
Elim Subsistence Harbor Feasibility Study

Appendix F: Real Estate Plan

Elim, Alaska



November 2020



**U.S. Army Corps
of Engineers**
Alaska District

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1. PURPOSE

This Real Estate Plan (REP) is appended to the Integrated Feasibility Report and Environmental Assessment (IFR/EA) for the Elim Subsistence Harbor Feasibility Study, Elim, Alaska. The purpose of the study is to (1) provide a coordinated implementable solution for navigational improvements at Elim, Alaska as specified in the Feasibility Cost Sharing Agreement (FCSA), executed March 23, 2018, between the Department of the Army and the Non-Federal Sponsor (NFS) and (2) determine whether sufficient Federal interest exists to construct a project for these improvements. The Native Village of Elim is the NFS for this study and the proposed Project Partnership Agreement (PPA).

The primary purpose for this REP is to (1) identify and describe the real estate requirements for the lands, easements, rights-of-way, relocations and disposal areas (LERR) for construction, operation and maintenance of the proposed navigational improvements and project elements described in the FCSA; (2) outline the costs and real estate considerations associated for the proposed alternatives; and (3) assess the NFS' capabilities for LERR acquisition. The REP is tentative in nature, it is for planning purposes only and both the final real property acquisition lines and the real estate cost estimates provided are subject to change even after approval of the feasibility study.

2. AUTHORITY

This Study is conducted under Section 203, Tribal Partnership Program, of the Water Resources Development Act (WRDA) of 2000 as amended by Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and Section 1121 of the Water Infrastructure Improvements for the Nation Act of 2016 (WIIIN/WRDA 2016) and provides authority for the U.S. Army Corps of Engineers (USACE), in cooperation with Indian tribes and heads of other Federal agencies, to study and determine the feasibility of carrying out projects that will substantially benefit Indian tribes.

The NFS is to provide all LERR required for the project, including the cost of these real estate interests along with any incidental administrative expenses in obtaining the LERR. The costs of any creditable LERR are credited against the additional 10 percent payment, in accordance with section 101(a)(2) of WRDA 1986, as amended (33 U.S.C. 2211(a)(2)).

A Continuing Authorities Program (CAP) Section 107 study was initiated in 2013 but was not completed due to lack of positive Nation Economic Development (NED) benefits.

3. PROJECT LOCATION AND DESCRIPTION

Elim is an Inupiat Village located on the northwest shore of Norton Bay on the Seward Peninsula, 96 miles east of Nome and 460 miles northwest of Anchorage. Elim lies at approximately 64.61656099 Latitude, -162.25964337 Longitude and encompasses 2.4 miles of land, located in Section 15, Township 10 South, Range 18 West, Kateel River Meridian, Cape Nome Recording District (Figure 1 and Figure 2 Figure 2).



Figure 1. Project Location Map

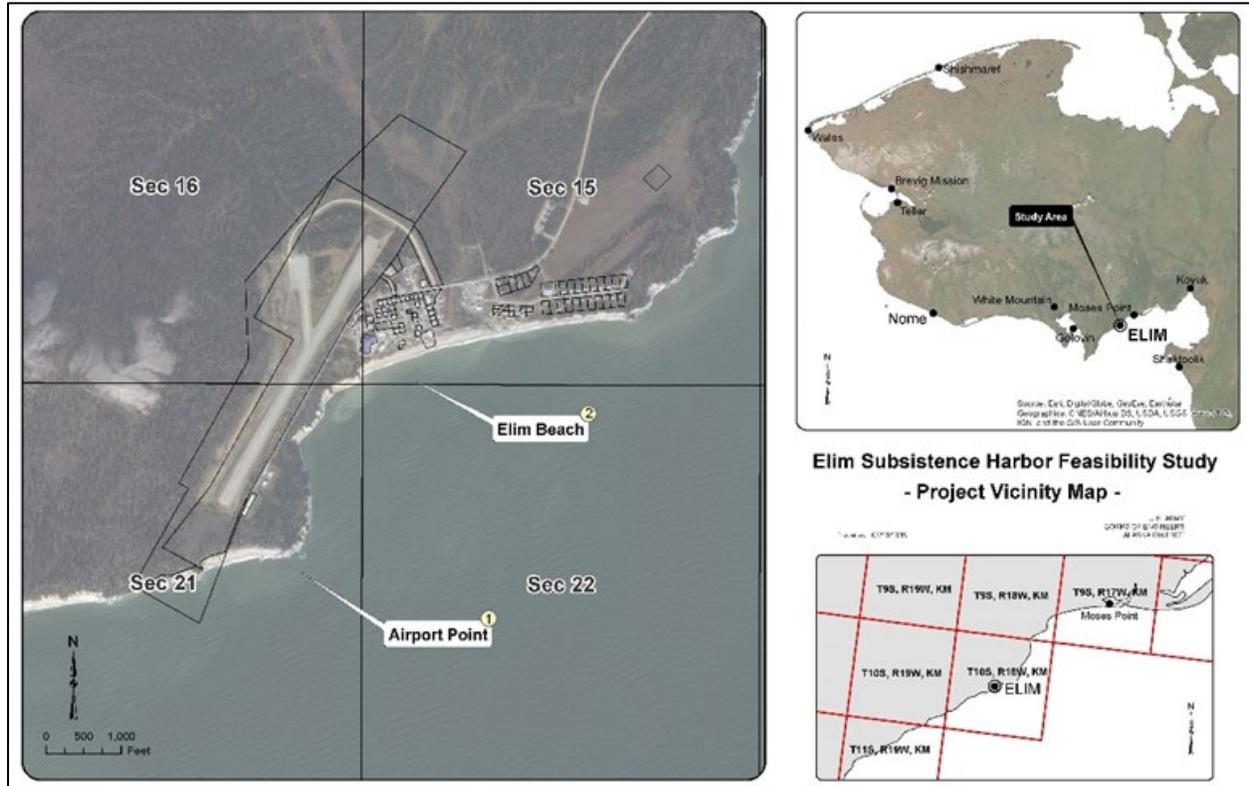


Figure 2. Project Vicinity Map

The village is not accessible by a road system and can only be accessed by boat, plane, dog team, or snow machine during the winter season. The objective of this feasibility study is to provide the community with safe, reliable, and efficient waterborne transportation for movement of commerce, subsistence, and recreation to support the long-term viability of the community.

Alternative #5 has been selected as the Recommended Plan for the study, displayed in Figure 3.

The design consists of the west rubble-mound breakwater, which would be 986 feet, and the east rubble-mound breakwater, which would be 820 feet. That would provide a 1.4-acre moorage basin for 50 boats ranging in length from 18 feet to 32 feet, an interior channel to provide access to the boat launch, and a 2.5-acre turning and maneuvering basin for the tenders and tug and barge. This plan would provide shelter from waves propagating out of the west through southwest and from the east.

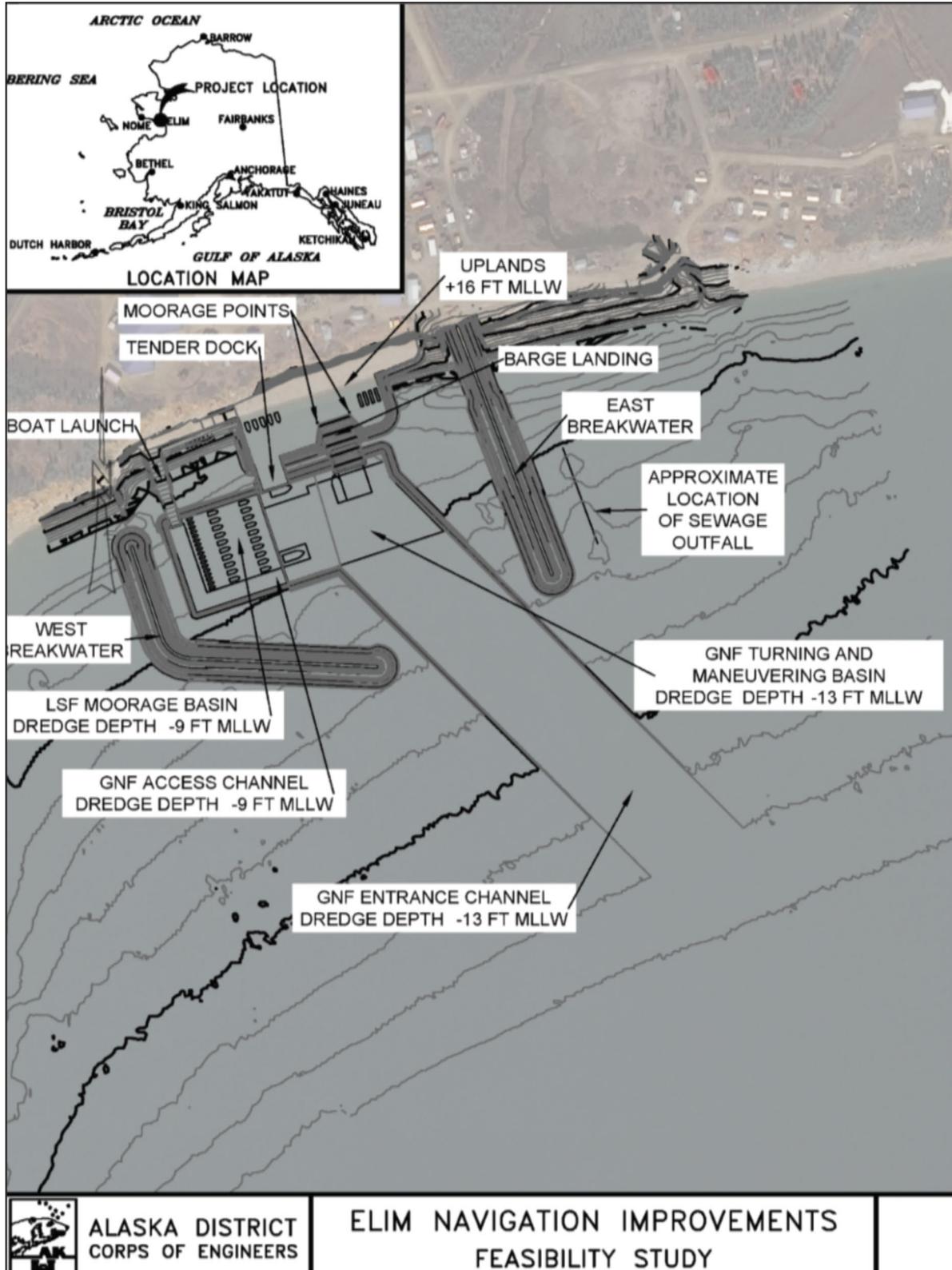


Figure 3. Recommended Plan

4. DESCRIPTION OF LERR REQUIRED

4.1. LERR to be Acquired

The NFS will negotiate to secure and acquire all necessary real estate interest for the east breakwater and the staging area, identified in Table 1. The landowner is fully in support of the project and is willing to work with the Sponsor to address easements on their property necessary for completion of the project.

Table 1. LERR to be Acquired

Project Tract ID	Features	Owners	Acres	Recommended Estate	Estimated Value
1	East Breakwater	Native Corporation	0.24	Estate # 8: Channel Improvement Easement	\$20,000
7	Staging Area	Native Corporation	0.85	Estate #15 4-Year Temporary Work Area Easement	\$60,000

The non-Federal sponsor for the project will provide any creditable LERR, which include only LERR provided for the general navigation features; the only cost-shared features of the project. The Government’s dominant right of navigation servitude will be exercised for project tidelands below the mean high water (MHW) mark for the General Navigation Feature (GNF), identified in Table 2 and Exhibit B. Two public road easements that provides access to and from the Staging Area and the East Breakwater were conveyed to the City of Elim from the Elim Native Corporation on May 30, 1986, and October 25, 2017. The Exhibit C, Real Estate Risk Checklist addresses the potential risks/opportunities associated with real estate issues that could cause a project cost or schedule variance.

The Dredged Material Placement Site (In Water) is located approximately 2.0 nautical miles SE from the general center of the project site, as shown in Exhibit B. No features will be built to enable the disposal of material.

4.2. Local Service Facilities

The Local Service Facilities (LSF) include an extension to the fuel header located on Elim Beach, a single boat launch, two mooring points, 1 acre uplands with an area for parking and turn around at the boat launch, and an approximately 250 ft. access road connecting the uplands to the boat launch. Acquiring the land for the LSF is the

responsibility of NSF and is not required for the construction of the GNF. As such, LSF costs are not included in LERR value for crediting purposes.

5. LERR ALREADY OWNED BY THE NFS

The NFS owns no land needed for the project.

6. RECOMMENDED ESTATES

Estate # 8: CHANNEL IMPROVEMENT EASEMENT.

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across the land described in Schedule A, Tract No.1 for the purposes as authorized by the Act of Congress approved _____, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate: dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, 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.

Estate #15. TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across the land described in Schedule A, Tract No. 7, for a period not to exceed four (4) years, 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 Elim Subsistence Harbor 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 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.

7. EXISTING FEDERAL PROJECTS

There are no other existing Federal projects that lie fully or partially within the LERR required for this Project.

8. FEDERALLY OWNED LANDS

There are no other existing Federally owned lands that lie fully or partially within the LERR required for this project.

9. NAVIGATION SERVITUDE

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U.S. CONST. Art. I, §8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the MHW mark. In non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the MHW mark.

The Government's rights under the navigation servitude exist regardless of the ownership of the banks and bed of a stream below the MHW mark and of western water rights under prior appropriation doctrine. As stated in Section 4, the Federal government can exercise its right of navigational servitude for the construction and maintenance of improvements being proposed. In addition, USACE will follow proper permitting processes for excavating and/or disposing of material in navigable waters as required under Section 10 of the River and Harbor Act of 1899. Navigation servitude is being applied to this project.

The Alaska District Office of Counsel has determined the application of Navigation Servitude is appropriate for the construction of the breakwaters. Navigation Servitude will apply laterally over the entire surface of the water body and is not extinguished by later actions or events that impede or destroy navigable capacity.

Table 2. Exercise Navigation Servitude

Features	Owners	Acres
Dredge Entrance Channel Water)	State of Alaska	11.12
Dredge Turning Channel	State of Alaska	2.52
Dredge Interior Channel	State of Alaska	0.60
Western Breakwater	State of Alaska	3.20
Eastern Breakwater	State of Alaska	2.27
Dredged Material Placement Site (In Water)	State of Alaska	92.00
Construction Area (Upland and Below MHW)	State of Alaska	77.34
<p>The proposed Dredged Material Placement Site (In Water) is located on northwest corner of the square is 2.0 nautical miles SE from the general center of the project site. The latitude/longitude coordinates are as follows: N64.6065, W162.1856 N64.6065, W162.1729 N64.6011, W162.1729 N64.6011, W162.1856</p>		

10. FLOODING INDUCED BY PROJECT

No flooding will be induced by the construction or the operation and maintenance of the proposed project. As such, no Physical Takings Analysis is required.

11. BASELINE COST ESTIMATE ON ACQUISITION OF LERR

Baseline Cost Estimates for Real Estate (BCERE) was prepared by the realty specialist as a rough order of magnitude (ROM) estimate, as shown in Table 3 Baseline Cost Estimate for Real Estate and Table 4 Chart of Accounts. Federal and non-Federal administrative costs have also been included in the BCERE to account for project coordination, crediting, and miscellaneous expenses that may occur during the planning or implementation of the proposed project. The BCERE for LERR credit is \$105,000 for the GNF. Real Estate Policy Guidance Letter No. 31, is being applied for project value of real estate are not expected to exceed 15 percent of total project cost.

The BCERE may be revisited during the Project Engineering & Design (PED) phase in order to apply additional costs if necessary. If land acquisition by the NFS is deemed necessary in the future, additional appraisals will be prepared to offer reasonable support for unit land values which will in turn be used in calculating the BCERE for the proposed project.

Table 3. Baseline Cost Estimate for Real Estate (BCERE)

Category	Cost
Lands	
Lands	\$80,000
Improvements	\$0
Severance Damages	\$0
Minerals	\$0
Total Lands & Damages	\$80,000
Administrative Costs	
Federal Review of Non-Federal Sponsor	\$5,000
Sub-Total:	\$5,000
Contingency (25%)	\$1,250
Sub-Total	\$6,250
Non-Federal Sponsor Administrative Costs	
Sub-Total:	\$20,000
Contingency (25%)	\$5,000
Sub-Total	\$25,000
Public Law 91-646 Relocation Costs	\$0
Total RE Cost Estimate:	\$111,250

Table 4. Chart of Accounts

Chart of Accounts				
		Federal	Non-Federal	Totals
01A	Project Planning			
	Other	\$0	\$0	\$0
	Project Partnership Agreement (OC)	\$0	\$0	\$0
01AX	Contingencies (25%)	\$0	\$0	\$0
	Subtotal	\$0	\$0	\$0
01B	Lands and Damages			
01B20	Acquisition by non-Federal sponsor (Cost of appraisal, survey and incidental cost of the acquisition on LERR required for the project)	\$0	\$20,000	\$20,000
01B40	Acquisition/Review of non-Federal sponsor	\$5,000	\$0	\$5,000
01BX	Contingencies (25%)	\$1,250	\$5,000	\$6,250
01R	Re Payments			
01R1	Land Payments	\$0	\$0	\$0
01R1A	By Government	\$0	\$0	\$0
01R1B	By non-Federal sponsor	\$0	\$80,000	\$80,000
01R1C	By Government on behalf of non-Federal sponsor	\$0	\$0	\$0
01R1D	Review of non-Federal sponsor	\$0	\$0	\$0
01RX	Contingencies (25%)	\$0	\$0	\$0
01R2	PL 91-646 Assistance Payments	\$0	\$0	\$0
01R2A	By Government	\$0	\$0	\$0
01R2B	By non-Federal sponsor	\$0	\$0	\$0
01R2C	By Government on behalf of non-Federal sponsor	\$0	\$0	\$0
01R2D	Review of non-Federal sponsor	\$0	\$0	\$0
	Totals	\$6,250	\$105,000	\$111,250
Any potential cost estimate for Federal and/or non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERR, and other items are coded as delineated in the Cost Work Breakdown Structure are identified in the Chart of Accounts. The real estate cost estimate is then incorporated into the Total Current Working Estimate.				

12. UTILITIES & RELOCATION

There are no known utilities or facilities requiring relocation that are impacted by the proposed project footprint.

13. RELOCATION ASSISTANCE BENEFITS (P.L. 91-646)

Public Law 91-646, Uniform Relocation Assistance provides entitlement for various payments associated with Federal participation in acquisition of real property. Title II makes provision for relocation expenses for displaced persons, and Title III provides for reimbursement of certain expenses incidental to transfer of property. There will be no relocations required for this project. As such, no Title II or Title III costs are associated or identified herein.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NONFEDERAL SPONSOR AS PART OF ITS LERR RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

14. HAZARDOUS, TOXIC, AND RADIOLOGICAL WASTE IMPACTS

Section 3.1.1.1 of the IFR/EA discusses known Hazardous, Toxic, and Radiological Waste (HTRW) sites in the Elim area and their potential impact on the project. No real estate avoidance is anticipated due to known or suspected HTRW located in, on, under, or adjacent to the LERR required for the construction, operation, or maintenance of the project, including LERR that is subject to navigational servitude. No HTRW sites will be impacted by the project.

15. MINERAL ACTIVITY IMPACTED PRESENT/FUTURE

There are no current or anticipated mineral or timber activities within the vicinity of the proposed project that will affect construction, operation, or maintenance of the proposed project. Nor will any subsurface minerals or timber harvesting take place within the project.

16. PROJECT MAP

A project Map is enclosed as Exhibit B.

17. ASSESSMENT OF NFS REAL ESTATE ACQUISITION CAPABILITY

The Native Village of Elim is a fully capable sponsor for acquiring the required lands, easements, and rights-of-way (See Exhibit “A” Native Village of Elim – Acquisition Capability Assessment). Kawerak, Inc. is the servicing agency responsible for providing all real estate action on behalf of the multiple native communities in the region, including Elim. Kawerak, Inc. has a strong Realty Department and years of experience providing the needed services. The non-Federal sponsor’s contact information:

President
Native Village of Elim
P.O. Box 39070
Elim, Alaska 99739

18. ADVANCE ACQUISITION

The non-Federal sponsor has been notified in writing about the risks associated with acquiring land before the execution of the PPA and the Government’s formal notice to proceed with acquisition of the lands needed for the project.

19. ZONING ORDINANCES CONSIDERED IN SUPPORT OF LERR REQUIREMENTS

No zoning ordinances are proposed in lieu of, or to facilitate acquisition in connection with, the project.

20. SCHEDULE

The anticipated project schedule, unless revised after coordination with the non-Federal sponsor, as shown in Table 5.

Table 5. Project Schedule

Task	Schedule
NFS – Receipt of the final real estate drawing from the Alaska District, Engineers.	2-4 weeks after PPA execution.
USACE – Formal transmission of right of way drawing and formal notice to proceed with acquisition.	4-6 weeks after PPA execution.
NFS – Certify all necessary LERR available for construction.	180 days after PPA execution.
USACE – Certifies/verifies the NFS has acquired the real interest required and sufficiency for contract advertisement, etc.	180 days after PPA execution.
NFS – Prepare and submit credit requests.	180 days after NFS provides the Government authorization for entry for such LERR
USACE – Review/approve or deny credit requests.	180 days of NFS submission

21. CULTURAL RESOURCES

The USACE has determined that the proposed project would have no adverse effect on historic properties under Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800.5(b)). The Alaska State Historic Preservation Officer (SHPO) has concurred with a determination of no historic properties adversely affected (Appendix G: Correspondence). The proposed project would not alter or lead to the alteration of any important attribute of historical or cultural resources. No other historic property or cultural resource would be impacted by this project.

22. MITIGATION

No mitigation features have been identified that would have any real estate implications.

23. VIEWS OF FEDERAL, STATE AND REGIONAL AGENCIES:

This project is supported by Federal, State, and Regional agencies. The USACE has met with representatives of the NFS and other pertinent parties to discuss aspects of the proposed action. Further coordination will be ongoing. In compliance with NEPA rules/regulations, letters will be sent to resource agencies and residents in the area; public notices will transpire within the project vicinity.

24. LANDOWNERS OPPOSITION

Public meetings have been conducted with the USACE, NFS, the City of Elim, the principal landowner for adjacent project lands, and village residents. The residents of Elim are collectively in favor of the project. Further coordination will be ongoing between USACE, NFS, Native Corporation, residents of the area; and City, State and Federal resource agencies.

25. OTHER REAL ESTATE ISSUES

The NFS's have been advised of P.L. 91-646 requirements; and they have been advised of the requirements for documenting expenses for LERR crediting purposes.

The project is in compliance with the Clean Water Act, and no issues are anticipated. This compliance is established in the CWA Section 404(b)(1) evaluation, attached as Appendix A of the report. The project has received a CWA Section 401 Water Quality Certification from the State of Alaska.

The District considered the risk of the Native Village of Elim being unable to acquire the necessary easements to be minimal. The purpose of the project cannot be achieved without the easements, but none of the three entities governing the community have objected to the project. The Elim Native Corporation owns the underlying land on the access easement, the beachfront property necessary for the project, and stands to benefit a great deal from completion of the harbor improvements. The City of Elim owns the access easement across Elim Native Corporation lands to reach the beach on behalf of public use and benefit. While POA does not have a list of the Tribal Council members, Corporate Board, and City Council Members who govern these three distinct groups, they are often the same or related people, none of whom has brought forward an objection to this project. The goals of the project align with the mission of each entity and they all stand to benefit from its completion in the form of increased economic opportunity to their constituents. There are no competing interests for this land.

On 12 JAN 2021, the District called the City of Elim and the local governance specialist to inquire about their eminent domain, quick take, and condemnation authority. For second class cities, the power to exercise eminent domain is made by local ordinance, then the voters have the final say - which then the local ordinances are updated, AS Sec. 29.35.030. The City of Elim is a second-class city, not part of an Organized Borough and does not have a City Planning Commission. Those areas without an organized borough are in the Unorganized Borough and are administered directly by the State of Alaska. There is no overarching, governing municipal body in place which administers such actions (eminent domain) within the community.

Additionally, the District understands that if condemnation/eminent domain/quick take authorities were initiated, it is uncertain where the actions would be adjudicated. The NFS, Native Village of Elim is a federally recognized tribe, the City of Elim was organized under state law, and the Elim Native Corporation is the land holding village corporation for the community. Past experience leads us to believe there will be no issues and all three entities support the project.

Upon evaluation POA has determined there is a low risk for condemnation for the above stated reasons.

The District has investigated and has determined that the Native Village of Elim, as a Federally recognized tribe, is a legal entity which can be granted an interest in land such as an easement.

Prepared By:

Reviewed and Approved By:

RONALD J. GREEN
Realty Specialist

GARY C. HANSON
Chief, Real Estate Division

SCHEDULE A

Tract ID	Parcel Description	Acres	GNF Feature	Estate Required
1	A portion of USS 2548, located within Section 15, Township 10 South, Range 18 West, Keel River, Meridian, Alaska, as displayed in Exhibit B, Elim Subsistence Harbor Study Appendix F: Real Estate Plan.	0.24	East Breakwater	Estate #8
7	A portion of USS 2548, located within Section 15, Township 10 South, Range 18 West, Keel River, Meridian, Alaska, as displayed in Exhibit B, Elim Subsistence Harbor Study Appendix F: Real Estate Plan.	0.85	Staging Area	Estate #15

Exhibit A. Native Village of Elim – Acquisition Capability Assessment

ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY
ELIM SUBSISTENCE HARBOR STUDY
NATIVE VILLAGE OF ELIM

1. **LEGAL AUTHORITY:**

- | | | |
|---|------------|-----------|
| a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? | YES | NO |
| b. Does the sponsor have the power of eminent domain for this project? | YES | NO |
| c. Does the sponsor have "Quick-Take" authority for this project? | YES | NO |
| d. Are any of the lands/interests in land required for this project located outside the sponsor's political boundary? | YES | NO |
| e. Are any of the lands/interests in land required for this project owned by an entity whose property the sponsor cannot condemn? | YES | NO |

2. **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? | YES | NO |
| b. If the answer to 2a is "YES" has a reasonable plan been developed to provide such training? | YES | NO |
| c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? | YES | NO |
| d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? | YES | NO |
| e. Can the sponsor obtain contractor support, if required in a timely fashion? | YES | NO |
| f. Will the sponsor likely request USACE assistance in acquiring real estate? | YES | NO |

3. **OTHER PROJECT VAIRABLES:**

- | | | |
|---|------------|-----------|
| a. Will the sponsor's staff be located within reasonable proximity to the project site? | YES | NO |
| b. Has the sponsor approved the project/real estate schedule/milestones? | YES | NO |

4. **OVERALL ASSESSMENT:**

- a. Has the sponsor performed satisfactorily on other USACE projects? **YES** **NO**

Kawerak, Inc. is the servicing agency responsible for provided all real estate action for the native community in the region. Kawerak, Inc. has done this type of project before and experienced success.

- b. With regard to this project, the sponsor is anticipated to be:

HIGHLY CAPABLE

FULLY CAPABLE

The Tribe, Native Village of Elim, is the sponsor, with support from the non-profit Tribal consortium, Kawerak. Tribes in this region are small & consolidate their funding and receive services from Kawerak, Inc. Kawerak, Inc. has a strong Realty Department and years of experience providing the needed services. The tribe does not have eminent domain or "Quick Take" authority.

MODERATELY CAPABLE

MARGINALLY CAPABLE

INSUFFICIENTLY CAPABLE

Justification for Insufficient Capability:

5. **COORDINATION:**

- a. Has this assessment been coordinated with the sponsor? **YES** **NO**
- b. Does the sponsor concur with this assessment? **YES** **NO**

Justification for Sponsor Non-concurrence:

NON-FEDERAL SPONSOR:



(Signature)

Robert A Keith

(Printed Name and Title)

PREPARED BY:

GREEN.RONALD.JONATHAN
AN.1202579147

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GARY C. HANSON
Chief, Real Estate Division

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Exhibit B. Project Map

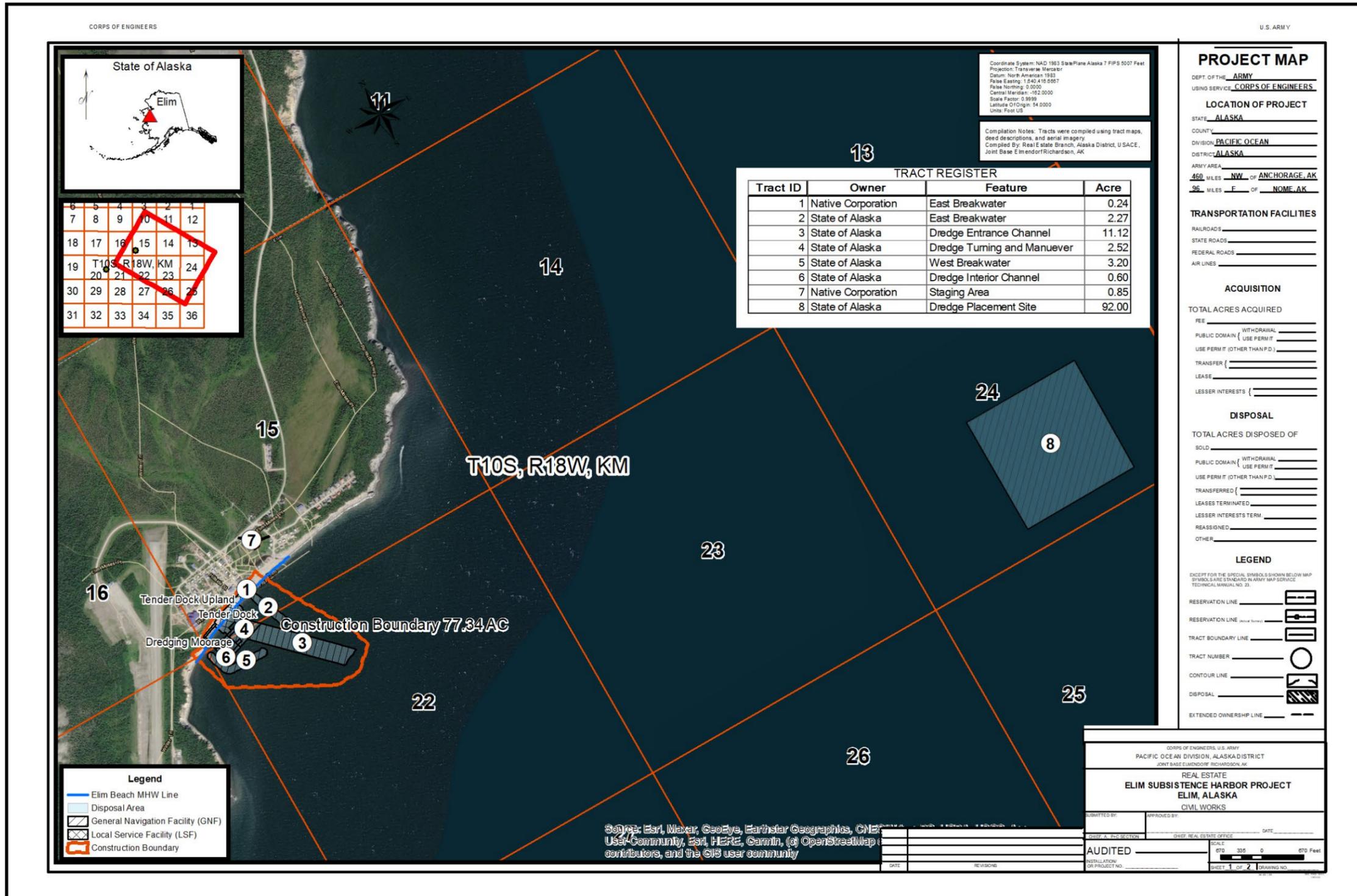


Exhibit D. Real Estate Risk Checklist

(Risk: Any issue that could cause a cost or schedule variance)

Project Management Risks impacting Real Estate

- Project scope definition unclear, impacting real estate needs – Low Risk
- Project schedule in question (accelerated or protracted) – Low Risk
- Project competing with other projects for funding and resources – Low Risk
- Inexperienced or inadequate staff assigned – Low Risk

Technical Design Risks impacting Real Estate

- Land Surveys late, unclear, in question – Yes, low risk
- Sufficiency / availability of as-built data / base map data – Data made available & sufficient
- Borrow / fill sources identified / secured – Not Applicable to this project
- Sufficiency / condition of borrow / fill sites – Not Applicable to this project
- Project Access has been defined and located – Yes, low risk.
- Locations for Plants /Equipment /Staging – Yes, low risk b/c on barges and land base staging

Regulatory and Environmental Risks impacting Real Estate

- Historic/Cultural site, endangered species, or wetlands present – Low Risk
- Hazardous waste preliminary site investigation required – Low Risk
- Mitigation requirements clear – Low Risk

External Risks impacting Real Estate

- Adequacy of project funding (incremental or full funding) – Low Risk
- Local communities' support / opposition – Low Risk
- Political factors change at local, state or Federal – Low Risk
- Late surprises, Scope changes – Low Risk
- New stakeholders emerge and demand new work – Low Risk
- Influential stakeholders request additional needs to serve other purposes – Low Risk
- Political opposition / threat of lawsuits – Low Risk

Lands and Damages – Real Estate

- Real Estate plan defined / Study definition – Yes, Low Risk
- Status of real estate / easement acquisition – Low Risk,
- Age of real estate estimate / potential to change over time – Low Risk
- Potential uneconomic remnants; – Low Risk
- Hidden or unforeseen aspects of property and improvements due to inability to physically inspect the project; – Low Risk
- Potential development pressures in the immediate area; – Not Applicable to this project
- Potential zoning changes; negotiation latitude beyond estimated market value; – Not Applicable to this project.
- Potential for condemnation awards and interest; and potential natural resources within the project area – Low Risk
- Objections to right-of-way appraisal – Low Risk

- Ancillary owner rights, ownerships in question – Not Applicable to this project
- Other Agency Involvements (freeway, city, railroad, navigation) – Not Applicable to this project
- Relocations adequately identified – Not Applicable to this project
- Relocations may not happen in time – Not Applicable to this project
- Records / as-built availability / inaccuracies – Low Risk
- Known and unknown utility impacts – Low Risk
- Vagrancy, loitering issues – Not Applicable to this project
- Quality of L&D estimates as “most likely” case – Low Risk
- Appraisal confidence with volatile market over time – Low Risk
- Estimate already includes certain contingencies / Incremental Costs – Low Risk

RISK SUMMARY

Based on the above Risk Checklist the above risks were summarize in Project Risk Register as LD1, after discussions with the cost estimator, that the Cost and Schedule Risk Analysis (CSRA) using USACE approved software will quantify the Real Estate concerns including mitigation risks. Real estate defers to the 25% contingency for the administrative expenses detailed in the Baseline Estimate for Real Estate (BCERE). Cost and schedule impacts of the mentioned Real Estate concerns are captured in the contingency of the costs. All potential risk/opportunity have been addressed.

The accompanying Real Estate Plan (REP) makes the following key assumptions based on the current project scope: 1) a permanent easement is needed for the East Breakwater, and the public roads are available for access from the upland; 2) No facility/utility relocations will be required for the proposed navigation project.