DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3640

July 9, 2024

SUBJECT: Waccamaw River Flood Risk Management Study

Horry County
Attn: Honorable Johnny Gardner, Chairman
1301 Second Avenue
Conway, South Carolina 29526

Dear Chairman Gardner:

The intent of this letter is to formally advise Horry County, as the potential non-Federal sponsor for the subject project, of the risks associated with land acquisition prior to the execution of the Project Partnership Agreement (PPA), completion of the project design, or prior to the Government's formal notice to proceed with real estate 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 County's participation in this project. Should you have questions or concerns pertaining to this letter, please feel free to contact Ms. Lauren Mazzola, Realty Specialist at (912) 710-1344 or by email at lauren.n.mazzola@usace.army.mil

Sincerely,

KEARNS.JENNIFER.M.1386908725

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Date: 2024.07.09 11:04:53 -04'00'

J. Morgan Kearns
Savannah District
Chief, Acquisition Branch
Real Estate Division