

U.S. Army Corps of Engineers
Baltimore District

BALTIMORE ANCHORAGES AND CHANNELS
Modification of Seagirt Loop Channel, Maryland
Feasibility Study

APPENDIX F
To Feasibility Report
REAL ESTATE PLAN

FEBRUARY 2023

Baltimore, Maryland

REAL ESTATE PLAN
for the
BALTIMORE ANCHORAGES AND CHANNELS
Modification of Seagirt Loop Channel, Maryland
Feasibility Study

1. GENERAL
2. REAL ESTATE REQUIREMENTS
 - a. Description of Land, Easements, Rights-of-Way, Relocations, and Disposal Areas (LERRD) Requirements for the Project
 - b. Standard Estates
 - c. Non-Standard Estates
 - d. Parcel Data
 - e. Real Estate Mapping
3. EXISTING FEDERAL PROJECTS
4. EXISTING FEDERALLY OWNED LANDS
5. LANDS OWNED BY THE NON-FEDERAL SPONSOR
6. NAVIGATIONAL SERVITUDE
7. INDUCED FLOODING
8. BASELINE COST ESTIMATE FOR REAL ESTATE
9. PUBLIC LAW 91-646 RELOCATIONS
10. MINERAL AND TIMBER ACTIVITY
11. ASSESSMENT OF NON-FEDERAL SPONSOR ACQUISITION CAPABILITY
12. ZONING
13. ACQUISITION SCHEDULE
14. UTILITY AND FACILITY RELOCATIONS
15. ENVIRONMENTAL CONCERNS

16. ATTITUDES OF THE LANDOWNERS

17. RISK NOTIFICATION TO NON-FEDERAL SPONSOR OF EARLY REAL ESTATE ACQUISITION

18. RISK ANALYSIS OF PUBLIC AND ADJOINING LANDOWNERS

1. General

This Real Estate Plan is provided in support of the Baltimore Anchorages and Harbor (BHAC), Modification of Seagirt Loop Channel, Maryland, Feasibility Study. It is intended to match the level of detail available in the main feasibility report. This Real Estate Plan is an appendix to the Final Integrated Feasibility Report and Environmental Assessment. All property lines, estimates of cost and value, rights required for project construction, and operation and maintenance are subject to change even after approval of this Real Estate Plan.

The study authority for the modification of the BHAC serving public terminals in the Port of Baltimore (Port) is pursuant to §216 of the Rivers and Harbors Act of 1970 (Pub. L. No. 91-611, 33U.S.C. §549a), which reads:

The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due to the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest.

The Baltimore Harbor Anchorages and Channel is the constructed U.S. Army Corps of Engineers (USACE) project that will be reviewed for modification as part of this study. The study for the BHAC was authorized June 23, 1988, by the Committee on Environment and Public Works, U.S. Senate. The resolution authorizing this study follows:

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE, that the Board of Engineers for Rivers and Harbors is hereby requested to review the reports of the Chief of Engineers on Baltimore Harbor and Channels, Maryland, and Virginia, contained in House Documents Number 94-181, 94th Congress, 1st Session, and Number 86, 85th Congress, 1st Session, and prior reports, with a view to determining if further improvements for navigation, including anchorages and branch channels, are advisable at this time.

The study conducted pursuant to this authority resulted in a Chief's Report dated June 8, 1998, and in project authority in §101(a)(22) of Water Resources Development Act (WRDA) of 1999 (Pub. L. No. 106-53). As discussed in the Chief of Engineer's Report, the project included improvements to access channels serving the public terminals of Dundalk, Seagirt, and South Locust Point. The Federal government assumed maintenance of these channels at their authorized depth. Note that §101(a)(22)(i)

mentions deepening an access channel to the Dundalk Marine Terminal to 50 feet that was not accomplished.

The project sponsor is the Maryland Department of Transportation, Maryland Port Administration (MDOT MPA). The Baltimore Harbor Anchorages and Channels (BHAC) Study (1998) resulted in subsequent authorization of federal navigation improvements in Baltimore Harbor, including deepening and widening of Anchorages #3 and #4 and deepening and widening of branch channels serving Port of Baltimore facilities including the access channels to Seagirt, Dundalk, and South Locust Point Marine Terminals. Since then, the Port of Baltimore has experienced an increase in calls from larger post-Panamax container vessels that can carry over twice the cargo capacity and require deeper drafts than the design vessel selected for channel and anchorage design in the original study. USACE and the MDOT MPA are conducting a feasibility study to determine the advisability of modifications to the BHAC. The scope of the proposed action includes widening and deepening of the Seagirt Loop Channel (up to 50 feet Mean Lower Low Water [MLLW]), re-design of an anchorage to allow 50-foot draft vessels to standby within Baltimore Harbor, examining deepening of the South Locust Point Branch Channel and Turning Basin (up to 40 feet MLLW), and considering and evaluating other structural and nonstructural measures that will result in improved transportation efficiencies in Baltimore Harbor.

The study area encompasses the 32-square mile area of the Port of Baltimore including the navigable parts of the Patapsco River below Hanover Street, the Northwest and Middle Branches, and the Curtis Bay and its tributary, Curtis Creek. This study will focus on the Seagirt Loop Channel, the South Locust Point Branch Channel and Turning Basin, and the federally authorized Anchorages serving the public terminals in the Port of Baltimore including Baltimore Harbor Anchorages and Channels and Port of Baltimore facilities (Figure 1).

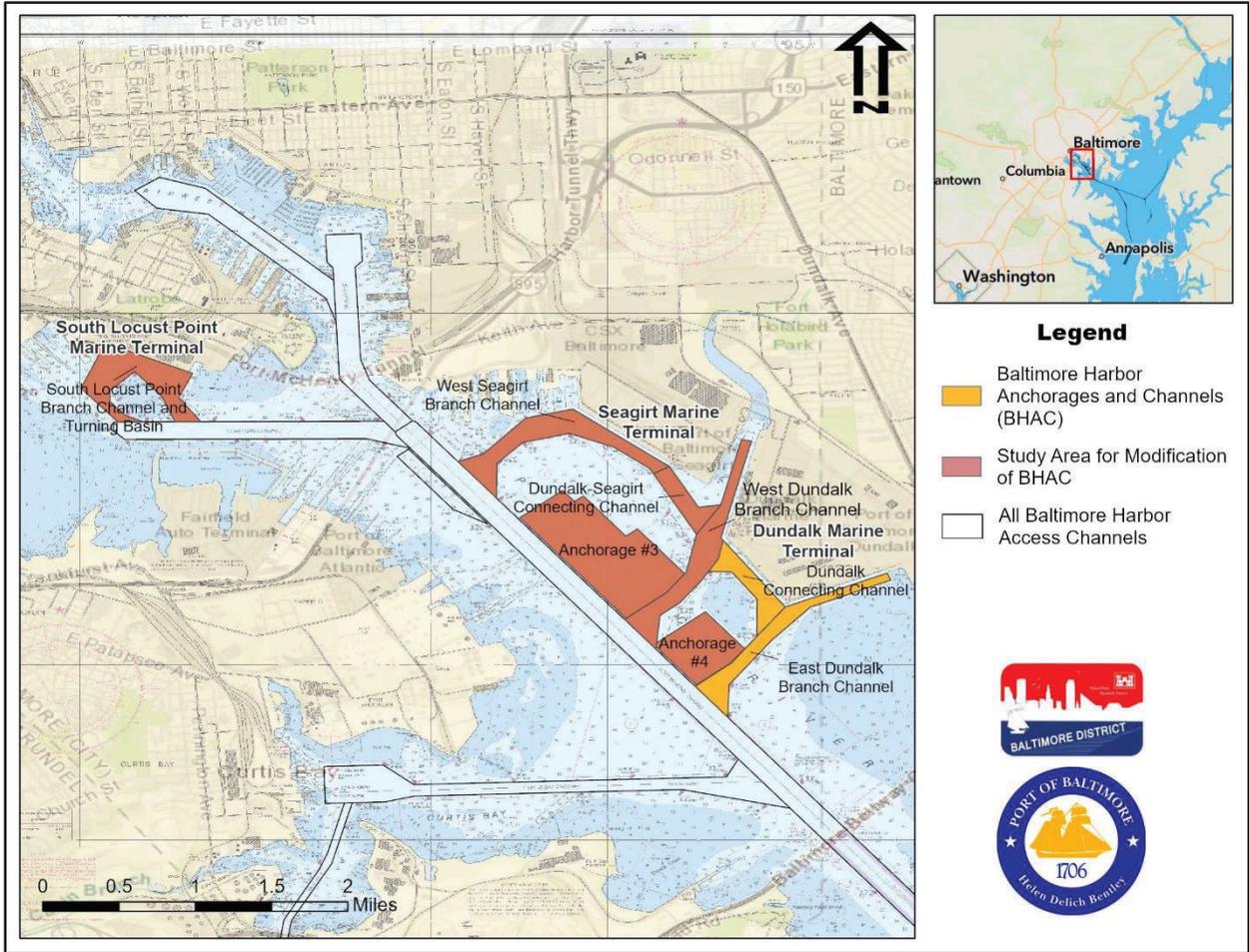


Figure 1: Study Area for modification of Baltimore Harbor Anchorages and Channels

2. Real Estate Requirements for the Recommended Plan

All the channel and anchorage modification alternatives considered are within the existing anchorages and channels below the ordinary highwater mark and are underwater. The Chesapeake Bay and Baltimore Harbor bottom are owned by the State of Maryland, while these areas are also within navigable waters of the United States, so also fall under navigational servitude. Any access for construction is also available on State of Maryland owned property. All channel property will be secured through the exercise of federal navigational servitude.

a. Description of Land, Easements, Rights-of-Way, Relocation, and Disposal Areas (LERRD) requirements for the Project.

The Chesapeake Bay and Baltimore Harbor bottom are owned by the State of Maryland, while these areas are also within navigable waters of the United States, so also fall under navigational servitude.

As for a dredged material placement site, the Project Delivery Team (PDT) has considered the Baltimore District Dredged Material Management Plan (DMMP 2017) and MDOT MPA Dredged Material Management Plan to determine suitable upland containment sites for Baltimore Harbor Materials. Baltimore Harbor sediments contain contaminants from industrial and municipal sources as well as non-point sources. The known contaminants include heavy metals in concentrations that can cause acute or chronic effects in marine organisms (DMMP 2017). The Maryland Dredged Material Management Act of 2001 restricted dredged material placement from the Baltimore Harbor Channels to approved contained placement sites. Due to these restrictions and continued sediment testing, materials from Baltimore Harbor are unsuitable for open ocean disposal and most beneficial uses. The site available for Baltimore Harbor materials is the Cox Creek Dredged Material Containment Facility (DMCF), owned by the Non-Federal Sponsor, Maryland Dept. of Transportation. Cox Creek DMCF has 2 mcy of 6 mcy total capacity remaining at the time of writing of the Baltimore District DMMP and is being expanded to allow for additional capacity. The use of the Cox Creek DMCF is secured through the existing Section 217, WRDA 1996 agreement with the Non-Federal Sponsor.

b. Standard Estates:

All the necessary real estate is currently owned by the Non-Federal Sponsor under the Standard fee simple estate.

c. Non-Standard Estates

Non-Standard Estates will not be necessary for this project since all necessary property is owned by the Non-Federal Sponsor in fee simple.

d. Parcel data

No parcel data is necessary, since the Non-Federal Sponsor owns the necessary real estate within the navigation channels, plus the Cox Creek dredged material placement sites.

e. Real Estate Mapping

Figure 1 above, shows the overall channel modification study area. Any dredged material will be placed at the nearby Cox Creek dredged material placement sites.

3. Existing Federal Projects

This is being studied as a modification of the current Baltimore Harbor Anchorages and Channels Project. This placement of channel modification material will also utilize the Cox Creek Dredged Material Placement Site Project under Section 217 of WRDA 1996.

4. Existing Federally Owned Lands

The Recommended Plan includes no Federally owned lands as part of its LER requirements.

5. Lands owned by the Non-Federal Sponsor

The Non-Federal Sponsor owns all the necessary real estate in fee simple.

6. Navigational Servitude

Navigational Servitude is applicable within the channels for this modification. Navigational Servitude is the dominant right of the Federal government under the Commerce Clause of the U.S. Constitution (Article 1, Section 8, Clause 3) to use, control, and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce-related purposes, including navigation and flood control. Generally, the Federal government does not acquire interests in real property that it already possesses or over which its use or control is or can be legally exercised. If navigational 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 navigational servitude applies. All channel modification property for this project will be through the Corps exercising federal navigation servitude.

7. Induced Flooding

This project will have no impact as to any potential induced flooding.

8. Baseline Cost Estimate for Real Estate

The Project Cooperation Agreement for the current proposed project only provides credit for the value of the LERRD's and acquisition costs incurred within five years of execution of the Project Cooperation Agreement. Also, the Non-Federal Sponsor may only receive credit for those costs that have not already been credited to a previous Federal project. Therefore, no LERRD credits will be forthcoming to the Non-Federal Sponsor for this modification.

The Cox Creek Dredged Material Placement site will be utilized under Section 217 Agreements allowing for their use under previously negotiated tipping fees.

9. Public Law 91-646, Uniform Relocation Assistance

No P.L. 91-646 relocations will be necessary for this project.

10. Mineral and Timber Activity

There are no known present or anticipated mineral extraction or timber harvesting activities within the modification area.

11. Assessment of Non-Federal Sponsor Acquisition Capability

Although no specific real estate acquisition is necessary for this project, the MDOT MPA , the Non-Federal Sponsor, does have the necessary experience, manpower and resources to acquire

any real estate required for the project. They also have condemnation authority. An assessment of Non-Federal Sponsor’s real estate acquisition capability is attached as Exhibit “A”.

12. Land Use and Zoning

No application or enactment of local zoning ordinances is anticipated in lieu of or to facilitate the Recommended Plan’s LERRD requirements.

13. Schedule of Real Estate Acquisition

All real estate is currently secured under navigational servitude for the channel areas and under the Section 217 agreement with the Non-Federal Sponsor for placement at the Cox Creek DMCF. The anticipated Project Partnership Agreement (PPA) execution date is in mid-2025. The tentative schedule for design and construction is shown below in Table 1.

TABLE 1: DRAFT TENTATIVELY SELECTED PLAN IMPLEMENTATION SCHEDULE

2024				2025				2026				2027			
Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4
DA Execution PED Phase				PPA Execution				Construction Phase Seagirt Loop Deepening				Seagirt Complete			
								← Phase 1				Phase 2 →			
				PSE + Procurement (Seagirt Loop - Phase 1)				PSE + Procurement (Seagirt Loop - Phase 2)							

14. Relocation of Facilities or Public Utilities

There are no known facility or public utility relocations currently.

15. Environmental Concerns

Baltimore Harbor sediments contain contaminants from industrial and municipal sources as well as non-point sources. The known contaminants include heavy metals in concentrations that can cause acute or chronic effects in marine organisms (DMMP 2017). The Maryland Dredged Material Management Act of 2001 restricted dredged material placement from the Baltimore Harbor Channels to approved contained placement sites. Due to these restrictions and continued sediment testing, materials from Baltimore Harbor are unsuitable for open ocean disposal and most beneficial uses. The only available site for Baltimore Harbor materials is the Cox Creek DMCF, owned by the Non-Federal Sponsor, Maryland Dept. of Transportation.

16. Attitudes of Landowners

Since this is an existing navigation project utilizing existing dredged placement areas, so no private ownership is impacted.

17. Risk Notification to Non-Federal Sponsor of Early Real Estate Acquisition

Since the Non-Federal Sponsor owns the necessary real estate, no notification is needed to be sent to the Non-Federal Sponsor as to risk of acquiring project real estate prior to execution of a Project Partnership Agreement.

18. Risk Analysis of Public or Adjoining Landowners

Since the area of this project has been a long established harbor and docking area there will be no change of use or impacts to local landowners. There is no anticipated public opposition to the project.

This Real Estate Plan was prepared by Real Estate Project Delivery Team member Craig R. Homesley, who may be reached at (410) 962-4944 or by email: craig.r.homesley@usace.army.mil.

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EXHIBIT A

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

Project: Baltimore Anchorages and Harbor (BHAC), Modification of Seagirt Loop Channel, Maryland

Non-Federal Sponsor: Maryland Department of Transportation under the administration of the Maryland Port Administration

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes
- b. Does the sponsor have the power of eminent domain for this project? Yes
- 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
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? No. The State of Maryland can condemn any lands on the Baltimore Anchorages and Harbor (BHAC), Modification of Seagirt Loop Channel, Maryland 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? No
- b. If the answer to II.a. is "yes", has a reasonable plan been developed to provide such training?
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? Yes

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

f. Will the sponsor likely request USACE assistance in acquiring real estate?
No. USACE will not have to assist in obtaining real estate interests for the Baltimore Anchorages and Harbor (BHAC), Modification of Seagirt Loop Channel, Maryland Project.

III. Other Project Variables:

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

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

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.

V. Coordination:

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

b. Does the sponsor concur with this assessment? Yes

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