



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT  
69 A HAGOOD AVENUE  
CHARLESTON SC 29403-5107

JUNE 4, 2021

SUBJECT: Edisto Beach (Colleton County) Coastal Storm Risk Management (CSRM) Project

The Honorable Jane S. Darby  
C/O Ms. Iris Hill  
Town of Edisto Beach  
2414 Murray Street  
Edisto Island, SC 29438

Dear Mayor Darby,

This letter is in response to the Town's letter dated September 23, 2020 and letter received October 21, 2020 requesting a waiver to the Corps' standard estate language and addressing the desire for work-in-kind (WIK) credit. More recently, we received the your letter dated January 19, 2021 reiterating the need for consideration of WIK credit of the groin component constructed in 2017, and requesting consideration of a time extension so that a provision for credit could be resubmitted for possible inclusion in a future Water Resource Development Act (WRDA). Since receiving the Town's correspondence in the fall of 2020, the Corps has been discussing and elevating these issues internally. An update for each of the topics follows.

On October 21, 2020, the Town formally requested "a waiver to change the [in perpetuity] language used in the Standard Estate portion of the easements" to address concerns of property owners and facilitate obtaining the easements. The Town provided an enclosure with its proposed revisions. From November 2020 to January 2021, your request was considered in coordination with the South Atlantic Division (SAD) and U.S. Army Corps of Engineers (USACE) Headquarters offices. The Corps' position after evaluation of your request is that "in perpetuity" is a well-established Federal real estate requirement for CSRM projects which must remain in the easements for the Project. Removal would result in inconsistency across USACE projects and raise questions about the permanence of the easements. This would, in turn, create risk for executing the project during its 50-year economic life and for its perpetual eligibility for P.L. 84-99 Flood Control & Coastal Emergencies (FCCE) funding. However, the Corps is willing to consider alternative language which retains "in perpetuity" while *also* expressly allowing for termination in the event of project deauthorization by Congress. In such a scenario, the easements would no longer be necessary for periodic nourishments or FCCE rehabilitation. This alternative language is provided as Enclosure 1 for the Town's review and consideration.

If acceptable, the Corps requests a written response confirming that this alternative language is satisfactory. Upon receipt of that confirmation, a formal request for approval of this deviation from the standard language will be routed to Corps HQ.

As indicated in previous correspondence, the Charleston District is not able to provide WIK credit because a formal agreement was not in place at the time the 2017 work was performed. Credit for in-kind contributions is governed by Section 221(a)(4) of the Flood Control Act of 1970, as amended by Section 1018 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) (42 U.S.C. 1962d-5b(a)(4)). We understand that the Town was working with Senator Graham's office to pursue direct authorization for in-kind crediting through legislation. As indicated in your January 19, 2021 letter, WRDA 2020 was released on December 21, 2020, and did not include any direct references to the provision of in-kind credit for the Edisto Beach (Colleton County) CSRM project. Regarding your request for a time extension, it is important to note that WRDA legislation is only anticipated every two years, and therefore WRDA 2022 and not WRDA 2021 would presumably be the next opportunity. Senator Graham's office may be able to provide insight into the timing and deadlines associated with the next WRDA so that submission dates are met.

Regardless, we must continue to advise you that due to the nature of the P.L. 115-123 Bipartisan Budget Act of 2018 ("BBA 2018") appropriations and programming decisions, the funding allocated to this project remains at risk of being reallocated to other projects until a Project Partnership Agreement (PPA) is in place and award of an initial construction contract is made. While we recognize the desire to obtain WIK credit authority for previous work, delaying PPA execution pending a possible WRDA 2022 provision to address WIK may result in loss of BBA 2018 funding.

The Corps has made progress on the validation report and has established a certified cost at FY21 price levels. For initial construction, the current certified cost estimate is \$20,513,000, which would require an Estimated Non-Federal Cost Share of 35%, or \$7,180,000. This estimate is based on initial construction beginning in 2022 and current conditions, with any delays likely leading to further cost escalation.

We hereby request that the Town consider the information above and specifically respond by letter as to your willingness and ability to sign a PPA for construction of the project under these conditions, confirming that the enclosed "Standard Estate" alternative language is satisfactory. If the Town is unwilling or unable to proceed at this time, we similarly request that the Town formally withdraw from the project by submitting

a letter to that effect. Please confirm your intentions by July 16, 2021 by letter addressed to:

LTC Rachel A. Honderd  
C/O Chrissa Waite  
USACE Charleston District  
69A Hagood Avenue  
Charleston, SC 29403

Should you have any questions concerning this matter, please contact your Project Manager, Chrissa Waite, at (843) 329-8131.

Sincerely,

*Rachel Honderd*  
Rachel A. Honderd  
Lieutenant Colonel, U.S. Army  
Commander and District Engineer

Enclosure