

APPENDIX B

**LOIZA, PUERTO RICO SECTION 14 STUDY
CONTINUING AUTHORITY PROGRAM (CAP)
SEC 14 EMERGENCY STREAMBANK PROTECTION
AND SHORELINE PROTECTION
LOIZA, PUERTO RICO**

**INTEGRATED FEASIBILITY REPORT AND
ENVIRONMENTAL ASSESSMENT**

REAL ESTATE PLAN

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REAL ESTATE PLAN

1. STATEMENT OF PURPOSE.

This Real Estate Plan (REP) is provided in support of Loiza Puerto Rico Section 14 Study. The purpose of the study is to recommend a plan for streambank and shoreline protection to infrastructure located at Loiza Road, Loiza, Puerto Rico, which is on the shoreline of the Atlantic Ocean.

This report is preliminary and is intended for planning purposes only. Both the final real property lines and land value estimates are subject to change even after approval of this report. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land costs.

2. PROJECT AND STUDY AUTHORIZATION.

The project is in response to a request from the Puerto Rico Department of Natural and Environmental Resources (DNER) that the U. S. Army Corps of Engineers provide assistance in addressing shoreline erosion problems along the coast of Loiza. Hurricane and coastal storm damages along the Loiza shoreline, including erosion causing receding shorelines, threatens infrastructure such as a public road, public buildings, commercial businesses, a public school, public parkland, private homes, and recreational beach access.

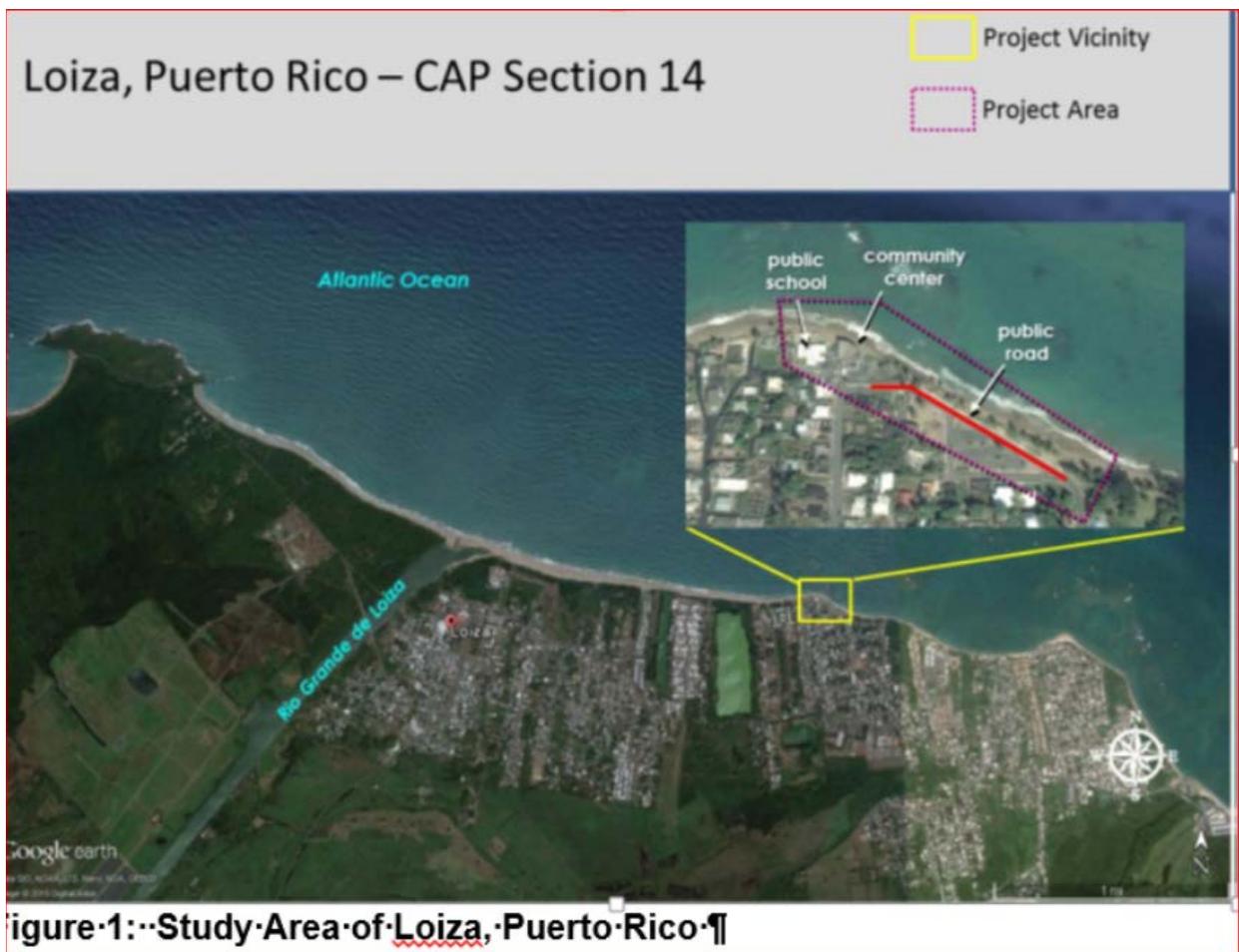
The authority and funds for this report were provided by Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) as amended by Section 27 of the Water Resources and Development Act (WRDA) 1974, Section 915c of WRDA 1986, Section 2023 of WRDA 2007, and Section 1030i of the Water Resources Reform and Development Act (WRRDA) 2014, and reads as follows:

The Secretary of the Army is hereby authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$20,000,000 per

year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: Provided, that not more than \$5,000,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year.

3. PROJECT LOCATION

The project area is located in the Municipality of Loiza, located on Puerto Rico's northern Atlantic Coast, approximately 16 miles east of San Juan. The study area includes a community center, public school and roadway with a combined shoreline frontage of approximately 1,050 feet as indicated in Figure 1.



(Figure 1)

4. PROJECT DESCRIPTION

The project addresses the damages to infrastructure from storm impacts, including waves, inundation, and erosion without causing adverse impacts to the communities, the environment, and the existing infrastructure of the area. The goal is to develop alternatives to reduce the damages. An evaluation of the current conditions led to a recommended design which includes construction of a stone revetment along approximately 1,050 feet of shoreline in front of the public road, head start public school, and community center. Also included is a minimal road replacement of approximately 220 feet of public road connecting to the beach road.

5. REAL ESTATE REQUIREMENTS

Construction of a stone revetment will take place along the beach. The revetment will be approximately 1,050 feet long with a top elevation of 10.0 feet PRVD02 and building an over-wash protection zone that would consist of high performance mat (HPTRM) keyed in between the existing road and revetment. The non-Federal sponsor will acquire the lands via a bank protection easement and certify that these lands are available for construction, operations and maintenance for the revetment. Construction/ replacement of approximately 220 feet of public road connecting to the beach road will take place. Access for the public road is available via its inherent public access. A staging area of approximately 4,356 square feet of land has been identified. The non-Federal sponsor will certify the availability of the staging area via a temporary work area easement. Access will be provided via public access roads. Construction is estimated to take approximately 11 months. No borrow or disposal areas are required for construction of the subject project. See Figure 2 for map highlighting property identified as the real estate for this project.



(Figure 2)

6. ESTATES TO BE AQUIRED.

A. Bank Protection Easement

A perpetual and assignable easement and right-of-way in, on, over and across the land hereinafter described for the location, construction, operation, maintenance, alteration, repair, rehabilitation and replacement of a bank protection works, and for the placement of stone, riprap and other materials for the protection of the bank against erosion; together with the continuing right to trim, cut, fell, remove and dispose therefrom all trees, underbrush, obstructions, and other vegetation; and to remove and dispose of structures or obstructions within the limits of the right-of-way; and to place thereon dredged, excavated or other fill material, to shape and grade said land to desired slopes and contour, and to prevent erosion by structural and vegetative methods and to do any other work necessary and incident to the project; together with the right of ingress and egress for such work; 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.

B. Temporary Work Area Easement

A temporary easement and right-of-way in, on, and over 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, agent, and contractors as a work area 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 therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowner, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridge the rights and easements hereby required; subject however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

7. FEDERALLY-OWNED LAND

There are no Federally owned lands within the project limits.

8. NON-FEDERALLY-OWNED LAND

Lands required to support construction/operations of the proposed project are owned by the municipality of Loiza. In accordance with ER 1105-2-100, Appendix F, Continuing Authorities Program, Section III", the non-Federal sponsor will not receive credit for the value of LERRD it provides that are part of the tract of land on which the facility or structure to be protected is located, if such tract of land is owned by either the non-Federal sponsor or the owner of the facility". Lands and Damages cost are being shown as zero dollars in the Real Estate Project Cost Schedule as no credit is allowed. Additionally, the Local Sponsor will make available public lands owned by the Municipality of Loiza for both access and staging.

9. NON-FEDERAL OPERATION AND MAINTENANCE RESPONSIBILITIES

The non-Federal Sponsor will be required to provide without cost to the United States the aforementioned lands necessary for project construction, operation and maintenance. Access authorization for entry for construction will be provided by the non-Federal Sponsor to USACE prior to solicitation for a construction contract in order to identify and validate that sufficient real property interests are available. Operation and maintenance is a 100% non-Federal responsibility.

10. NON-FEDERAL AUTHORITY TO PARTICIPATE IN PROJECT.

Non-Federal Sponsor's authority to participate in projects comes from Puerto Rico Law 23 of June 20, 1972, Section 5(e), as amended: "Article 5. Faculties and obligations of the Secretary

The Secretary of Natural Resources shall have, in addition to those transferred by this chapter, the following functions and duties:

(e) Execute the agreements necessary and convenient in order to achieve the objectives of the Department and its programs with bodies from the government of the United States of America, with state governments, with other departments, agencies or instrumentalities of the Government of the Commonwealth, its municipalities and with private institutions; [he/she] is also thus empowered to accept and receive any donations or funds on account of appropriations, advances or any other kind of assistance or benefit when these originate from said government bodies or from nonprofit institutions.”

11. NAVIGATION SERVITUDE

Navigation servitude does not apply to this project.

12. ATTITUDE OF OWNERS

This project was requested by the Puerto Rico Department of Natural and Environmental Resources (DNER), the non-Federal sponsor, in a letter dated 03 July 2015. The project has both project sponsor and public support.

13. MINERALS

When the project is in the certification process, NFS will look into ensuring there are no mineral issues. There is not a history of mining expedition in this area. Do not expect any issues.

14. HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW).

No signs of potential HTRW problems were identified and no sites with potential for contamination with HTRW were found as cited in section 2.3.12 of the main report.

15. INDUCED FLOODING

There will be no induced flooding directly associated with this project.

16. ZONING ORDINANCES

Applications or enactment of zoning ordinances will not be used in lieu of acquisition.

17. RELOCATIONS ASSISTANCE (PUBLIC LAW 91-646 AS AMENDED)

No persons or businesses will be impacted by the project. There are no benefits anticipated under Public Law 91-646, codified in U.S.C. Title 42 – The Public Health and Welfare, Chapter 61 – Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs which are implemented in the Uniform Regulations contained in 49 Code Of Federal Regulation, Part 24 as amended.

18. RELOCATIONS, ALTERATIONS, VACATIONS, AND ABANDONMENTS

No relocations, alterations, vacations or abandonments of utilities, structures, facilities, cemeteries, or towns have been identified within the proposed construction limits of the recommended plan.

19. STANDING TIMBER AND VEGETATIVE COVER

There is no timber or unusual vegetative cover that will be impacted by the project.

20. RECREATION RESOURCES

There are no separable recreational lands identified for the project.

21. CULTURAL RESOURCES

There are no known cultural resources that have been identified as being affected by the project. Please refer to the environmental assessment regarding details for species.

22. OUTSTANDING RIGHTS

There are no known outstanding rights in the project area.

23. MITIGATION

There is no mitigation for the Recommended Plan.

24. AQUISITION/ADMINISTRATIVE COSTS

The estimate of the Federal real estate administrative cost is **\$ 30,000.00**. This figure includes project real estate planning, mapping, review, oversight, monitoring, analysis of real estate requirements and estates. The non-federal sponsor will receive credit towards its share of real estate administrative project cost incurred for certifications. Non-Federal acquisition/administrative costs are estimated to be **\$ 30,000.00**.

25. SUMMARY OF PROJECT REAL ESTATE COSTS.

The following cost figures are subject to change prior to construction. The Lands and Damages cost are being shown as zero dollars in accordance with Section 8 of this report.

a. Lands and Damages		\$ 0
b. Acquisition Administrative cost		\$ 60,000.00
Federal	\$ 30,000.00	
Non-Federal	\$ 30,000.00	
c. Public Law 91-646		\$ 0
d. Condemnations		\$ 0
e. Total Estimated Real Estate Cost		\$ 60,000.00
f. Contingency (15%)		\$ 9,000.00
g. Total Real Estate Costs		\$ 69,000.00

26. REAL ESTATE ACQUISITION SCHEDULE

The Puerto Rico Department of Natural and Environmental Resources (DNER), as the non-Federal sponsor is responsible for certifying that lands are available for project advertisement and construction. The Municipality of Loiza owns all the lands in fee. For scheduling purposes, nine months has been established to accomplish real estate certification, once final plans and specs have been completed and the Project Partnership Agreement has been executed. The Project Sponsor, Project Manager and Real Estate Technical Manager will formulate the milestone schedule upon project approval to meet date for advertisement and award of the construction contract.

27. CHART OF ACCOUNTS FOR PROJECT

01 - Lands & Damages		\$ 0
01B-- Acquisitions Administrative cost		\$ 60,000.00
01B20 - Non-Federal	\$30,000.00	
01B40 – Federal	\$30,000.00	
01B10 - By Govt	\$ 0	
01B20 - By Local sponsor	\$ 0	
01E10 - By Govt (In-House)	\$ 0	
01M00 – Contingency (15%)		\$ 9,000.00
Total Estimated Real Estate Cost:		\$ 69,000.00

Exhibit 1

REAL ESTATE CAPABILITY ASSESSMENT

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

**FOR LOIZA, PUERTO RICO SECTION 14 PROJECT EMERGENCY
STREAMBANK PROTECTION AND SHORELINE PROTECTION**

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? **YES**
- 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**

II. Human Resource Requirements:

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

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones? **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: highly capable/fully.

V. Coordination:

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

Date: _____

Prepared by:

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Reviewed by:

Hansler A. Bealyer
Chief, Acquisition Branch
Real Estate Division

Reviewed and approved by:

Derrick D. Moton
Chief (Acting), Real Estate Division
Real Estate Division

Exhibit 2



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 SAN MARCO BOULEVARD
JACKSONVILLE, FLORIDA 32207

Real Estate Division

Ms. Mabel Rivera
Department of Natural Environmental Resources
P. O. Box 366147
San Juan, Puerto Rico 00936

Dear Ms. Rivera:

The intent of this letter is to formally advise the Puerto Rico Department of Natural and Environmental Resources as the non-Federal sponsor for the Loiza Puerto Rico Section 14 Study Continuing Authority Program (CAP) SEC 14 Emergency Streambank Protection and Shoreline Protection Feasibility Study, of the risks associated with land acquisition prior to the execution of the Project Partnership Agreement (PPA) or prior to the Government's formal notice to proceed with acquisition. If a non-Federal sponsor deems it necessary to commence acquisition prior to an executed PPA for whatever reason, the non-Federal sponsor assumes full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort.

Generally, these risks include, but may not be limited to, the following:

1. Congress may not appropriate funds to construct the proposed project;
2. The proposed project may otherwise not be funded or approved for construction;
3. A PPA mutually agreeable to the non-Federal sponsor and the Government may not be executed and implemented;
4. The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA, as amended;

5. The non-Federal sponsor may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;

6. The non-Federal sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646 as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of LERRD; and

7. The non-Federal sponsor may incur costs or expenses in connection with its decision to acquire or perform LERRD in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PPA.

We appreciate the Municipality's participation in this project. Should you have questions or concerns pertaining to this letter please feel free to contact Ms. Angela Huggins at angela.f.huggins@usace.army.mil (904) 232-1939.

Sincerely,

Derrick D. Moton
Chief (Acting), Real Estate Division