

DRAFT

APPENDIX E

**FLAGLER COUNTY, FLORIDA
FLAGLER BEACH HURRICANE AND
STORM DAMAGE REDUCTION PROJECT**

DRAFT REAL ESTATE PLAN

JANUARY 15, 2014

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DRAFT REAL ESTATE PLAN

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EXHIBIT 1: NON FEDERAL SPONSOR'S REAL ESTATE
ACQUISITION CAPABILITY ASSESSMENT (DRAFT)

**FLAGLER
BEACH HURRICANE AND
STORM DAMAGE REDUCTION PROJECT**

DRAFT REAL ESTATE PLAN

1. STATEMENT OF PURPOSE

This report is tentative in nature and is to be used for planning purposes only. The purpose of this Real Estate Plan (REP) is intended to support the Flagler County, Florida Hurricane and Storm Damage Reduction Project Draft Integrated Feasibility Study and Environment Assessment. This report is written based on specific data from Jacksonville District and the tax assessor's office in Volusia County, Florida. Flagler County is the Non-Federal Sponsor for this project.

2. STUDY AND PROJECT AUTHORIZATION

The authority for conducting this Feasibility Study is contained in House Resolution 2676 adopted May 22, 2002:

"Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, that in accordance with Section 110 of the Rivers and Harbors Act of 1962, the Secretary of the Army is requested to review the feasibility of providing shoreline erosion protection, hurricane and storm damage reduction, and related purposes to the shores of Flagler County, Florida."

The reconnaissance study for Flagler County, Florida, completed in March 2004, recommended that this study continue into the feasibility phase.

3. PROJECT LOCATION

The Flagler Hurricane and Storm Damage Reduction Project is located on the northeast coast of Florida midway between the Florida/Georgia state line and Cape Canaveral. The County is bounded to the north by Saint John's County and to the south by Volusia County. Flagler County has approximately 18 miles of coastal shoreline beginning about 2.4 miles south of Matanzas Inlet, extending from Matanzas Inlet to Ponce de Leon Inlet. Ponce de Leon Inlet, located about 27 miles south of Flagler County in Volusia County, is the next inlet to the south. General location map attached as Figure 1.



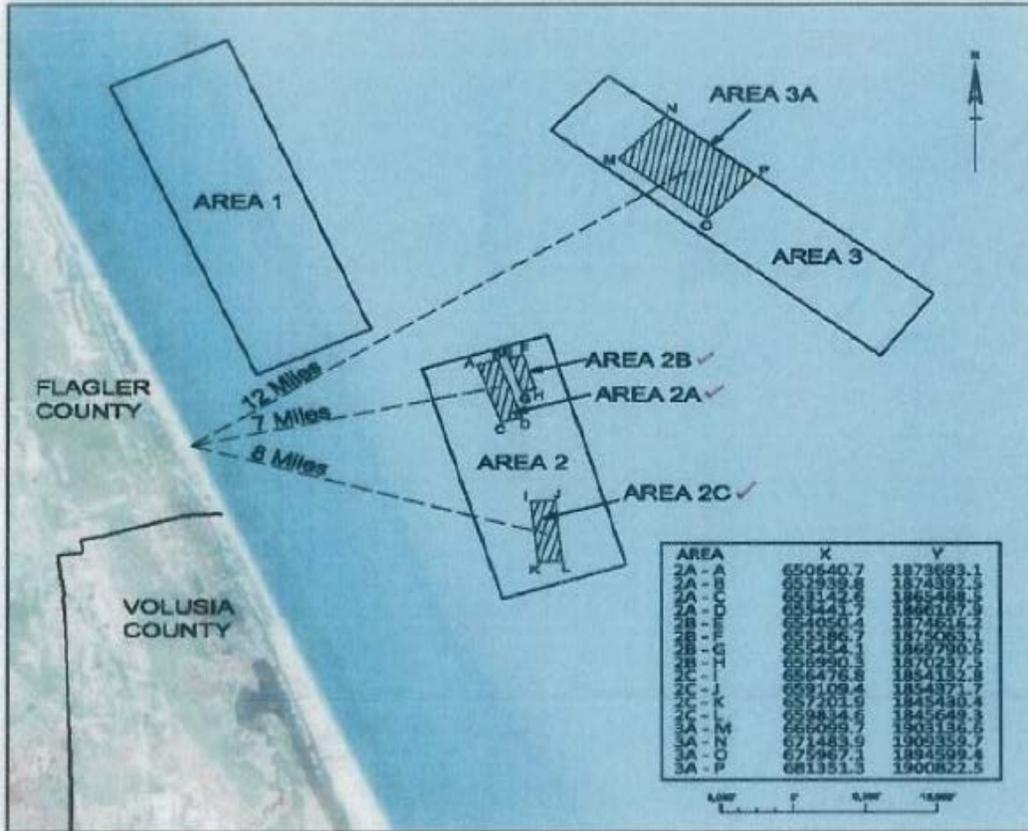
Figure 1: General location map of Flagler County and the study reaches (yellow lines).

4. PROJECT DESCRIPTION

The Tentatively Selected Plan (TSP), will provide for dune and beach development by use of compatible fill material and periodic nourishment along approximately 2.6 miles of shoreline between monuments R-80 to R-94. The Borrow Area will be located offshore. Each nourishment event, including initial construction, will require approximately 330,000 cubic yards of sand. The renourishment interval is expected to be approximately 11 years.

5. REAL ESTATE REQUIREMENTS

- a. The real estate requirements for beach nourishment, beach restoration, and erosion control projects are established pursuant to Florida Statute, Section 161.141, Property Rights of State and Private Upland Owners in Beach Restoration Project Areas. The Statute requires a boundary line be determined between state sovereign lands and the adjacent upland property. The land is referred to as an Erosion Control Line (ECL) and generally is established at the mean high water line.
- b. Once established, Florida Statute, Section 161.191, Vesting of Title to Lands, states that title to all lands seaward of the ECL shall be vested to the state by right of its sovereignty. The lands landward of the ECL remain vested in the upland owner. The areas seaward of the ECL provide public use and access.
- c. A Sovereign Submerged Lands Authorization, contained within the Consolidated Joint Coastal Permit, issued by the State to the City of Flagler and County of Flagler will be issued to the sponsor for placement areas located seaward of the proposed ECL.
- d. Perpetual Beach Storm Damage Reduction Easements will be required over approximately 2.6 miles along the Atlantic shoreline in Flagler County from FDEP monuments R-80 to R-94. Approximately 184 parcels will be impacted by these real estate requirements. The Flagler Beach Pier located approximately 800 feet to the North of R-80 is situated outside of the of the project boundary and will not be impacted by the project.
- e. The Borrow Area is located offshore northeast of FDEP beach monuments R-80 to R-94. The borrow area is located within the territorial waters of the United States. The Corps of Engineers and Flagler County, Florida will enter into a Memorandum of Agreement (MOA) with the Bureau of Ocean Energy Management (BOEM).



Borrow Areas

f. Staging areas have not been identified at this time, but will require a Temporary Work Area Easement if not located within the perpetual storm damage reduction easement area.

6. FEDERAL GOVERNMENT-OWNED LAND

There is no known Federal Government owned lands within the limits of the proposed project.

7. NON-FEDERAL OWNED LAND

Some parcels located between R-80 to R-94 are owned by the City of Flagler Beach. Refer to Real Estate Maps at the end of this appendix.

8. NON-FEDERAL OPERATION/MAINTAINANCE RESPONSIBILITIES

The non-federal sponsor will be required to operate and maintain the project for the project life.

9. NON-FEDERAL AUTHORITY TO PARTICIPATE IN PROJECT

a. Flagler County, Florida is a political subdivision of the State of Florida as provided by Article 8, Section 1 of the Florida Constitution.

b. Counties of Florida are empowered by Florida Statutes 125.01(j) to “Establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs.”

10. NAVIGATION SERVITUDE

Interagency Coordination Agreement between Florida Department of Environmental Protection, the U.S. Army Corps of Engineers Jacksonville District and Mobile District dated February 28, 2006, states that the project sponsor will obtain all permissions to use submerged lands from the State of Florida.

11. ATTITUDE OF THE LANDOWNERS

Flagler County, the City of Flagler Beach and local communities fully support the project.

12. MINERALS

Preliminary assessment indicates no known present or anticipated mineral or sub-surface mineral extraction activities within the vicinity of the proposed area which may affect construction, operation, or maintenance of the Project.

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

There are no known HTRW in the project area.

14. INDUCED FLOODING

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

15. ZONING ORDINANCES

Zoning Ordinances are not of issue with this project. Application or enactment of zoning ordinances is not to be used in lieu of acquisition.

16. RELOCATIONS ASSISTANCE (PUBLIC 91-646)

There are no persons or businesses that will need to be relocated due to project implementation.

17. RELOCATIONS, ALTERATIONS, VACATIONS, AND ABANDONMENTS (UTILITIES, STRUCTURES AND FACILITIES, CEMETERIES, AND TOWNS).

There are approximately 21 privately owned walkovers and 21 city owned walkovers which are considered a public utility which will be impacted by this project. It is estimated that approximately \$1,150,000 will be included in the compensation for real estate interest to cover the cost of reconstructing 21 city-owned walkovers.

18. STANDING TIMBER AND VEGETATIVE COVER

Project construction will require and include replanting of dune vegetation in equivalent density and type to replace vegetation that was disturbed during the construction activity.

19. RECREATION RESOURCES

There are no separable recreation features identified for this project.

20. CULTURAL RESOURCES

There are no known cultural resources that have been identified as being affected by the project.

21. OUTSTANDING RIGHTS

There are no known outstanding rights in the project area.

22. ACQUISITION SCHEDULE

Land acquisition activities for Perpetual Beach Storm Damage Reduction Easements require between six and twelve months. The project lands will be certified by the project sponsor to the United States prior to the advertisement of the construction contract.

23. ACQUISITION/ADMINISTRATIVE COSTS

The estimate of the Federal real estate acquisition/administrative cost is \$1,038,000. This estimate amount includes project real estate planning, review monitoring and crediting costs. The non-Federal sponsor will receive credit towards its share of real estate administrative project costs incurred for certification. Non-Federal administrative costs are estimated to be \$1,730,000.

24. REAL ESTATE CHART OF ACCOUNTS

01	LANDS AND DAMAGES	\$ 0.
01B--	ACQUISITION	
01B20	FEDERAL*	\$1,038,000.
01B40	NON-FEDERAL**	\$1,730,000.
01MOO	CONTINGENCIES (25%)	\$ 692,000.
02	RELOCATION (contingencies 22.5%)	\$1,150,000.
	ESTIMATED TOTAL REAL ESTATE COST	\$4,610,000.

25. ESTATES TO BE ACQUIRED

The following standard estates have been determined to represent the minimum real estate interest required from the non-Federal Sponsor to support the construction of this project;

TEMPORARY WORK AREA EASEMENT

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract Nos. ____, ____, and ____), for a period not to exceed _____, beginning with date possession of the land is granted to the Project Sponsor, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (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 Flagler County, Flagler Beach Hurricane and Storm Damaged Reduction 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.

PERPETUAL BEACH STORM DAMAGE REDUCTION EASEMENT

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tract No.____) for use by the (Project Sponsor), its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; repair; rehabilitate; and replace; a public beach [a dune system] and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms [and dunes]; to nourish and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the (Project Name), together with the right of public use and access; to plant vegetation on sand dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement; reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune over walk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the (designated representative of the Project Sponsor) and provided further that such structures are subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the project; and further reserving to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns all

such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

26. MAPS

Real Estate Maps for this project are located at the end of the Real Estate Plan.

EXHIBIT 1

DRAFT- ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY FOR FLAGLER HURRICANE AND STORM DAMAGED REDUCTION PROJECT

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 Ila 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
- 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 USAGE 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 capable/moderately capable/marginally capable/insufficiently capable. HIGHLY CAPABLE

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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Real Estate Division
Jacksonville District

Reviewed and approved by:

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Chief, Real Estate Division
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-80 to R-82)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE

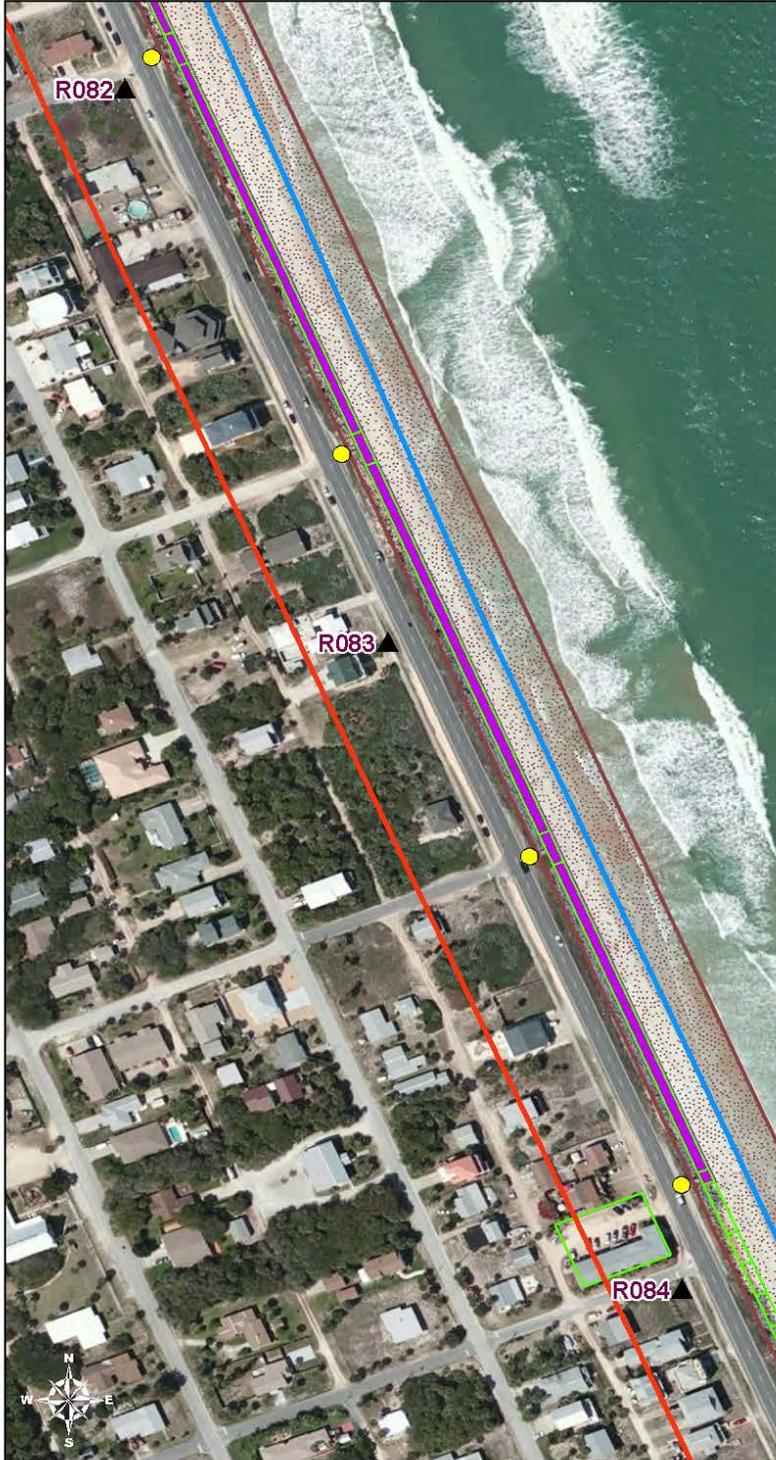


LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Private Property
- ▭ City of Flagler Beach Property



US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-82 to R-84)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE

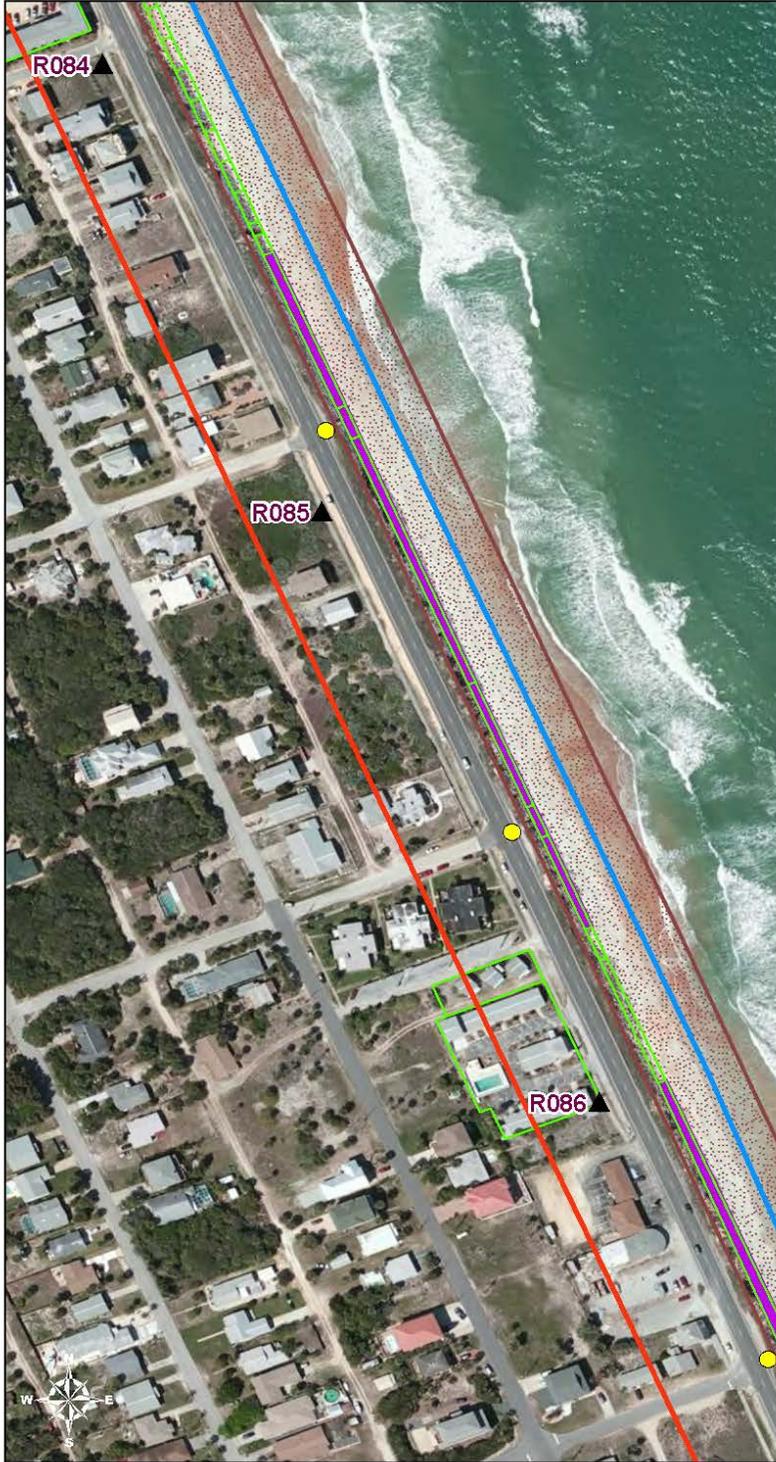


LEGEND

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- Beach Access
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- MHW (2011)
- ▨ Project Area
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- ▭ City of Flagler Beach Property



US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-84 to R-86)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE



LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Private Property
- ▭ City of Flagler Beach Property



US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-86 to R-88)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE



LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Private Property
- ▭ City of Flagler Beach Property



US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-88 to R-90)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE

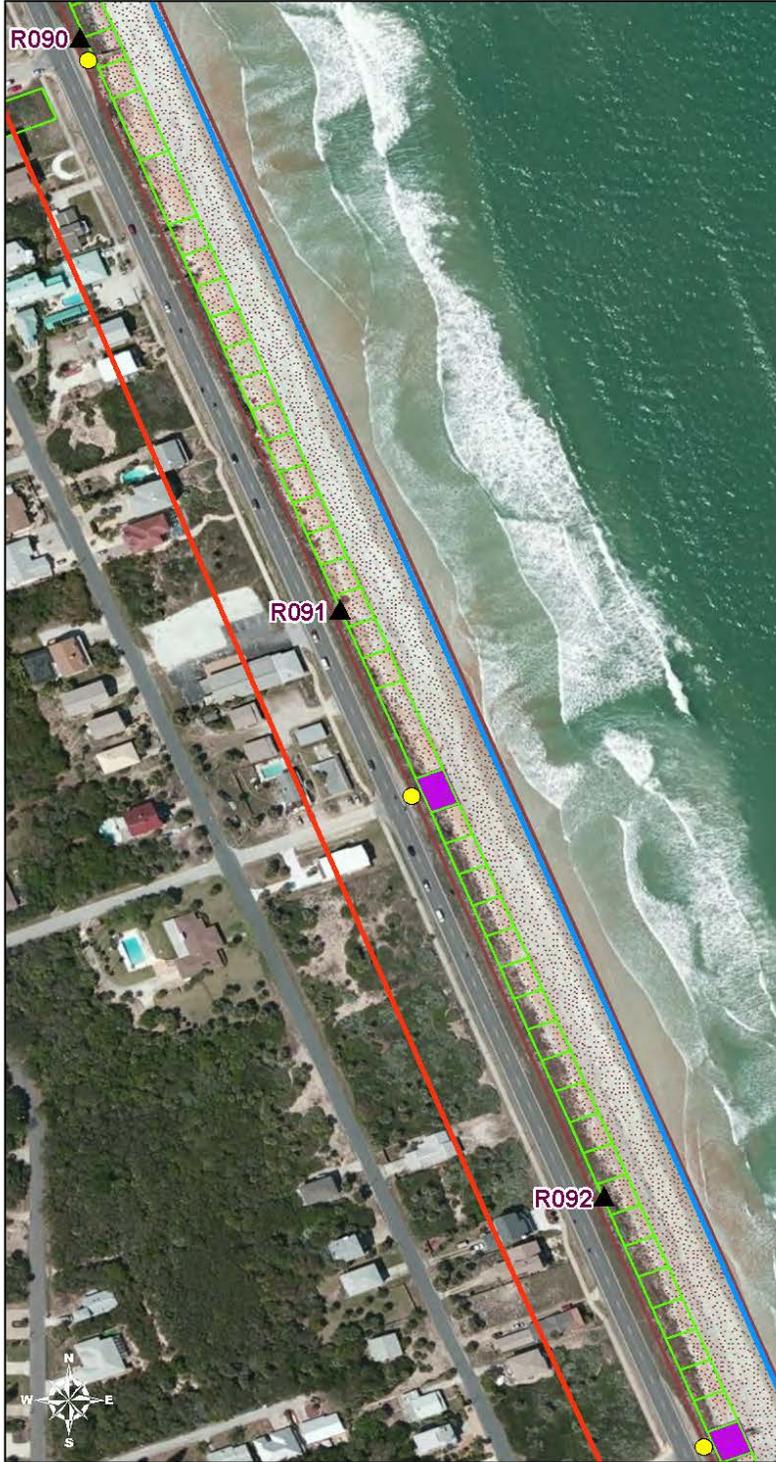


LEGEND

- ▲ Florida Coastal Range Monuments
- Beach Access
- Construction Control Line
- MHW (2011)
- ▨ Project Area
- ▭ Private Property
- ▭ City of Flagler Beach Property



US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-90 to R-92)
Flagler County, FL
9-Jan-2014
Real Estate Division**



MAP SCALE



LEGEND

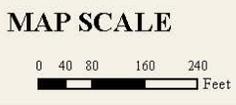
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US Army Corps of Engineers
Jacksonville District



**Flager County Beach
Hurricane and Storm
Damage Reduction
Project
(R-92 to R-94)
Flagler County, FL
9-Jan-2014
Real Estate Division**



- LEGEND**
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