Mississippi Valley Division,
Regional Planning and Environment Division South

Amite River and Tributaries East of the Mississippi River, Louisiana

Appendix E: Real Estate Plan

December 2023

CONTENTS

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ANNEX

Section 1
Purpose of Real Estate Plan

This Real Estate Plan (REP) is prepared in support of the Final Feasibility Study for the Amite River and Tributaries Study East of the Mississippi River Project. It sets forth the real estate requirements and costs for the implementation and construction of the Tentatively Selected Plan (TSP). The lands, easements, and rights-of-way required for the project are outlined in this REP, in accordance with the requirements of Engineering Regulation (ER) 405-1-12. The information contained herein is tentative and preliminary in nature, intended for planning purposes only, and is subject to change. This REP supersedes all prior draft REPs associated with the study.

1.1 PROJECT PURPOSE

The purpose of the Amite River and Tributaries (ART), East of the Mississippi River, Louisiana Feasibility Study (study) is to investigate flood risk solutions to reduce flood damages caused by rainfall in the Amite River Basin (ARB).

The non-Federal Sponsor (NFS) is the State of Louisiana, acting by and through, the Louisiana Department of Transportation and Development (LADOTD). A Feasibility Cost Share Agreement (FCSA) was executed between the Department of the Army and the NFS and executed on October 3, 2018.

An original Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR/EIS) was released to the public on November 26, 2019. The TSP of the 2019 DIFR/EIS was the creation of a new large-scale dry dam with a nonstructural component. However, during review, extensive technical and policy concerns found the dam infeasible as designed. The Supplemental Second Draft Integrated Feasibility Study Report and Environmental Assessment (SSDIFR/EA) that this REP supports addresses the details of a revised TSP.

1.2 PROJECT LOCATION

The study area is the ARB and its tributaries. The ARB begins in southwest Mississippi and flows southward, crossing the state line into southeastern Louisiana. The ARB includes 2,200 square miles flowing into the Amite River and its tributaries (Figure E:1-1). It includes portions of Amite, Lincoln, Franklin, and Wilkinson Counties in Mississippi, as well as East Feliciana, St. Helena, East Baton Rouge, Livingston, Iberville, St. James, St. John the Baptist, and Ascension Parishes in Louisiana.

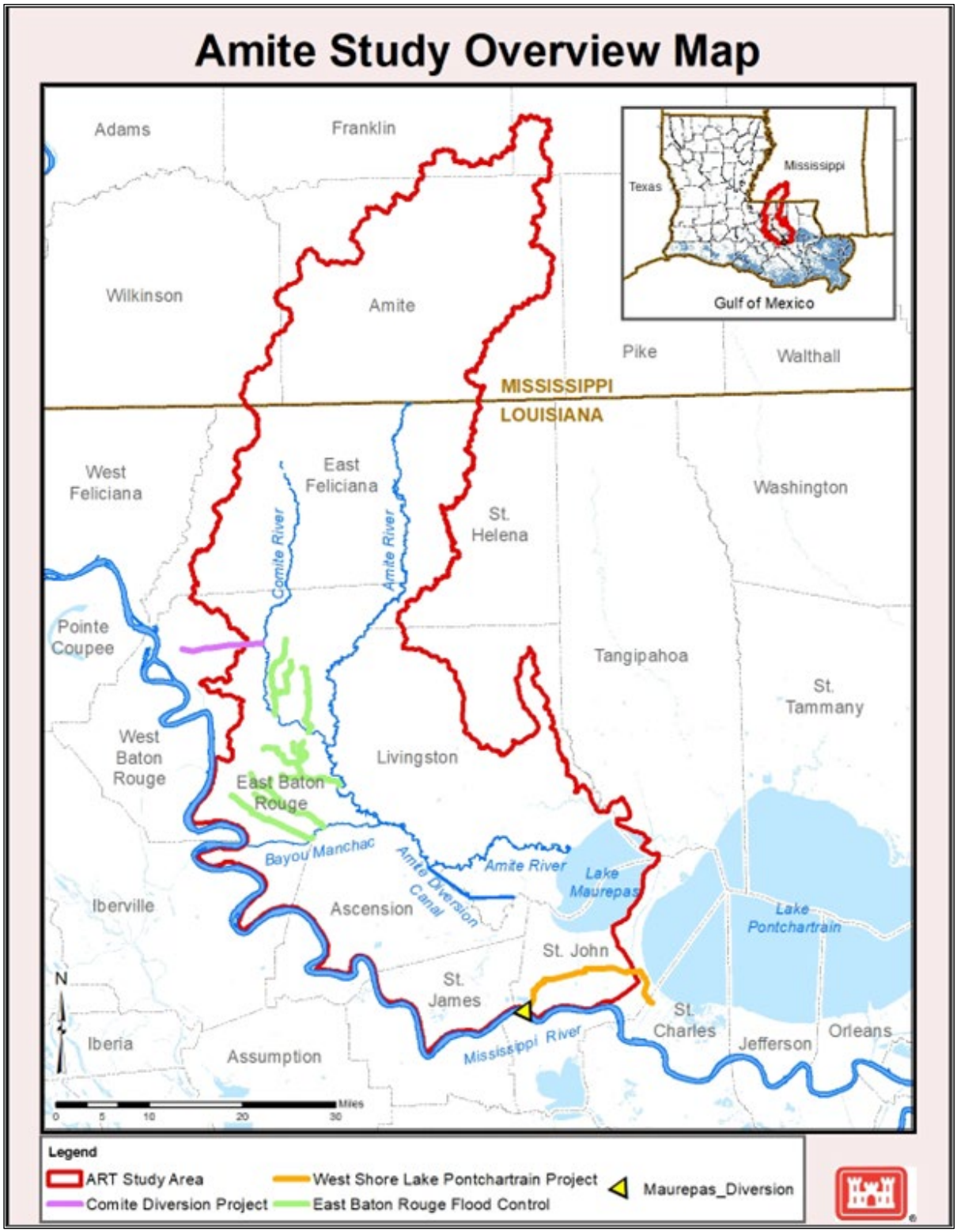

Figure E:1-1. Study Area

1.3 PROJECT AUTHORITY

The study is funded as a part of the Bipartisan Budget Act of 2018, 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 which are currently authorized or which are authorized after the date of enactment of this act, to reduce risk from future floods and hurricanes.

This study area is being included based on the August 2016 flooding over southeast and south-central Louisiana, and is continuing investigation under the authorization provided by the Resolution of the Committee on Public Works of the United States Senate, adopted on April 14, 1967:

> *RESOLVED BY THE COMMITTEE ON PUBLIC WORKS OF THE UNITED STATES SENATE, That the Board of Engineers for Rivers and Harbors, created under Section 3 of the River and Harbor Act approved June 13, 1902, be, and is hereby requested to review the report of the chief of Engineers on Amite River and Tributaries, Louisiana, published as House Document Numbered 419, Eighty-fourth Congress. And other pertinent reports, with a view to determining whether the existing project should be modified in any way at this time with particular reference to additional improvements for flood control and related purposes on Amite River, Bayou Manchac, and Comite River and their tributaries*. (US Senate Committee on Public Works, 1967).

Section 2

Description of the Plan and Lands, Easements, Rights-of-Way, Relocations, and Disposal (LERRD) Sites

The TSP consists of implementing nonstructural measures to reduce the risk of damages from flooding to residential and non-residential structures in the study area. The TSP involves elevations of residential structures and flood proofing of nonresidential structures. To preliminarily qualify for inclusion in the Nonstructural Plan, a structure must have a First Floor Elevation (FFE) at or below the applicable floodplain based on hydrologic conditions predicted to occur in 2026 (the beginning of the 50-year period of analysis). The FFE threshold varies by location throughout the parishes.

Nonstructural flood risk management measures are techniques for reducing accountable flood damage to existing structures within a floodplain. These techniques consist of treatments to floodproof non-residential structures or raise/elevate residential structures. Floodproofing consists of constructing or installing features designed to allow water to flow in and out of a structure but prevent the contact of water to essential utilities or mechanicals of the structure. Elevations involve raising the lowest finished floor of a residential structure to a height that is above the flood level. The entire foundation of the structure will be lifted and placed on a new foundation, i.e. columns, piers, posted or raised foundation walls; and all utilities and mechanical equipment, such as air conditioners and hot water heaters, will also be elevated.

The New Orleans District is presently pursuing a policy exception for the following USACE Policy: ER 1105-2-100 2-3(f)(1) stating: “The National Economic Development (NED) Plan. For all project purposes except ecosystem restoration, the alternative plan that reasonably maximizes net economic benefits consistent with protecting the Nation’s environment, the NED plan, shall be selected. The Assistant Secretary of the Army for Civil Works (ASA (CW)) may grant an exception when there are overriding reasons for selecting another plan based upon comprehensive benefits or other Federal, state, local, and international concerns.”

The TSP is presently Plan 4: Nonstructural Plan with additive for OSE (Other Social Effects) for positive and negative benefits because it provides flood risk reduction in terms of national economic development along with the added benefit of flood risk reduction to vulnerable and disadvantaged communities, maximizing the OSE account. While this plan is not the NED Plan, it provides the best level of comprehensive flood risk reduction to the ARB study area and is the Comprehensive Benefit Plan for this study. If the policy exception is not granted, the TSP will default to Plan 2: Nonstructural NED Plan.

Plan 4: Nonstructural Plan with additive for OSE for positive and negative net benefits

Plan 4 was developed by integrating into the NED plan all the additional SV sub aggregations with the next highest aggregation regardless of economic justification with residential structures considered for elevation and nonresidential structures considered for floodproofing. A total of approximately 3,298 structures in the study area met the requirement of having a First Floor Elevation (FFE) at or below the applicable floodplain. Of the approximate total of 3,298 structures, there are approximately 2,918 residential structures and 380 nonresidential structures. Property owner participation in the Nonstructural Plan is voluntary.

Plan 2: Nonstructural NED Plan

The initial Nonstructural NED plan involves the floodproofing or elevation of 3,117 structures located in the floodplain. Plan 2 would include the elevation of 2,748 residential structures and floodproofing of 369 nonresidential structures.

In both plans, floodproofing non-residential structures and elevating residential structures will be offered to property owners on a voluntary basis and implemented only with the property owner's consent.

It is anticipated that implementation of the NS Plan will occur over an approximate 7-year period, with an estimated 500 structures to be elevated and/or floodproofed per year. However, the scale is highly dependent upon the number of structures receiving NS measures and the amount of funding allocated in any given year.

In order to be preliminarily eligible for inclusion in the Nonstructural Plan the follow criteria must be met:

1. The structure must have a first-floor elevation at or below the applicable floodplain (which may be either a 10, 25, or 50 year floodplain depending on the location of the structure), based on hydrologic conditions predicted to occur in 2026 (the beginning of the 50-year period of analysis) at a specific location.
2. The elevation or floodproofing measures proposed for the structure must be economically justified based on an aggregation or sub aggregation level, as defined herein.
3. The structure must have a permanent foundation and be permanently immobilized and affixed or anchored to the ground as required by applicable law and must be legally classified as immoveable real property under state law. Notwithstanding the provisions of La. R.S. 9:1149.6, a manufactured, modular or mobile homeowner and any subsequent owner of an immobilized manufactured, modular or mobile home, may not de-immobilize the manufactured, modular or mobile home in the future, by detachment, removal, act of de-immobilization, or any other method. Manufactured, modular and mobile homes that do not meet these requirements are not eligible for elevation. This criterion only applies to residential uses of manufactured, modular, and mobile homes.

Detailed plans and specifications for implementing NS measures are still in development as of this writing and will be finalized as part of the Preconstruction Engineering and Design (PED) phase of the project. The PED phase occurs after Congress authorizes the Recommended Plan. Additional structure-specific analysis will be performed during PED to determine final eligibility and the most appropriate and cost-effective floodproofing measures to be employed including analysis of elevations and floodproofing alternatives. Property owners who have preliminarily eligible structures that wish to participate in the floodproofing measures will be required to apply for the program and provide a right-of-entry to their property.

For elevations, foundations must be designed to properly address all loads and effects, be appropriately connected to the floor structure above, and utilities must be properly elevated. Elevations will not exceed 13 feet. If the required elevation is greater than 13 feet above ground level, the structure would still be eligible for elevation up to that height with the residual risk present. It is estimated than 99 percent of the structures BFE based on 2076 hydrology is below 13 feet. If after completion of the investigation of the property, USACE determines that the structure is eligible for elevation, the entire foundation of the structure will be lifted and placed on a new foundation (i.e., columns, piers, posted or raised foundation walls) so that the lowest habitable finished floor is at or above the 100-year BFE. All utilities and mechanical equipment, such as air conditioners and hot water heaters, will 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 BFE; however, costs attributable to elevations in excess of the minimum requirements set forth herein are not eligible and must be born solely by the property owner. Tenants of structures that will be elevated, who are temporarily displaced by the project implementation, are eligible for certain benefits in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Projects of 1970, Public Law 91-646 (P.L. 91-646). Property owner/occupants of eligible residential structures who willingly participate in the residential elevation program are not considered displaced persons, and therefore, may not be entitled to receive relocation assistance benefits.

Dry floodproofing involves techniques applied to keep non-residential structures dry by sealing the structure to keep floodwaters out. In dry floodproofing, the portion of a structure that is below the BFE (walls and other exterior components) is sealed to make it watertight and substantially impermeable to floodwaters. Such watertight impervious membrane sealant systems can include wall coatings, waterproofing compounds, impermeable sheeting, and supplemental impermeable wall systems, such as cast-in-place concrete. Doors, windows, sewer and water lines, and vents are closed with permanent or removable shields or valves. Application of sealants and shields should involve a determination of the structural soundness of a building and its corresponding ability to resist flood and flood-related loads. An engineer should be involved in any design of dry floodproofing mitigation systems so that they can evaluate the building and run calculations to determine the appropriate height of dry floodproofing.

USACE and/or the NFS will engage in a public education campaign to inform property owners and any impacted renters of those properties of the nonstructural plan including, but

not limited to eligibility criteria, the application process, responsibilities of property owners to clear title and remediate contaminated properties, and other key information about the project. USACE and/or the NFS shall prepare and distribute written materials such as project information pamphlets, letters of invitation to participate, and public meeting notices. In addition, USACE and/or the NFS will issue press releases, hold public meetings and workshops, make presentations to homeowner's associations and other civic groups and organizations, and utilize a variety of social media and other public relations methods to inform property owners and tenants of the project.

LER Requirements:

Residential property owners will be required to grant a temporary right-of-entry to USACE and the NFS to enter in and upon the property to conduct such property and structural investigations deemed necessary for USACE to determine final eligibility of the structure for participation in the project. These investigations may include structural inspections, surveys, limited environmental testing and site assessments, inspections to verify current elevation and determine elevation requirements, and to conduct other activities deemed necessary by USACE.

It is assumed that all eligible properties have legal access by way of public streets or existing public right of way (ROW). Further, it is assumed that residential and non-residential properties participating in the program will have adequate site area to accommodate the staging of required materials and equipment. For the purposes of this REP, the assumption is that no further real estate rights need to be acquired for access to the properties or staging. Should additional ROW be necessary, standard temporary work area or access easements could be acquired.

The proposed legal mechanism to undertake the residential elevation or non-residential floodproofing measures would be through the use of a non-standard permanent Restrictive Easement that would outline the elevation or floodproofing treatment, identify restrictions owners must take or abstain from to ensure the long-term performance of elevation and floodproofing measures, and contain restrictions and covenants that would run with the land. The restrictive easements will be recorded in local land records to run with the land. See Section 4, Estates, for additional discussion.

The proposed nonstandard Restrictive Easement will be executed between the property owner and the NFS. If a property owner elects not to have the nonstructural treatment performed on their structure and an agreement is not obtained, eminent domain will not be pursued.

Once construction funds are appropriated for this project, the LADOTD, as the NFS, and the Department of the Army will enter into a project partnership agreement (PPA). After the signing of a PPA, the NFS will acquire the necessary land, easements, and rights of way to construct the project. The NFS will be responsible for ensuring the requirements of the proposed project are met. Operation, maintenance, repair, rehabilitation, and replacement

(OMRR&R) will be limited to visual inspections and are not expected to require access to the property.

Since the report was prepared during a feasibility level study, the required real estate interests presented are preliminary estimates based only on existing, readily available Geographic Information System data. The LER requirements are subject to change with plan optimization during the PED phase when final plans, specifications, and detailed drawings are prepared. Additionally, the Plan is based on previous and on-going USACE projects and studies that contain a nonstructural component in the tentatively selected and recommended plans; however, the implementation of the Nonstructural Plan for this study may be modified when new USACE guidance is issued for the implementation of nonstructural plans and as the study progresses. Please see figure E:2-1 for a map depicting the location of Preliminary Eligible Structures for the TSP.

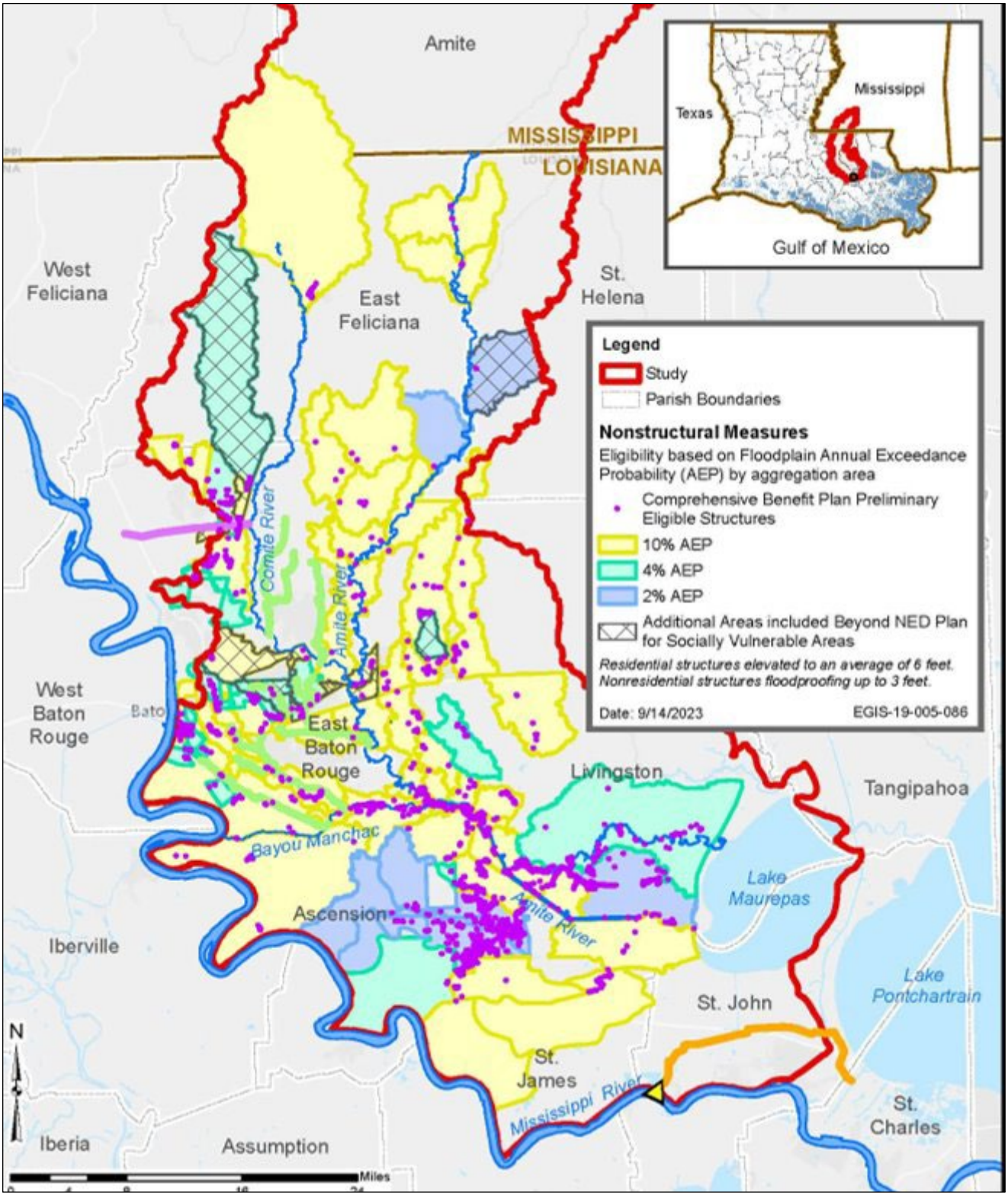

Figure E:2-1. Comprehensive Benefits Plan with Eligible Structures (TSP)

Section 3

Non-Federal Sponsor Owned LERRD

The non-Federal sponsor (NFS) is the Louisiana Department of Transportation and Development (LADOTD). It is assumed that the NFS sponsor does not own any of the LERRD required for the project.

Section 4
Estates

4.1 ESTATE TO BE ACQUIRED

Since there is currently no USACE-approved standard estate for a nonstructural measure, a non-standard permanent Restrictive Easement will be developed for the construction, operation, and maintenance of the nonstructural treatment. The easement will identify restrictions owners must take or abstain from to ensure the long-term performance of the nonstructural treatment, covenants that would run with the land, and to allow for future OMRR&R requirements. OMRR&R will be limited to visual inspections and is not expected to require access to the property. The draft easement language will be submitted through CEMVD to CEHQ-RE as a request for approval of a Non-Standard Estate.

Section 5

Existing Federal Projects within LERRD Required for the Project

Federal projects within the study area include:

- Bayou Manchac-Clearing and snagging on Bayou from mouth to below Ward Creek, mile 7.81;
- Comite River-Channel enlargement and realignment on Comite from its mouth to Cypress Bayou at mile 10;
- Blind River-Intermittent Clearing/snagging on Blind River below Lake Maurepas;
- Amite River-Enlargement/realignment between Bayou Manchac (35.75) to control weir at (25.3); intermittent clearing/snagging from mouth Comite (mile 54) to Bayou Manchac (35.75);
- Amite Diversion Channel-Construct weir and diversion 19 miles long from mile 25.3 on the Amite to mile 4.8 on the Blind River. Weir org. design 1,500' at sea level divided into 1,000 & 500' sections and then modified to include 5x20' boat way.

Two authorized USACE construction projects, Comite River Diversion and the East Baton Rouge Flood Control, are located in or adjacent to the study area and will impact the hydrology of the Amite River Basin when construction is completed. The impacts of these projects are being considered during the feasibility study and the Preconstruction Engineering & Design phase.

Section 6

Federally-Owned Lands within LERRD Required for the Project

None of the LER identified in the Tentatively Selected Plan is within or overlaps an existing Federal project.

Section 7
Federal Navigation Servitude

The navigation servitude is the dominant right of the Federal 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 including navigation and flood control. In tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high-water mark. There are no project elements proposed within such waters and the project serves no navigation purpose.

Section 8
Project Maps

Located throughout report

Section 9
Induced Flooding

The proposed project includes nonstructural solutions only and will not induce flooding in new areas or increase flooding in existing flood-prone areas.

Section 10
Baseline Cost Estimate

The Baseline Cost Estimate for Real Estate (BCERE) establishes the estimated financial costs that are attributed to the TSP's real estate requirements. It includes the LER acquisition costs, incidental acquisition costs (e.g., land surveys, appraisals, title work, relocation assistance benefits, coordination meetings, etc.), and a risk-based contingency. These estimates are preliminary and may be refined during PED.

The estimated total cost for Real Estate for Plan 4 is $111,779,000. These costs include administrative costs associated with implementation of the plan and temporary residential relocations of tenants during structure elevation. Real estate tasks associated with elevating (approximately 2,918 structures) and floodproofing (approximately 380 structures) could include such items as obtaining rights-of-entry, title work, preparation, execution, and recordation of the estates and any needed curative documents, appraisals or value estimates, residential relocation costs for tenants, and subsequent inspections to ensure the work was performed in accordance with the Project Partnership Agreement (PPA). These costs, which include a contingency, are estimated to be approximately $34,400 per residential structure and $30,000 per non-residential structure. Costs of elevating and floodproofing the structures are construction costs and are not included as real estate costs.

The estimated total cost for Real Estate for Plan 2, if a waiver is not obtained, is $105,601,000. This plan would involve elevating approximately 2,748 structures and floodproofing approximately 369 structures.

Because nonstructural floodproofing measures are optional, and there will likely be a net benefit to the raised or floodproofed structure after the work is complete, landowners will not be compensated for the real property instruments required to be eligible for the project.

Because the estimated costs of the LERRDs required for the project do not exceed 10 percent of the estimated total project costs, a gross appraisal was not prepared for this project. LERRDs costs are based on cost estimates prepared by the MVN Appraisal & Planning Branch in September 2023.

Section 11

P.L. 91-646 Relocation Assistance Benefits

Public Law 91-646 provides uniform equitable treatment of persons and businesses displaced by a Federal or Federally assisted project. PL 91-646 and its implementing regulations at 49 CFR Part 24 (Uniform Act) requires the NFS to provide assistance and certain benefits to be paid to all persons and businesses that are displaced and must be relocated from their residence or place of business due to a Federally funded project.

Participation in a nonstructural plan is voluntary. Property owners who elect to participate are not considered displaced persons and are not eligible to receive relocation assistance benefits (per 49 C.F.R. Section 24.2.a(9)(ii) (E) and 49 C.F.R. Section 24.101(a)(2)). However, tenants who must temporarily relocate because property owners elect to participate may be eligible for relocation assistance benefits. It is unknown at this time how many tenant-occupied properties there are among those properties identified for elevation. Tenants who are required to relocate will be afforded relocation assistance benefits in accordance with Public Law 91-646 guidelines. Relocation assistance costs are included in the estimated BCERE provided in Section 10.

The TSP proposes flood-proofing of non-residential buildings. Public records indicate that most of these structures are occupied by one or more businesses. At this time, the floodproofing scope of work is not expected to interrupt business operations and no temporary business relocations of tenant business are expected.

Section 12

Mineral Activity/Timber/Crops

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 project area, but there does not appear to be any present or anticipated mining and drilling activity that may affect project purposes and the operation thereof. There are no known present or anticipated timber harvesting activities within the LER required for the TSP.

Section 13
Non-Federal Sponsor Capability Assessment

The project requires the acquisition of non-standard estates for the nonstructural measures. These estates must be approved by USACE-HQ prior to any NFS acquisitions.

A Capability Assessment will be completed and included as an appendix to the REP before the final REP is prepared. Based on prior USACE projects, Louisiana Department of Transportation and Development is expected to be fully capable of acquiring and providing lands, easements and rights-of-way for the construction and operation and maintenance of the project.

The NFS is aware of Public Law 91-646 requirements and the requirements for documenting expenses for credit purposes.

If the Recommended Plan is authorized for construction, funded, and implemented, the NFS will be required to execute a PPA with the Department of the Army. The PPA shall outline the items of local cooperation required of the NFS. The PPA requires, among other things, that the NFS provide all real property interests (LERRDs) required for construction, operation, and maintenance of the project. The NFS must also prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the level of flood risk reduction the project affords, hinder operation and maintenance of the project, or interfere with the project's proper function.

Section 14

Zoning Ordinances

No zoning ordinances are proposed in lieu of, or to facilitate, acquisition in connection with the project. The nonstructural measures are voluntary in nature and would be available only to existing eligible structures as defined within the TSP. During PED, planning and zoning regulations would be further reviewed, and discussions would be conducted with the NFS regarding the development and adoption of land use regulations for future activities within the project area to prevent future flood losses to life and real property. The NFS will be required to coordinate these matters with the local planning commissions.

Section 15
Acquisition Schedule

The nonstructural measures include residential elevations and flood proofing of non-residential structures. Such work would require execution of an agreement between the landowner and the NFS. 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.

Tasks shown below would likely vary by property. Considering the vast number of structures estimated to be eligible for the nonstructural plan, 7 years is estimated as the overall anticipated implementation time required for the total number of structures. This estimate assumes an overlap of the required tasks and this time frame is dependent upon a finalized nonstructural implementation plan, the availability of contractors to perform the elevations and floodproofing measures, and assumes that project funding will be available every year. This estimated schedule is expected to be refined as more information becomes available during PED and implementation of the authorized project. Refer to Appendix I of the SSDIFR/EA for a more detailed discussion of the nonstructural implementation plan.

Estimated Schedule per structure:

Obtain Right-of-Entry for Investigations (To Determine Eligibility)	1 month
Title research/ Review of Title	1 month
Preliminary Investigations (i.e. HTRW, structural, surveys, etc.)	2-3 months
Execution of agreement b/w landowner & NFS & curative docs	3 months
Filing Agreement between landowner & NFS	1 month
Relocation of Displaced Tenants	1 month
Residential elevation or non-residential floodproofing	2 months

Section 16
Facility/Utility Relocations

There are no utility or facility relocations anticipated or currently required within the proposed project footprint.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION IS PRELIMINARY ONLY. THE GOVERNMENT WILL 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 17

HTRW and Other Environmental Considerations

Investigations will be conducted during the PED Phase to identify the presence of HTRW such as lead paint, friable asbestos and asbestos-containing materials. If any HTRW is identified and the property owner elects to participate in the project, the property owner shall be obligated, at its sole cost and expense, to conduct all necessary response and remedial activities in full compliance with all applicable local, state, and federal regulations and provide proof of same before the nonstructural treatment is performed on their property. No environmental impacts were considered in the LER estimate.

Section 18

Landowner Attitude

Generally, there is local support for a project that reduces flood risk and damage. There is no anticipated opposition for the TSP since it consists of a nonstructural plan that is 100 percent voluntary.

Section 19

Risk Notification

A risk notification letter has not been sent to the NFS. The NFS will be notified in writing about the risks associated with acquiring real property rights before the execution of the Project Partnership Agreement and the Government's formal notice to proceed with acquisition. This will be sent prior to the final report.

Section 20

Other Real Estate Issues

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

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