



## South Central Coast Louisiana



Hurricane Ike flooding in Delcambre, Louisiana.

Appendix E – Real Estate Plan

May 2022

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## Section 1

# Purpose of the Real Estate Plan

This Supplemental Draft Real Estate Plan (SDREP) presents the real estate requirements and costs for the Supplemental Draft Integrated Feasibility Study with Environmental Impact Statement (SDIFS/EIS) for the South Central Coast Louisiana (SCCL). The Non-Federal Sponsor (NFS) for the project is the Coastal Protection and Restoration Authority Board (CPRAB). The information contained herein is tentative in nature for planning purposes only. Both the final real property acquisition lines and real estate cost estimates provided are subject to change even after approval of the SDIFS/EIS. Design optimization and feature prioritization would be performed after project authorization; therefore, this SDREP may be revised upon further analysis.

Detailed maps for specifics relating to project features may not be developed until the recommended plan (RP) undergoes more detailed design analysis and an implementation plan is fully developed.

### 1.1 PROJECT AUTHORIZATION

H.R. Docket 2767, 20 Sep 2006, Southeast Coastal Louisiana, Louisiana, “Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, that, in accordance with section 110 of the River and Harbor Act of 1962, the Secretary of the Army is requested to survey the coast of Louisiana in Iberia, St. Martin, and St. Mary parishes with a view to determine the feasibility of providing hurricane protection and storm damage reduction and related purposes.” Southeast Coastal Louisiana, LA (originally titled Southeast Coastal Louisiana) was effectively renamed South Central Coast Louisiana, LA to avoid confusion with the Southeast Louisiana urban flood control project covering Jefferson, Orleans, and St. Tammany Parishes.

Bipartisan Budget Act (BBA) of 2018, (Public Law 115-123), Division B, Subdivision 1, H. R. 1892—13, TITLE IV, CORPS OF ENGINEERS—CIVIL, DEPARTMENT OF THE ARMY, INVESTIGATIONS:

“where funds are being made available for the expenses related to the completion, or initiation and completion, of flood and storm damage reduction, including shore protection, studies currently authorized or are authorized after the date of enactment of this act, to reduce risk from future floods and hurricanes. The funds are at full Federal expense and funds made available for high-priority studies of projects in States and insular areas with more than one flood related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in calendar years 2014, 2015, 2016, or 2017.”\

Memorandum from R.D. James, Assistant Secretary of the Army (Civil Works), to Deputy Commanding General for Civil and Emergency Operations dated August 9, 2018, SUBJECT: “Policy Guidance on Implementation of Supplemental Appropriations in the Bipartisan Budget Act of 2018.” Enclosure 4, dated July 5, 2018, identifies the studies that will be funded with Supplemental Investigations funds as part of the Long-term Disaster Recovery Investment Plan (LDRIP).

The BBA and H.R. Docket 2767 authorizes the proposed South Central Coast Louisiana Project planning and potential construction.

## Section 2

# Project Location and Description

### 2.1 PROJECT LOCATION

St. Mary, St. Martin, and Iberia Parishes have high levels of risk and vulnerability to coastal storms, exacerbated by a combination of sea level rise and climate change over the study periods. Low elevation, proximity to the Gulf of Mexico, subsiding lands, and rising seas, are all contributing factors causing coastal flooding, shoreline erosion and loss of wetland. The people, economy, environment, and cultural heritage of coastal areas in South Central Louisiana are at risk from reoccurring damages caused by hurricane and storm surge flooding.

The SCCL study area encompasses 2,966 square miles of varying terrain in St. Martin, St. Mary, and Iberia Parishes (Figure E:1-1). The area is at risk of damages from flooding from tropical storms and hurricanes, which have continually impacted this part of the Louisiana coast over time. Approximately 177,000 people reside within the study area.

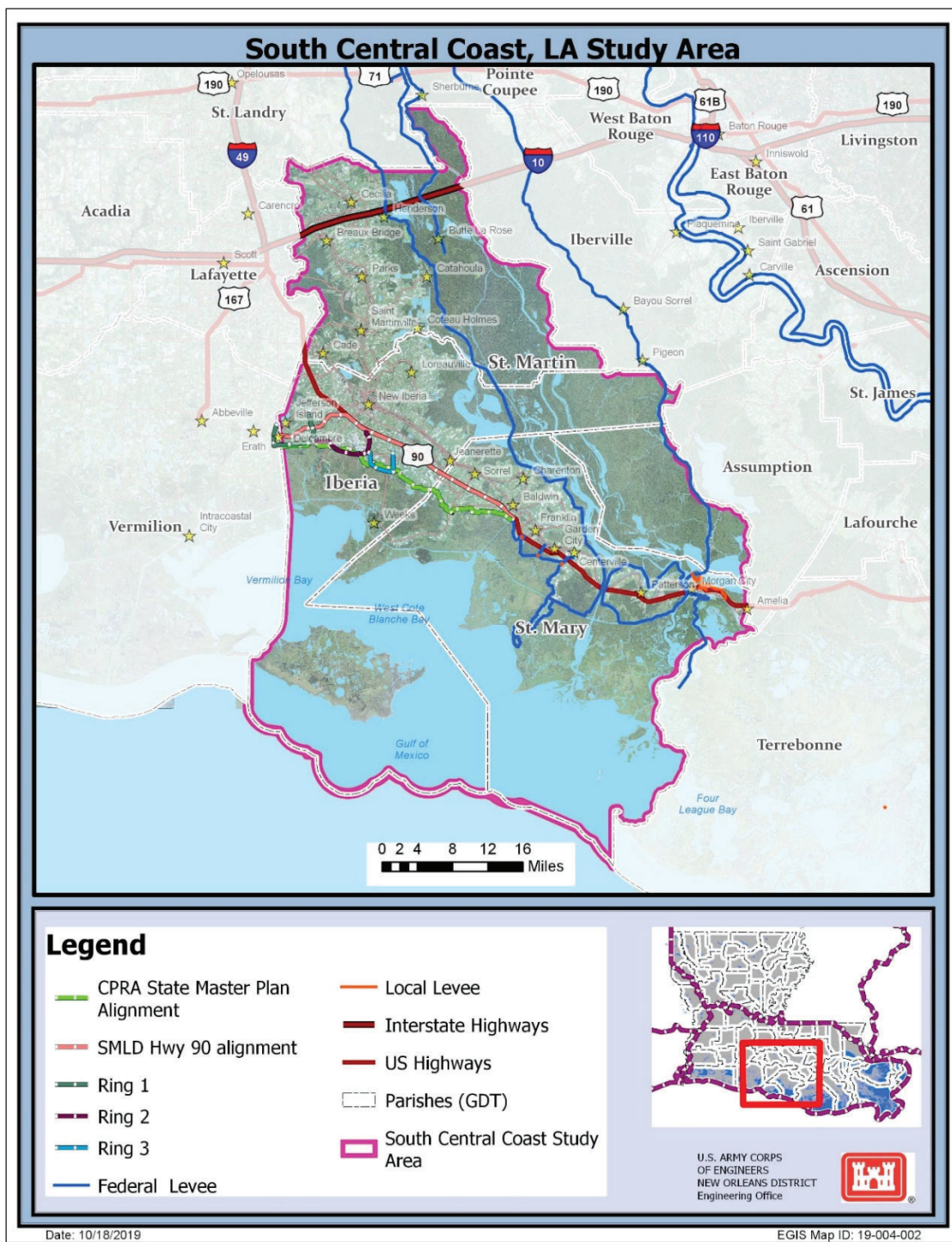


Figure E:1-1. South Central Coast Study Area Map

## 2.2 PROJECT DESCRIPTION

The RP would implement nonstructural elevation and floodproofing measures across the 1,646 square miles of the 0.04 Annual Exceedance Probability (AEP) (25 year) storm surge floodplain of the SCCL study area to reduce the impacts of coastal storm damages.

,Nonstructural measures differ from structural measures since they focus on reducing consequences of flooding instead of focusing on reducing the probability of flooding. An assessment of at-risk properties has currently identified a total of 2,240 total structures that appear to meet the preliminary eligibility criteria for participation in the project (see Figure E:2-1).

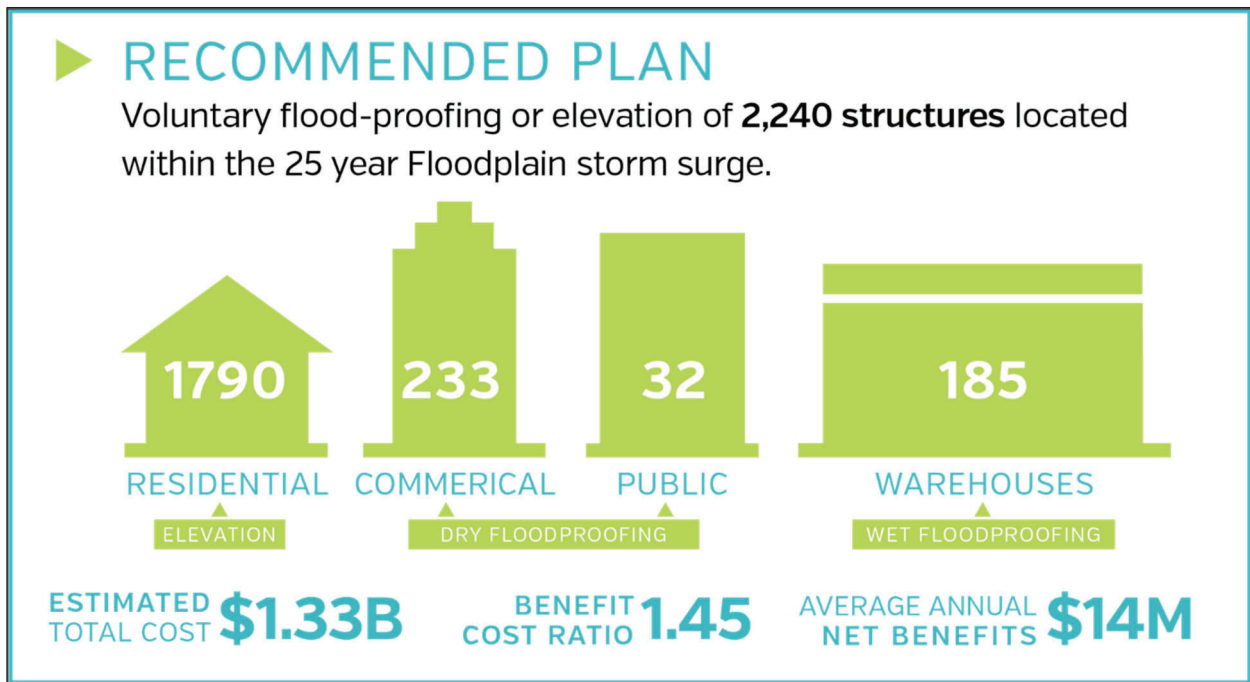


Figure E:2-1. Recommended Plan

The Recommended Plan consists of the following floodproofing components:

- Elevation of eligible structures. Elevation of 1,790 structures to an elevation no greater than 13 feet above grade. Elevation of the entire structure or the habitable space of a structure would allow floodwaters to flow and recede underneath.
- Dry floodproofing of eligible structures. Dry floodproofing 265 structures to reduce flood risk. Dry floodproofing is a combination of methods that make a building and attendant utilities and equipment watertight and substantially impermeable to floodwater up to three feet above grade, with structural components having the capacity to resist flood loads.
- Wet floodproofing of warehouses or other eligible industrial structures. Floodproofing 185 structures so that the structures' envelope is wet floodproofed

up to 12 feet. Wet floodproofing would allow floodwaters to enter and exit structures through vents, while also protecting the structural stability of a warehouse. Elevation of the utility connections to the building and flood resistant materials to the structure envelope would be implemented.

- Floodplain Management Plans. The non-Federal sponsor (NFS) is required to prepare a Floodplain Management Plan to maintain the integrity of the project. The NFS shall work with the governing bodies within the three parishes to ensure consistency with local development plans and regulations.

The US Army Corps of Engineers, Mississippi Valley Division, New Orleans District (USACE) has prepared a Nonstructural Implementation Plan, which provides details regarding potential methods for program implementation (refer to Appendix K). An overview discussion of the Nonstructural Implementation Criteria, as discussed in Appendix K, is also included in this SDREP.

It is assumed that all properties have legal access by way of public streets or existing public right-of-way. Further, it is assumed that residential and commercial properties participating in the project would have sufficiently large sites to accommodate staging of material and equipment. For the purposes of this report, the assumption is that minimal real estate rights need to be acquired for access to the properties or staging. Should additional right-of-way be necessary, a standard Temporary Work Area Easement would be acquired, but specific locations have not been identified at this time. It is assumed that during project implementation, a minimal number of temporary work areas will be identified based on the location(s) of properties participating in the project. For the purposes of this report, the estimated cost of the temporary work area easements is included as a contingency. No borrow or disposal areas are required based on the RP. Figure E:2-2 shows the locations of



structures considered eligible for proposed nonstructural measures. A larger version of this map is provided in Section 8 of this SDREP.

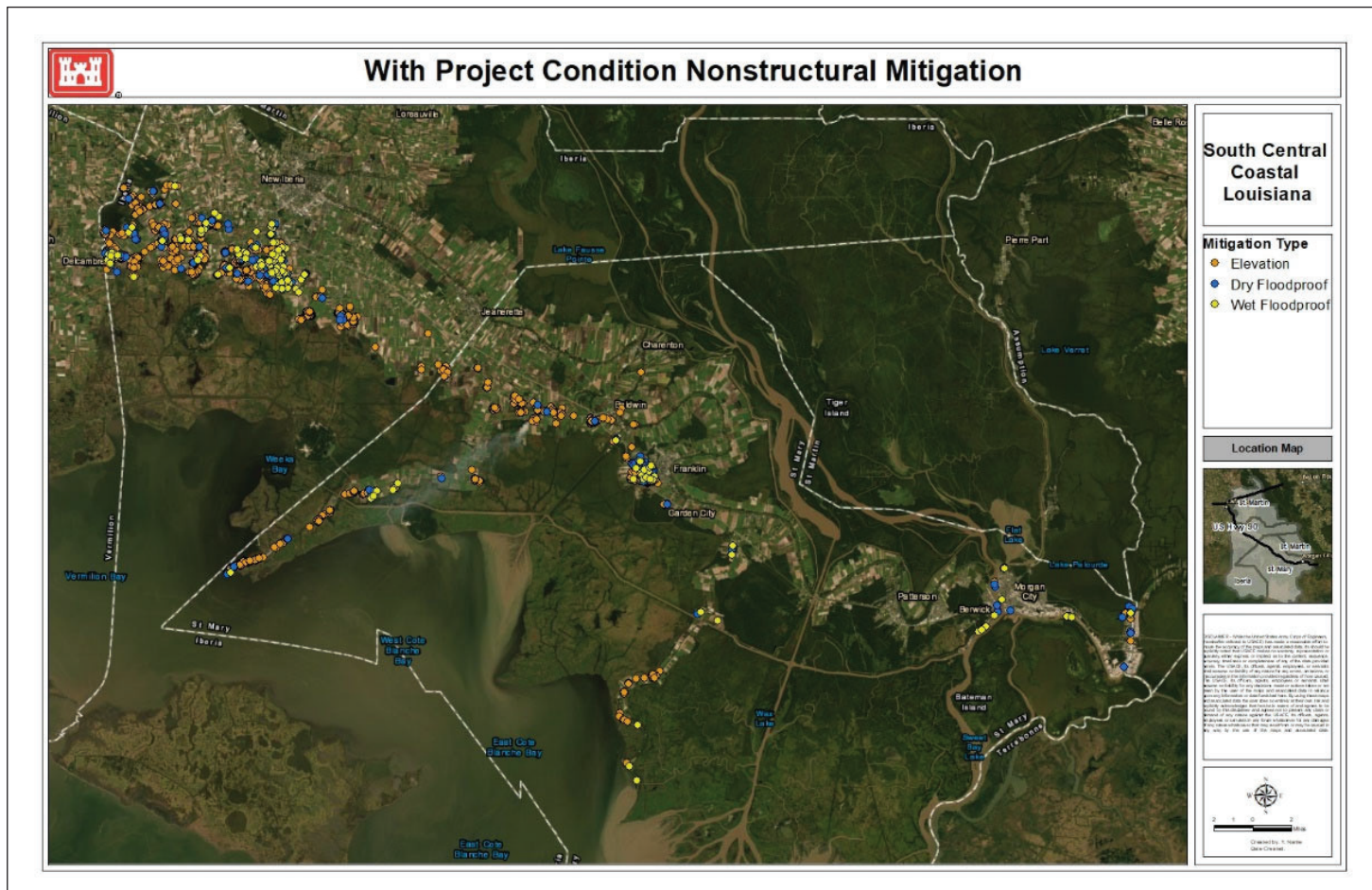


Figure E:2-2. Location of Structures Eligible for Proposed Nonstructural Measures

### 2.3 MEASURE 1 – RESIDENTIAL STRUCTURE ELEVATION

The following information is based on information contained in Appendix K of this SDIFS/EIS. More detailed information regarding the proposed implementation plan can be found in Appendix K. Some or all of this information may be modified as the implementation plan is finalized as a part of the Planning, Engineering, and Design (PED) phase.

Each residential structure that is located within the 0-25-year floodplain would be considered for eligibility for elevation of the structure in place. Elevations would be voluntary in nature and would be available to willing landowners for structures that meet the eligibility criteria.

If after completion of the investigation of the property, USACE determines that the structure is eligible for elevation, the entire foundation of the structure would be lifted and placed on a

new foundation (e.g., columns, piers, posted or raised foundation walls) so that the lowest finished floor is at or above the 0.04 AEP flood stage predicted to occur in 2075. All utilities and mechanical equipment, such as air conditioners and hot water heaters, would also be raised to or above this elevation. Property owners may choose to raise the structure, utilities, and/or mechanical equipment in excess of the predicted 2075 0.04 AEP flood stage; however, costs attributable to elevations in excess of the minimum requirements set forth herein are not eligible and must be borne solely by the property owner. Due to engineering and risk related factors, in no situation would a structure be elevated greater than 13 feet above ground level.

## **2.4 MEASURE 2 – DRY FLOOD PROOFING OF NON-RESIDENTIAL STRUCTURES**

Dry floodproofing consists of sealing all areas from the ground level and will not exceed 3 feet above ground surface elevation due to engineering constraints on a structure to reduce the risk of damage from storm surge resulting from hurricanes of a certain magnitude, by making walls, doors, windows and other openings resistant to penetration by storm surge waters. Walls are coated with sealants, waterproofing compounds, or plastic sheeting is placed around the walls and covered, and back-flow from water and sewer lines prevention mechanisms such as drain plugs, standpipes, grinder pumps, and back-up valves are installed. Openings, such as doors, windows, sewer lines, and vents, may also be closed permanently or temporarily with sandbags or removable closures.

Some common floodproofing measures include:

- Backflow valves;
- Closures on doors, windows, stairwells, and vents--they may be temporary or permanent;
- Rearranging or protecting damageable real property components--e.g., relocate or raise utilities;
- Sump pumps and sub-drains; and
- Water resistant material; metal windows, doors and jambs; waterproof adhesives; sealants and floor drains.



## 2.5 MEASURE 3 – WET FLOOD PROOFING OF WAREHOUSE STRUCTURES

Wet floodproofing is the permanent or contingent method applied to a structure and/or its contents that prevents or provides resistance to damage from flooding by intentionally allowing floodwaters to enter and exit the structure or area automatically and equalize pressures on foundation walls or lower-level walls. A key feature associated with wet floodproofing are openings to allow floodwaters in, consisting of engineered flood vents in the structure walls. Wet floodproofing is allowed in limited situations based on structure type, structure use, and require a variance in compliance with 44 CFR Section 60.3.

The Recommended Plan includes two main components to wet floodproofing a structure; 1) design elements and 2) flood resistant materials.

1. *Design elements*- Protection of the structure itself must be considered in floodproofing designs. Hydrostatic forces must be counteracted to prevent wall collapse and flood-induced uplift. This is achieved through the use of wall openings that allow water to enter and exit the structure, thereby equalizing the hydrostatic pressure.
2. *Flood resistant materials*- All materials shall be capable of resisting damage associated with a base flood event. Components not inundated with flood water must be able to resist damage as a result of excessive humidity associated with flooding and post-flood conditions. Protection of mechanical and electrical systems are required to be designed and/or located so as to prevent flood water from entering or accumulating within them.

## Section 3

# Estates Required for the Project

Elevation and floodproofing of eligible structures would require that the NFS acquire a Right of Entry for Survey and Exploratory Work, Right of Entry for Construction, and a permanent easement with restrictive covenants (for OMRR&R). The District will propose a non-standard easement which runs with the land, and includes the temporary and perpetual rights and restrictions for construction, operation and maintenance of the project. For residential structures, the project requires an easement which prohibits conversion or occupancy of any part of the structure located below the lowest habitable finished floor for human habitation and prohibits the alteration of the structure in any way to impede the movement of flood waters under the structure. The easement language included would also prohibit the construction of any other structure in a manner that would impede the movement of floodwaters under the structure. For non-residential flood proofing of structures, a separate easement would be required which provides the necessary rights and restrictions to protect the federal investment. In each case, the draft easement language would be submitted through CEMVD to USACE CEMP-CR as a request for approval of a Non-Standard Estate.

Additionally, the NFS would obtain subordination agreements for any outstanding encumbrances that would interfere with the rights obtained in the permanent easement or that would interfere with the project.

This is discussed in more detail in Appendix K.

For areas required for access to the properties or for staging, the standard Temporary Work Area Easement would be acquired. The language of the standard estate is as follows:

### **TEMPORARY WORK AREA EASEMENT** (Standard Estate No. 15)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_), for a period not to exceed \_\_\_\_\_, 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 (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 \_\_\_\_\_ 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.

## **Section 4**

# **Existing Federal Projects within the LERRD Required for the Project**

There are numerous Federal projects located within the project study area. However, it is not anticipated that the structures identified for the nonstructural project features would be located within the boundaries of an existing Federal project.

There are no federal facilities or buildings located within the project area.

## **Section 5**

# **Non-Federally Owned Land**

It is not anticipated that residential structures identified for the nonstructural project features would be located on NFS owned lands. However, there are 32 public buildings which may be considered for dry flood proofing, or commercial buildings/warehouses that are located on public property, and the NFS would be required to obtain the rights necessary for construction.

## **Section 6**

# **Federally Owned Lands within the LERRD Required for the Project**

None of the structures identified for the nonstructural project features would be located on Federally owned lands.

## **Section 7**

# **Navigation Servitude**

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution to use, control and regulate the navigable waters of the United States and submerged lands thereunder for various commerce-related purposes. None of the structures identified as eligible to participate in this project are located within navigable waters of the United States. The navigation servitude would not be asserted for any features of this project.

## Section 8

### MAP OF RECOMMENDED PLAN

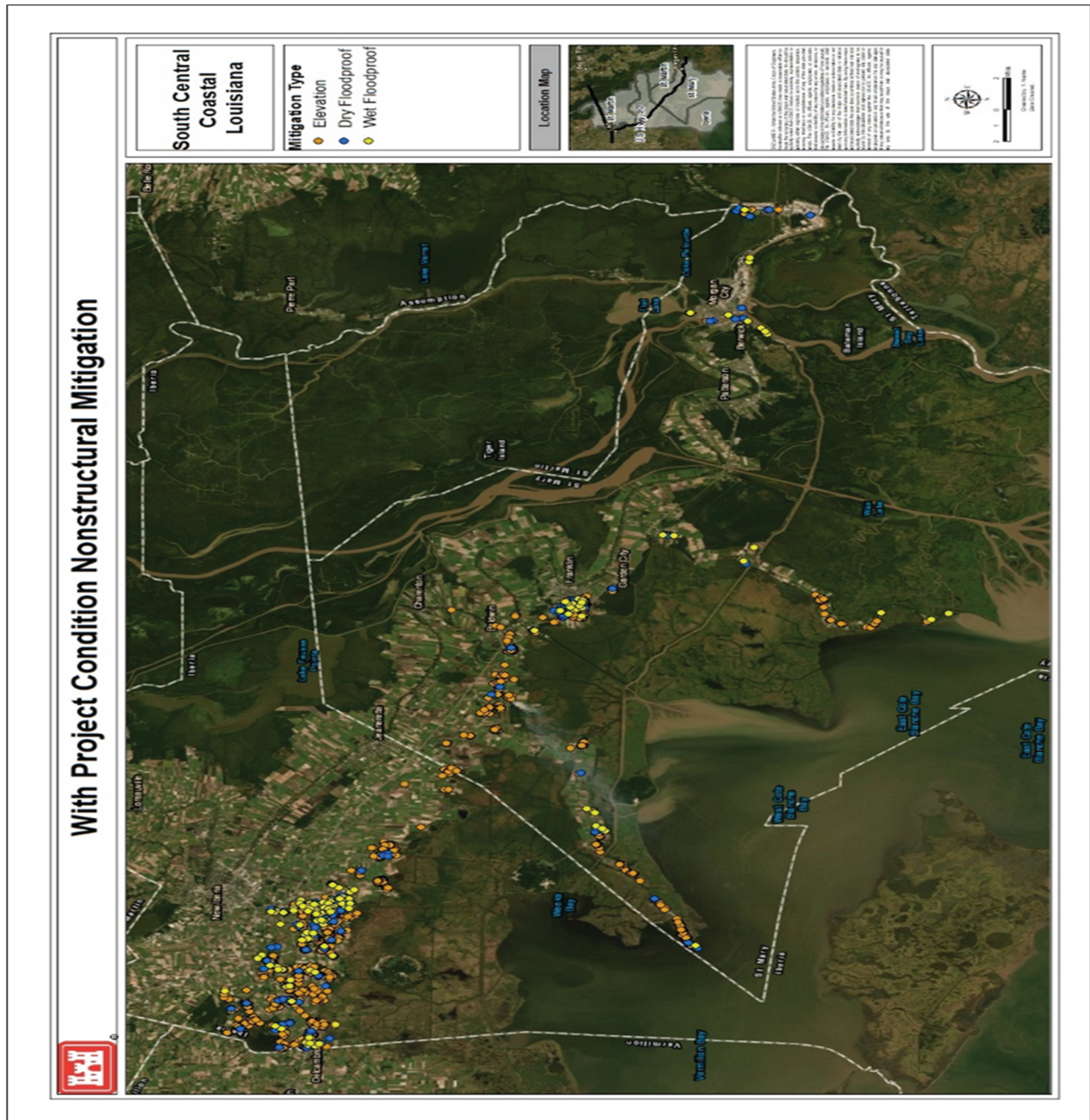


Figure E:8-1 Geographic Distribution of Structures in the 25 Year RP Nonstructural Project and Floodproofing or Elevation Method

## **Section 9**

# **Induced Flooding**

There would be no induced flooding as a result of the RP.



## Section 10

# Baseline Cost Estimate

Rough Order of Magnitude level cost estimates were prepared based on the assumption that there are a total of 2,240 structures to be included within the plan (1,790 residential, 450 non-residential). Real estate costs for the RP include administrative costs for obtaining right-of-entry, title research, acquisition of real estate instruments and subordinations. . Costs of elevation and floodproofing of the structures are construction costs and are not included as real estate costs. Table E:12-1 shows the estimated real estate costs for the RP:

*Table E:12-1 Residential Elevations and Other Nonstructural Features - Costs*

RESIDENTIAL ELEVATIONS AND OTHER NONSTRUCTURAL FEATURES			
	RESIDENTIAL ELEVATIONS	NON- RESIDENTIAL FLOODPROOFING	TOTAL
ESTIMATED # OF STRUCTURES	1790	450	2240
Land Values	\$0	\$0	\$0
Relocation Assistance *	\$7,887,000	\$0	\$7,887,000
Administrative Costs	\$17,980,000	\$4,500,000	\$22,480,000
Condemnations	\$0	\$0	\$0
REAL ESTATE COSTS	\$25,867,000	\$4,500,000	\$30,367,000
CONTINGENCIES - 25%	\$6,466,750	\$1,125,000	\$7,591,750
TOTAL REAL ESTATE COSTS (FY21 Cost)	\$32,333,750	\$5,625,000	\$37,958,750
Escalation – 8.4% (FY 22)	\$35,049,785	\$6,097,500	\$41,147,285
*Relocation assistance is estimated for residential tenants who are temporarily displaced. It is not anticipated that tenants of commercial or warehouse structures would need to relocate during construction of floodproofing measures.			
Note: This cost estimate is a worst-case scenario estimate and assumes 100% participation. It is possible that the number of participating structures would be less, due to compliance with eligibility criteria requirements and based on the voluntary nature of participation.			

These cost estimates are subject to revision during PED.

## **Section 11**

# **Mitigation**

Because the USACE anticipates there would be no wetland, endangered species, marine mammals, or essential fish habitat impacts, it is not preparing a mitigation and monitoring plan. Therefore, there are no LERRDs required for mitigation.

If the RP changes, the USACE would work with USFWS, NMFS, EPA, and other interested agencies to develop a final mitigation plan that is fully consistent with the Clean Water Act Section 404(b)(1) Guidelines, particularly with respect to the April 10, 2008, mitigation rule.

## **Section 12**

# **Uniform Relocation Assistance (P.L. 91-646, Title II as Amended)**

The availability of relocation assistance benefits for persons within nonstructural features of this project would be determined pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (“Uniform Act”), and its implementing regulations at 49 C.F.R. Part 24 (“Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs”). The estimated costs for the relocation assistance benefits are included within the Baseline Cost Estimate in Section 12. In order for the NFS to receive cost-share credit for these expenses, USACE must provide prior written approval for these expenditures.

In accordance with P.L. 91-646, Title II, tenants of residential structures may be entitled to reasonable eligible out of pocket expenses, if they are required to temporarily relocate during elevation of the residential structures. Because the elevation of residential structures is voluntary, owner/occupants would not be eligible for temporary relocation assistance benefits.

## **Section 13**

# **Timber/Mineral/Row Crop Activity**

The Louisiana Department of Natural Resources provides a Strategic Online Natural Resources Information System (SONRIS), which contains up-to-date information on oil & gas activity in the state of Louisiana. Review of this information indicated that there are oil and gas wells within the study area. However, it is not anticipated that there would be active mineral activity on lands where floodproofing measures would take place. Nonstructural project features would not be expected to affect timber or crop activity within the project area.

## Section 14

# Non-Federal Sponsor Assessment

A Feasibility Cost Share Agreement (FCSA) with the Coastal Protection and Restoration Authority Board of Louisiana (CPRAB), was executed for this study on October 9, 2018. It is anticipated that CPRAB would be the Non-Federal Sponsor (NFS) for the design, construction, operation, maintenance, repair, rehabilitation and restoration (OMRR&R) of the project. CPRAB is charged, among other things, with responsibility for the provision of all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; performing or ensuring the performance of all relocations; and constructing all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the Government to be required or to be necessary for the construction and OMRR&R of the project (LERRDs). Although CPRAB does not have the authority to acquire and hold lands, its implementation and enforcement arm, the Coastal Protection and Restoration Authority (CPRA) has authority to acquire and hold immovable property and other land rights.

As the NFS for previous USACE projects, CPRAB, acting through CPRA has been found to be fully capable of acquiring LERRDs, based on its authority to perform acquisition, as well as its authority to partner with local agencies (See: La. R.S. 49:214.1, *et seq.*). Because the RP recommends voluntary participation by structure owners, it is not anticipated that CPRA would be required to exercise its condemnation authority for any of the LERRDs required for the RP.

An Assessment of the NFS's Real Estate Acquisition Capability for CPRAB is attached as Exhibit A.

## **Section 15**

# **Zoning Ordinances**

One of the components of the RP is the adoption of more restrictive parish and municipal building codes, land use and zoning regulations, and other developmental controls. Local governments within the floodplain should be encouraged to adopt, implement, and enforce stricter building and housing code requirements, land use and zoning regulations, and other developmental controls aimed at reducing flood risk and flood damage.

However, there would be no application or enactment of zoning ordinances in lieu of, or to facilitate acquisition of an easement in connection with this project. Participation in the nonstructural measures are voluntary in nature and would be available only to existing eligible structures as defined within the RP. The NFS would be required to coordinate these matters with local planning commissions.

## Section 16

# Acquisition Schedule

The Recommended Plan would be implemented over a 20-year period. Construction duration per structure is estimated at 3 months. A total of 2,240 structures included in the RP would require elevation, wet floodproofing or dry floodproofing methods on approximately 112 structures per year. No mitigation is required for the RP. The RP does not directly affect Tribal lands.

The nonstructural project elevations and floodproofing features would require acquisition of an easement from the landowner. In addition, the following administrative functions, among others, would be required: title research, HTRW analysis, and structural condition analysis, and additional property inspections to determine eligibility. Temporary rights of entry would have to be obtained from the owners in order to perform some of these administrative duties. (Refer to Appendix K of the SDIFS/EIS for more detailed discussion of the non-structural implementation plan.)

Tasks shown below would likely vary by property; therefore, the schedule shown is the anticipated time per structure, and assumes an overlap of tasks. This estimated schedule is expected to be refined as more information becomes available during PED and implementation of the RP.

Obtain Right-of-Entry for Investigations (To Determine Eligibility)	2-6 weeks
Title research	3-6 months
Preliminary Investigations (i.e. HTRW, structural, surveys, etc.)	3-6 months
Acquisition of real estate instruments for elevations or non-residential floodproofing	3-12 months
Relocation of Displaced Tenants	3-6 months

Based on the above schedule, it is assumed that the real estate acquisition schedule would require an estimated minimum of 10 months per structure. It is assumed that 112 eligible properties would begin the acquisition process each year to determine eligibility. Based on the tasks and durations defined in the schedule above, it is estimated that approximately 40 acquisitions could be complete in one year.

## **Section 17**

# **Facility/Utility Relocations**

At the time of this report, no facility/utility relocations have been identified; therefore, no relocations are anticipated to be required for these nonstructural features of the project.

Any conclusion or categorization contained in this report that an item is a utility or facility relocation to be performed by the NFS as part of its LERRD responsibilities is preliminary only. The government would make a final determination of 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.



## **Section 18**

# **Hazardous, Toxic and Radioactive Waste**

As stated in Section 5.2.16 (Hazardous, Toxic, and Radioactive Waste) of the SDIFS/EIS, the NFS would fund for each structure an ASTM Phase I HTRW/Asbestos investigation (and if warranted, may be accompanied by additional HTRW investigations).. The land and the structure must be certified as “clean” by the appropriate State office before any Project funds may be expended. All asbestos must be abated and disposed of properly. Asbestos discovered during floodproofing would be removed at Project cost, while HTRW discovered during floodproofing must be remediated by the property owner prior to the initiation of the floodproofing work.

Compliance with HTRW is unknown at this time for the entire project area. Compliance with applicable hazardous waste management laws and regulations (e.g., RCRA, CERCLA) would be achieved prior to construction. If any substances regulated under these laws were discovered, the NFS would comply with all applicable requirements. Since compliance with hazardous waste management laws and regulations is an eligibility criterion prior to construction, no impacts arising from any HTRW issues are anticipated with implementation of the project.

## **Section 19**

# **Landowner Concerns**

Public outreach efforts for the SCCL began early in the planning process and were done in compliance with 33 CFR § 385.18. Due to intense public, political, and media interest in flood risk management in southern Louisiana, public participation is a critical component of the development of the feasibility report.

It is anticipated that implementation of the RP could produce challenges. Public meetings were held prior to selection of the RP. The overall attitude during the public meetings was positive and supportive of the project.

The initial public review of the previous Draft Integrated Feasibility Study with Environmental Impact Statement produced few comments from individual landowners. At the time of the draft report, there was very little information on potentially eligible structures. The District received one public comment from an individual landowner, in support of the project. Several comments were received from stakeholders and local government entities which expressed support of structural alternatives. No controversial issues were raised during the draft public review.

## **Section 20**

# **Risk Letter**

The CPRAB, through its implement arm, the Coastal Protection and Restoration Authority, has been notified by letter (attached as Exhibit B) of the risks associated with acquisition of real estate interests prior to project authorization by Congress and execution of the Project Partnership Agreement.

## **Section 21**

# **Other Relevant Real Estate Issues**

It is not anticipated that there would be any other real estate issues for this project.

## Section 22

# Review & Approval

Prepared By:

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Judith Y. Gutierrez  
Chief, Real Estate Division  
Real Estate Contracting Officer

**Exhibit A**

**Non-Federal Sponsor Capability  
Assessment**

ASSESSMENT OF NON-FEDERAL SPONSOR'S  
REAL ESTATE ACQUISITION CAPABILITY  
SOUTH CENTRAL COASTAL LOUISIANA PROJECT

COASTAL PROTECTION AND RESTORATION AUTHORITY (CPRA), IMPLEMENTATION  
ARM OF THE COASTAL PROTECTION AND RESTORATION AUTHORITY BOARD  
(CPRAB)

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, however Louisiana Revised Statute 214.5.5 limits the power of eminent domain; it states that "no full ownership interest in property shall be acquired for integrated coastal protection through any method by the state of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, including but not limited to compensatory mitigation and ecosystem restoration purposes, unless such interest is voluntarily offered and agreed to in writing by owners with at least seventy-five percent ownership in the property or such entity seeking to acquire the property proves by clear and convincing evidence in a court of competent jurisdiction that a full ownership interest is the minimum interest necessary to carry out the purposes of integrated coastal protection for the specific project for which it is acquired."** Furthermore, access rights, rights of use, servitudes, easements, or other property interests for coastal protection projects shall only be for fixed terms and shall not be acquired in perpetuity unless such acquisition is offered voluntarily by owners with at least seventy-five percent ownership in the property.
- c. Does the sponsor have "quick-take" authority for this project? **NO** CPRAB does not directly have quick take authority. However, pursuant to La. R.S. 49:214.5.2 and 38:301.1, CPRAB may enter into an agreement to use the authority of a coastal area levee district or parish governing authority to use the quick take authority of those entities to acquire real property interests for project purposes.
- 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? **The nonstructural features of the project are voluntary in nature. Perpetual rights to be acquired for voluntary elevations or flood proofing measures should not require condemnation, and would not be contrary to state law.**

II. 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? **NO**
- b. If the answer to II.a. 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 workload, 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 USACE 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) **The real estate interest required for the project will be a servitude which prohibits conversion or occupancy of any part of the structure located below the lowest habitable finished floor for human habitation and the alteration of the structure in any way to impede the movement of flood waters under the structure. The easement language included will also prohibit the construction of any other structure in a manner that would impede the movement of floodwaters under the structure. The NFS is anticipated to be highly capable of acquiring the real estate interests required for the project.**

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? **YES**  
b. Does the sponsor concur with this assessment? **YES**

Prepared by:



Karen Vance-Orange  
Realty Specialist  
US Army Corps of Engineers

Approved by:



David Peterson  
Attorney  
Coastal Protection and Restoration Authority



# **Exhibit B**

## **Non-Federal Sponsor Risk Letter**



DEPARTMENT OF THE ARMY  
REAL ESTATE REGION SOUTH DIVISION, CORPS OF ENGINEERS  
NEW ORLEANS DISTRICT REAL ESTATE OFFICE  
P.O. BOX 60267  
NEW ORLEANS, LOUISIANA 70160-0267

August 27, 2020

REPLY TO:  
ATTENTION OF

Real Estate Division

Mr. Kyle R. Kline, Jr, Chairman  
Coastal Protection and Restoration  
Authority Board  
P. O. Box 44027  
Baton Rouge, LA 70804-4027

Dear Mr. Kline:

As you are aware, the South Central Coast Louisiana Flood Risk Management Feasibility Study is nearing completion. The Final Feasibility Report With Integrated Environmental Impact Statement is scheduled to be complete in January 2021. The report contains preliminary maps, which may change once the detail design of the project is completed. For this reason, in accordance with Corps of Engineers Regulation 405-1-12, Chapter 12, dated May 1, 1998, we are hereby formally advising you of the risks associated with acquisition of real estate rights prior to signing of the Project Partnership Agreement (PPA) and receiving a request from our agency for right of entry for construction.

Should you decide to proceed with acquisition of realty interests needed for construction of the subject project prior to the government's request for commencement of acquisition of required right-of-way, the CPRAB will assume full and sole responsibility for any and all costs, responsibility, or liability arising out of such efforts. Generally, these risks include, but may not be limited to the following:

- a. Congress may not appropriate funds to construct the proposed project;
- b. The proposed project may otherwise not be funded or approved for construction;
- c. A PPA mutually agreeable to the CPRAB and the government may not be executed and implemented;
- d. The CPRAB 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 the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended;

- e. The CPRAB may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient or otherwise not required for the project, thus incurring costs or expenses which may not be creditable under the provisions of Public Law 99-662 or the PPA; and
- f. The CPRAB may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under Public Law 91-646, as amended, as well as the payment of additional fair market value to affected landowners, which could have been avoided by delaying acquisition until the PPA execution and the government's notice to commence acquisition and performance of LERRDs.

However, should you decide to proceed with acquisition of real estate interests, you are hereby notified that acquisition activities must conform to Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Uniform Act describes the rights of landowners impacted by a federally funded project and the responsibilities of government agencies performing acquisition of real estate interests for such projects. Furthermore, in order to ensure that you receive the maximum possible credit once the project alignment is finalized, we suggest that you send for our review the résumé and proposed fees of your intended contractors as well as the following real estate products once completed: ownership plat and legal descriptions, appraisal reports, title reports, proposed negotiated settlements, and relocations assistance payments, if applicable.

If you have questions regarding the acquisition and crediting process, please call Huey J. Marceaux, Chief Appraiser at (504) 862-1175 or Todd Klock, Chief, Local Sponsor Acquisition Branch at (504) 862-1920.

Sincerely,

GUTIERREZJUDITH.YR  
MA.1230839561  
Judith Y. Gutierrez  
District Chief of Real Estate, New Orleans  
Real Estate Contracting Officer

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