<u>JOINT</u> PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS 1949 INDUSTRIAL PARK ROAD, ROOM 140 CONWAY, SOUTH CAROLINA 29526 and THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL Water Quality Certification and Wetlands Section 2600 Bull Street Columbia, South Carolina 29201

REGULATORY DIVISION Refer to: SAC-2023-01053

September 21, 2023

Pursuant to Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), the South Carolina Coastal Zone Management Act (48-39-10 <u>et.seq.</u>), an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

Horry County Government c/o Infrastructure Consulting & Engineering 110 Midlands Court West Columbia, South Carolina 29169

for a permit to improve and widen Forestbrook Road (S-137) from two to five lanes with bicycle and pedestrian facilities. The proposed project will require the placement of clean earthen fill and other work in

Freshwater Wetlands and Tributaries

located along the existing Forestbrook Road corridor extending approximately 4.5 miles from the intersection with Dick Pond Road (S-616) to US Highway 501, Myrtle Beach, Horry County, South Carolina (Latitude: 33.7065 °, Longitude: -78.9860 °), Bucksville Quad.

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by the **Corps** and **SCDHEC** until

30 Days from the Date of this Notice

from those interested in the activity and whose interests may be affected by the proposed work.

NOTE: This public notice and associated plans are available on the Corps' website at: http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices .

Applicant's Stated Purpose

According to the applicant, the purpose of the proposed project is to enhance mobility for vehicle and pedestrian traffic and add capacity to the County's transportation network from Dick Pond Road to US Highway 501 to address projected traffic volumes along the Forestbrook Road corridor.

Project Description

The proposed work consists of widening Forestbrook Road (S-137) from two to five lanes with bicycle and pedestrian facilities. In detail, the limits of the project will extend approximately 4.5 miles from the intersection with Dick Pond Road (S-616) to near US Highway 501. The proposed roadway improvement will have two 12-foot-wide vehicle lanes in each direction separated by a 15-foot-wide center median to accommodate left turns. Accommodation for pedestrians will also be included in the form of a 5-foot-wide sidewalk on each side of the road. The proposed project will result in total impacts of 6,392 linear feet (LF) (0.89 acre) to tributaries (NWWs), 3.735 acres to freshwater wetlands and 0.042 acre to an impoundment of waters of the US (NWW pond). Specifically, of the 3.735 acres of wetland impacts, 3.217 acres of freshwater wetlands will be permanently filled. and 0.518 acre will consist of wetland clearing. Of the 6,392 LF of impacts to NWWs/tributaries, 1,825 LF (0.24 acre) are fill associated with the installation/replacement of new pipes or culverts, and 279 LF (0.04 acre) are impacts associated with rip-rap armoring for inlet and outlet scour protections for the installed/replaced culverts or pipes. Additionally, 4,288 LF (0.61 acre) of the total NWW/tributaries impacts are morphologic impacts. The morphologic impacts are associated with the reshaping of the NWWs/tributaries that convey stormwater to ensure adequate capacity and flows to alleviate flooding and to facilitate the roadway drainage design. The 0.042 acre of impacts to the NWW pond is fill associated with pipe outfalls and inlets.

Avoidance and Minimization

The applicant stated that the proposed roadway has been developed to avoid and minimize impacts to waters of the US. To the extent practicable, the jurisdictional areas have been avoided, with impacts minimized to 3.735 acres of wetlands, 6,392 LF of NWW/tributary impacts, and 0.042 acre of NWW pond impacts. Specific minimization strategies include:

• Roadway Alignment: The improvements will be made along the existing roadway; minimizing impacts, disturbance, and right-of-way.

• Design: Clearing limits were reduced to the minimum necessary to maintain adequate

erosion control best management practices (BMPs) and safety for the traveling public.
In addition, 2:1 side slopes were utilized along wetland areas to the extent practicable.
Hydrology and Hydraulics: Culverts and pipes were appropriately sized in accordance with SCDOT standards.

• Construction: During construction, the contractor will be required to implement and maintain BMPs to further minimize potential indirect impacts associated with stormwater runoff. The contractor will be required to utilize materials clean of any source of pollution.

In addition, the applicant stated that the project will be constructed within the appropriate stormwater guidelines of SCDHEC and SCDOT (i.e., MS4), which will require the installation, maintenance, and inspection of appropriate erosion and sediment control BMPs throughout construction. These requirements further avoid and minimize both direct and indirect impacts to WOTUS. In addition, the project will incorporate appropriate postconstruction strategies to protect water quality, including grassed swales/ditches for the conveyance and treatment of stormwater.

Proposed Compensatory Mitigation

The applicant has proposed to mitigate for impacts to wetlands and/or waters of the United States by purchasing 42.3 Freshwater wetland credits and 12,045.5 stream credits from an approved mitigation bank.

South Carolina Department of Health and Environmental Control

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the certifying authority, South Carolina Department of Health and Environmental Control, in accordance with provisions of Section 401 of the Clean Water Act (CWA). The CWA Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 Certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

The work shown on this application must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). State review, permitting and certification is conducted by the S. C. Department of Health and Environmental Control. The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that

supplemental information may be required by the State to facilitate the review.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact 3.735 acres of freshwater wetlands and 6,392 LF of tributaries upstream of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). The District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project and based on the location of the project and available information, the following species may be present in the County(s) where the work will occur: Northern Long-eared Bat (*Myotis septentrionalis*), West Indian Manatee (*Trichechus manatus*) Piping Plover (*Charadrius melodus*), Red Knot (Calidris canutus rufa), Wood Stork (*Mycteria americana*), Green Sea Turtle (*Chelonia mydas*), Kemp's Ridley Sea Turtle (*Lepidochelys kempil*), Leatherback Sea Turtle (*Dermochelys coriacea*), Loggerhead Sea Turtle (*Caretta caretta*), Monarch Butterfly (*Danaus plexippus*), American Chaffseed (*Schwalbea americana*), Canby's Dropwort (*Oxypolis canbyi*), Pondberry (*Lindera melissifolia*), Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*), Finback whale (*Balaenoptera physalus*), Humback whale (*Megaptera novaeangliae*), Right Whale (*Eubalaena glacialis*), Sei whale (*Balaenoptera borealis*), and Sperm Whale (*Physeter macrocephalus*).

Based on all information provided by the applicant and the most recently available information, the District Engineer has determined the following:

The project will have <u>no effect</u> on West Indian Manatee (*Trichechus manatus*) Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Green Sea Turtle (*Chelonia mydas*), Kemp's Ridley Sea Turtle (*Lepidochelys kempii*), Leatherback Sea Turtle (*Dermochelys coriacea*), Loggerhead Sea Turtle (*Caretta caretta*), Monarch Butterfly (Danaus plexippus), American Chaffseed (*Schwalbea americana*), Canby's Dropwort (*Oxypolis canbyi*), Pondberry (*Lindera melissifolia*), Atlantic Sturgeon (*Acipenser oxyrinchus*), Shortnose Sturgeon (*Acipenser brevirostrum*), Finback whale (*Balaenoptera physalus*), Humback whale (*Megaptera novaeangliae*), Right Whale (*Eubalaena glacialis*), Sei whale (*Balaenoptera borealis*), Sperm Whale (*Physeter macrocephalus*) and will not result in the destruction or adverse modification of designated or proposed critical habitat. The project <u>is not likely to adversely affect</u> Northern Long-eared Bat (*Myotis septentrionalis*) and Wood Stork (*Mycteria americana*) or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be present in the area which would be affected by the activity.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with Section 106 of the NHPA, the District Engineer has consulted South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(h(1)), and has initially determined that historic properties, are present; moreover, these historic properties may be affected by the undertaking. This public notice serves to notify the State Historic Preservation Office that the Corps plans to initiate Section 106 consultation on these historic properties. Individuals or groups who would like to be consulting parties for the purposes of the NHPA should make such a request to the Corps in writing within 30 days of this public notice. To ensure that other historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office and other interested parties to provide any information they may have with regard to historic properties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Corps' Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. That decision

will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

Solicitation of Public Comment

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

Please submit comments in writing, identifying the project of interest by public notice/file number (SAC-2023-01053), to Robert.C.Huff@usace.army.mil or the following address:

U.S. Army Corps of Engineers ATTN: REGULATORY DIVISION 1949 INDUSTRIAL PARK ROAD, ROOM 140 CONWAY, SOUTH CAROLINA 29526

If there are any questions concerning this public notice, please contact Rob Huff, Team Lead, at (843) 365-4239, or by email at Robert.C.Huff@usace.army.mil.









































































