property requirements associated with this project.
e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? (no)

II. Human Resource Requirements:

Name and title of sponsor's representative providing answers to this section.
Mr. Grover Fugate, Executive Director, RI-CMRC

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? N/A
c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? (yes) CMRC will partner with other State and local agencies
d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? (yes) CMRC will partner with other government agencies and/or commercial entity to acquire necessary real property requirements.
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? (yes) (If "yes," provide description) USACE will continue to provide real estate and planning assistance to NFS during the design and implementation phases.

Project Name: Pawcatuck River Coastal Storm Risk Management Feasibility Study

Project Location: Rhode Island

Project Sponsor: RI-CMRC

III. Other Project Variables:

Name and title of sponsor's representative providing answers to this section.
Mr. Grover Fugate, Executive Director, RI-CMRC

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? *The project is still in feasibility planning stages therefore it is impossible to accurately estimate project acquisition milestones. Once the project is approved an acquisition strategy plan will be developed and this document updated, accordingly.*

(yes) (no) If the answer is no, please fill in the length of time it will take to complete these milestones after the New England District provides the appropriate real estate maps and estates. Some of milestones will overlap. When this happens the number of months needed to complete the next task should only include the additional months to complete that milestone. For example, you may order the title policies and the survey at the same time. If the survey will be completed in two months and the title policies will take three months you would put "2 months" in the survey milestone and "1 month" in the preliminary title policy milestone.

Survey legal interests and prepare legal descriptions: _____ months

Obtain preliminary title policies or other form of title information:_____ months.

Appraise all of the property: _____ months

Have the appraisals reviewed by New England District:_____ months

Negotiate with the landowners:_____ months

Clear up title issues and close on the property or condemn the property:_____ months

Take possession of the property interests: _____ months

Sponsor signs the Authorization For Entry For Construction:_____

IV. Overall Assessment:

a. Has the sponsor performed satisfactorily on other USACE projects? (yes)
b. With regard to this project, the sponsor is anticipated to be: fully capable

Project Name: Pawcatuck River Coastal Storm Risk Management Feasibility Study

Project Location: Rhode Island

Project Sponsor: RI-CMRC

V. Coordination:

a. Has this assessment been coordinated with the sponsor? (yes)
b. Does the sponsor concur with this assessment? (yes)

VI. NOTES:

As referenced above the NFS (CMRC) will be partnering with both State and local government agencies in regards to project funding and acquisition of real property requirements.

Prepared by:

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(date)_____

R. Jeffrey Teller
LEAD Appraiser
New England District

(date) Dec 8, 2017

Grover Fugate
Mr. Grover Fugate, Executive Director

Reviewed by:

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(date)_____

Anne L. Kosel
Chief, Real Estate Division