

ROCKAWAY RIVER AND DEN BROOK  
DENVILLE TOWNSHIP  
MORRIS COUNTY, NEW JERSEY  
CAP SECTION 205  
FLOOD RISK MANAGEMENT STUDY

APPENDIX E  
REAL ESTATE PLAN

**September 2025**



U.S. Army Corps of Engineers  
North Atlantic Division – New York and Baltimore Districts  
In partnership with the New Jersey Department of Environmental Protection

REAL ESTATE PLAN

Rockaway River and Den Brook, Denville Township, Morris County, NJ  
CAP Section 205 Flood Risk Management Feasibility Study

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Exhibits

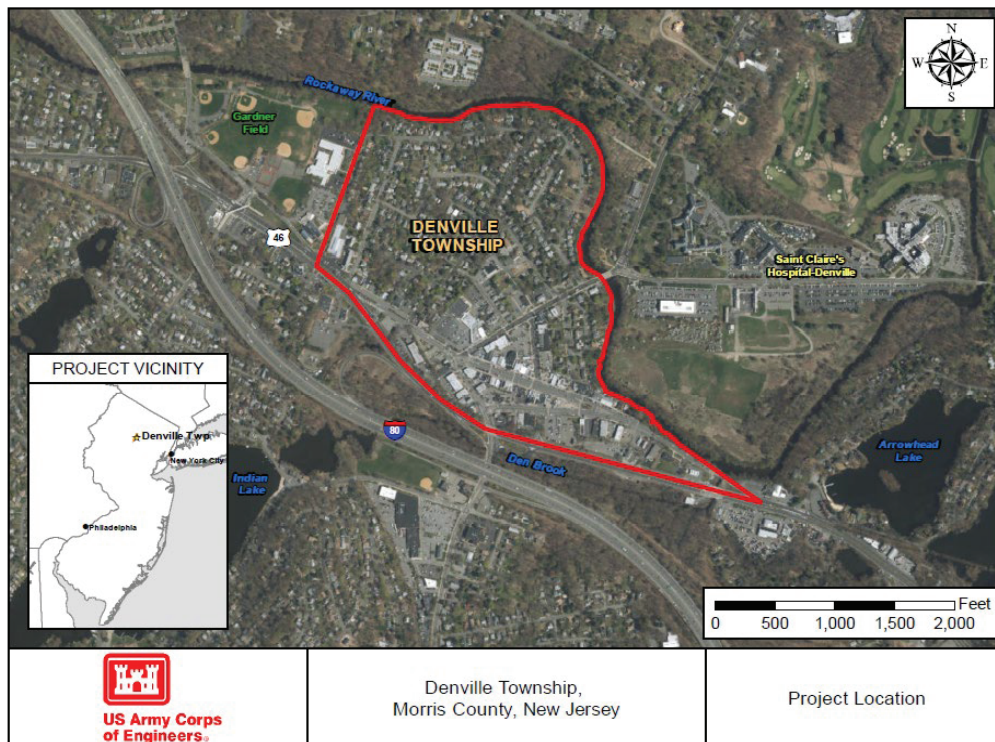
- Exhibit A – Non-Federal Sponsor Capability Assessment
- Exhibit B – Non-Federal Sponsor Risk Notification Letter

## Section 1: Statement of Purpose

a. Purpose – This Real Estate Plan (REP) is provided in support of the Rockaway River and Den Brook, Denville Township, Morris County, New Jersey CAP 205 Flood Risk Management Study (the “Study”) and is an appendix to the Study’s Integrated Feasibility Report and Environmental Assessment (the “main report”). The purpose of this report is to describe the Lands, Easements, and Rights-of-Way, Relocations, and Disposal Areas (LERRD) requirements for the construction, operation, and maintenance of the Study’s Recommended Plan. This REP summarizes the required Land, Easements, and Rights-of-Way (LER), costs to acquire the LER, real estate acquisition schedule, facility and utility relocations that may be necessary to facilitate construction, and other pertinent real estate information regarding the Recommended Plan’s LERRD requirements.

This updated REP is prepared at a design level of approximately 20%. The acquisitions are based only on existing, readily available Geographic Information System (GIS) data. Even after the Study is approved and the project is authorized, the LERRD requirements presented herein are subject to change with plan optimization during the design and implementation phase when final plans, specifications, and detailed drawings are prepared. A map of the study area is shown below in Figure 1.

**Figure 1: Study Area**



b. Study Authority: The authority for this project is Section 205 of the Flood Control Act of 1948 (Public Law 80-858), as amended. Under this authority, the USACE is authorized to plan, design, and construct small flood control projects.

c. Non-Federal Sponsor: The non-Federal sponsor (NFS) for the study is the New Jersey Department of Environmental Protection (NJDEP) and the major stakeholder is the Township of Denville. NJDEP will serve as the non-Federal sponsor for the design and implementation phase of the Recommended Plan as stated in a letter dated 3 March 2023. The NFS will acquire and retain real estate responsibilities for the project. See Exhibit A, Assessment of Non-Federal Sponsor Acquisition Capabilities, for additional information. Construction will be cost shared at a 65% (Federal) and 35% (non-Federal).

**Section 2: Real Estate Requirements**

a. Recommended Plan – The Recommended Plan is Alternative 4b, which consists of an entirely nonstructural plan. There are no structural features to be constructed as part of the Recommended Plan and there are no environmental mitigation requirements that require the acquisition of real estate.

In total, there are 25 residential and commercial structures in the Recommended Plan, recommended for elevation, wet floodproofing, or dry floodproofing. The Recommended Plan is grouped into two cluster areas – North Riverside and Southwest. Elevations involve raising the lowest finished floor of a building to a height that is above the flood level (i.e., raising a home). Wet 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. Examples include filling a basement and elevating or protecting the HVAC system. Dry floodproofing consists of constructing or installing features designed to allow flood waters to reach a structure but diminish the flood threat by preventing flood waters from entering a structure. Examples include attaching watertight sealants on windows and doors and relocating utilities and sump pumps. There are no required buyouts as part of the Recommended Plan. Table 1 below lists the number of structures. Figure-2 show the location of the cluster areas.

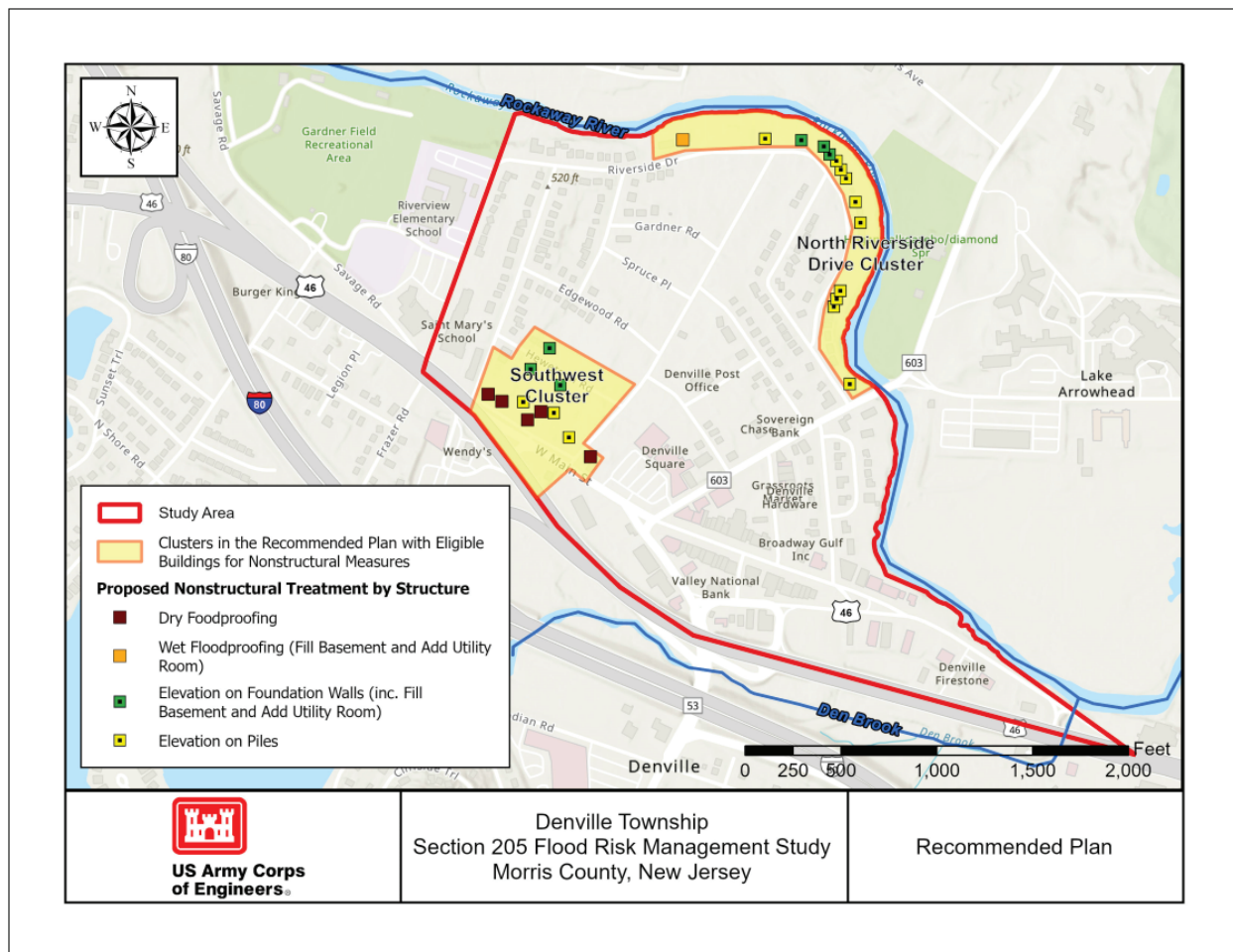
**Table 1: Number of Structures**

Nonstructural Measure	Residential	Non-residential	Total Structures
<b>Elevation</b>	17	2	19
<b>Wet Floodproofing</b>	1	0	1
<b>Dry Floodproofing</b>	0	5	5
<b>TOTAL</b>	<b>18</b>	<b>7</b>	<b>25</b>

**Table 2: Structures by Cluster Area**

Cluster Area	Elevation	Wet Floodproofing	Dry Floodproofing	Total
North Riverside	13	1	0	<b>14</b>
Southwest	6	0	5	<b>11</b>
<b>TOTAL</b>	<b>19</b>	<b>1</b>	<b>5</b>	<b>25</b>

**Figure 2: Recommended Plan Cluster Areas**



b. Required Land, Easements, and Rights of Way –

(1) The LER required for residential elevations and critical infrastructure dry floodproofing is broken out in Table 3 below. This REP assumes all properties have legal access by way of public streets or existing public rights-of-way and have sufficient available area to accommodate staging of material and equipment. Therefore, there is no LER requirement for road access, staging, or work areas.

**Table 3 – LER Requirements (Elevations and Floodproofing)**

LER Requirement	Residential Elevations	Floodproofing (Wet/Dry)
ROE for Survey and Exploration	38	12
Perpetual Restrictive Easement for Elevation	19	--
Nonstandard Perpetual Restrictive Easement for Floodproofing	--	6
Participation Agreement	19	6

i. Rights-of-Entry (ROE): All properties require inspections for suitability for project participation. Although there is a standard Temporary Easement for Exploration, the use of Rights-of-Entry not conferring a real property interest is anticipated for the inspection of properties for eligibility.

ii. Perpetual Restrictive Easement for Residential Elevations (Perpetual Elevation Easement): A standard Perpetual Restrictive Easement for Residential (Elevation/Basement In-Fills) will be acquired in accordance with CECW-ZA memorandum dated 22 Jul 24, subject: Guidance for Nonstructural Project Planning and Implementation (“NS Guidance”). This easement will only cover the lands occupied by the structure to be raised (not the entire parcel) to include the right of ingress and egress over and across other portions of the property for Operation & Maintenance (O&M) activities such as inspections and monitoring once construction is complete.

iii. Nonstandard Perpetual Restrictive Easement for Floodproofing: Commercial floodproofing activities will require the use of a nonstandard estate specifically created to cover dry floodproofing requirements for Recommended Plan construction and operation and maintenance activities. See Section 4, Nonstandard Estates, for additional information.

iv. Participation Agreement: In accordance with the NS guidance, a participation agreement is required for all residential elevation participants and outlines the responsibilities of both the NFS and the property owner before and after construction is complete. The NS Guidance includes a model Participation Agreement for this purpose. For this report, it is assumed that commercial dry floodproofing activities will similarly require a formal participation agreement defining comparable roles and responsibilities. While this agreement is not a real estate interest, it is a necessary project participation document required per the NS Guidance and essential for project implementation.

Implementation of the Recommended Plan will be performed on a voluntary basis. Property owners will have the option to voluntarily participate in the project to have their structure either elevated or floodproofed (as determined eligible by the USACE). If an owner

chooses not to participate in the project or cannot provide the required real estate access and easement, the nonstructural project will not take place on that property.

(2) Land Value Estimate – Real property acquisition for non-structural projects that meet all of the conditions in 49 CFR § 24.101(b)(1) do not fall within the procedural requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 USC §§ 4601, et seq.):

49 CFR § 24.101(b)(1): The Agency will not use the power of eminent domain to acquire the property and the following conditions are met:

(i) No later than the time of the offer the agency informs the owner of the property or the owner's designated representative in writing of the following:

(A) The agency will not acquire the property if negotiations fail to result in an amicable agreement; and

(B) The agency's estimate of fair market value for the property to be acquired. (See appendix A to this part, sections [24.101\(b\)\(1\)\(i\)](#) and [24.101\(b\)\(1\)\(i\)\(B\)](#).)

(ii) Where an agency wishes to purchase more than one property within a general geographic area on this basis, all owners are to be treated similarly. (See appendix A to this part, [section 24.101\(b\)\(1\)\(ii\)](#).)

(iii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area must be acquired within specific time limits. (See appendix A to this part, [section 24.101\(b\)\(1\)\(iii\)](#).)

The NS Guidance requires a recorded easement for non-structural plan implementation. It has further indicated that, as a condition of participation in this voluntary program, property owners will not be provided compensation for that easement. While property owners are generally entitled to know, in writing, the value of the easement they provide and impact to their property value under the Uniform Act, the NS Guidance states that the property owner must waive their right to be informed of the market value of the restrictive easement to participate in the program as a condition of voluntary participation. Therefore, no appraisals or other valuations are required for the Perpetual Elevation Easements.

As of this report, it is unknown whether or not the NFS is statutorily required by state law to pay just compensation for lands under voluntary programs. The issue is under investigation by the NFS. While, in general, this payment would not be creditable to the NFS since it is a State requirement and not a Federal requirement, USACE is reviewing the possible impacts this might have on NFS project participation and future changes to the crediting guidelines if such a payment is required under State law.

### **Section 3: Real Estate Owned by the Non-Federal Sponsor**

The Sponsor owns no LER required for the Recommended Plan.

### **Section 4: Nonstandard Estates**

Currently, no standard estate exists for non-structural commercial floodproofing activities. A nonstandard estate will be developed to address floodproofing requirements for commercial properties to include construction and operation and maintenance activities. The nonstandard estate will generally follow the NS Guidance requirements. Upon project authorization, a draft nonstandard Perpetual Restrictive Easement for Floodproofing will be prepared for HQ USACE review and approval in accordance with CEMP-CR memorandum dated 11 Jan 19, subject: Real Estate Policy Guidance Letter No. 31-Real Estate Support to Civil Works Planning, and CENAD-PDR memorandum dated 23 Jan 24, subject: Requesting Approval of a Nonstandard Estate or Policy Deviation. HQUSACE approval of any nonstandard estate is required before project use.

The requirement to develop and obtain approval for a nonstandard restrictive easement as well as the accompanying participation agreement, introduces potential risks to project implementation. Since the proposed estate must be reviewed and approved by both the North Atlantic Division (NAD) and HQ USACE, the process may result in schedule delays due to extended review and coordination timelines. To mitigate this risk, early coordination with NAD and HQ USACE will be initiated to ensure alignment on estate requirements and to streamline the approval process. A draft easement and participation agreement will be developed as soon as the project is authorized for construction, using existing non-structural guidance for residential elevation as a model where applicable.

### **Section 5: Existing Federal Projects**

There are no known existing or planned federal projects within the LER required for this project.

### **Section 6: Federally Owned Lands**

The Recommended Plan includes no federally owned lands as part of the LER.

### **Section 7: Federal Navigational Servitude**

There is no LER requirement located below the mean high-water mark; therefore, navigation servitude is not available for the project.

**Section 8: Real Estate Maps**

Figure 2 shows the proposed project by its cluster areas and approximate locations of the structures to be elevated or floodproofed. More detailed mapping will be developed in subsequent project phases as more detailed information is developed.

**Section 9: Induced Flooding**

Since the Recommended plan consists of nonstructural measures only, there is no induced flooding anticipated by the project.

**Section 10: Baseline Cost Estimate for Real Estate**

A Baseline Cost Estimate for Real Estate (BCERE) was prepared in accordance with ER 405-1-12, Chapter 12, paragraph 12-18. For this project, LERRD requirements under Account 01 include all administrative costs for the NFS and the real estate risk contingency estimates.

**Table 4: Baseline Cost Estimate for Real Estate**

<b>TOTAL PROJECT</b>	<b>Estimated Cost - Recommended Plan Denville</b>			
<b>Project Cost Category</b>	<b>Federal</b>	<b>Non-Federal</b>	<b>Contingency</b>	<b>Total</b>
Total 01-Lands and Damages	\$ -	\$ 673,200	\$ 134,200	\$ 807,400
Total 30-PED	\$ 298,000	\$ -	\$ 59,600	\$ 357,600
			<b>TOTAL:</b>	<b>\$ 1,165,000</b>

Incidental costs consist of expenses incurred to facilitate the acquisition of the required real estate interest, such as title work, appraisals, appraisal review, relocation assistance benefits, meetings, legal assistance, crediting, etc. Per current guidance, there are no land payments for voluntary participation in this project.

**Section 11: Uniform Relocation Assistance Act (Public Law 91-646)**

The availability of relocation assistance benefits for persons affected by this project is 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 National Nonstructural Committee (NNC) Best Practice Guide (BPG) 2020-02 addresses temporary relocation for nonstructural plans. It states the ability of an owner of a residential structure to afford temporary relocation at their own expense may affect their voluntary participation and only applies to structures being elevated. Therefore, it implies that no relocation is necessary for wet or dry floodproofing, which is consistent with the intent of the Recommended Plan.

According to the Uniform Act, owner occupants participating in voluntary actions are not eligible for relocation assistance benefits. Therefore, structure owners who voluntarily elect to participate in the Recommended Plan and who may be required to temporarily relocate during construction must do so at their own expense. The Uniform Act generally provides relocation assistance benefits to tenants who are permanently displaced. However, Appendix A of the Uniform Act, provides that tenants who are subject to temporary relocation assistance must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation even if they do not meet the criteria of a “displaced person” as defined by the Uniform Act.

Census information for the Town of Denville indicates an approximate 33% rental rate. With 19 residential structures being elevated, census data indicates that approximately 6 may have tenant occupants who will require temporary relocation assistance. For planning purposes, relocation assistance benefits are estimated based on each eligible tenant consisting of a married couple with two children and one pet who will require temporary housing (hotel with kitchen) for a 90-day construction period. Temporary relocation assistance for the approximately 6 tenants is estimated to be \$140,700 (before addition of contingency).

There are two non-residential structures proposed for elevation. As of this report, there is a dance studio and a day care present, and it is assumed these are tenants to the building. Often, businesses are relocated on a permanent basis; therefore, it is assumed the elevation of the two non-residential structures will require permanent relocation assistance for two businesses. Permanent relocation for the two business is estimated to be \$155,000 (before addition of contingency), which includes cost associated with moving and related expenses and business reestablishment expenses.

## **Section 12: Mineral and Timber Activity**

There are no known present or anticipated mineral extraction or timber harvesting activities within the LER required for the Recommended Plan.

## **Section 13: Non-Federal Sponsor Acquisitions Capability Assessment**

The NJDEP will serve as the non-Federal sponsor for project design and construction and will retain the responsibilities to perform the project’s LERRD requirements. An assessment of NJDEP as the non-Federal Sponsor is provided in Exhibit A. NJDEP has been determined as highly capable of performing or ensuring the performance of the real estate requirements. They have served as the NFS for several USACE FRM projects and have a capable staff with experience in cost share project LERRD acquisitions, with developing experience in nonstructural cost-shared projects.

The non-Federal sponsor assessment included in Exhibit A was coordinated with the NFS as a part of project feasibility study actions, and their execution of the assessment is pending. The copy of the assessment provided in Exhibit A is currently unsigned, and coordination with NJDEP regarding execution is ongoing.

**Section 14: Land Use Zoning**

There will be no application or enactment of zoning ordinances in lieu of, or to facilitate, the Recommended Plan.

**Section 15: Real Estate Acquisition Schedule**

The NFS will officially initiate real estate acquisition activities after final execution of the Project Partnership Agreement (PPA) and once they receive the Notice to Proceed with Real Estate Acquisition from USACE. The list of structures for inclusion in non-structural project measures, any additional LER activities required, and associated real estate mapping will be provided to the NFS along with their Notice to Proceed. The Project Delivery Team (PDT) has not yet established a PPA execution date; therefore, it is not included in the Real Estate Acquisition Schedule given below. The residential elevations acquisition schedule below has been coordinated with the NFS over a series of meetings and discussions specifically held to discuss the implementation of the NS guidance. Since this is an early project under the new NS Guidance and the NFS has not participated in a residential elevations project, it is a preliminary schedule based on the acquisition process provided in the NS Guidance. Since the NS Guidance for commercial floodproofing activities is not yet available, the process and timeline used for current planning purposes will be the same as residential elevations.

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Figure 4: Real Estate Acquisition Process from NS Guidance

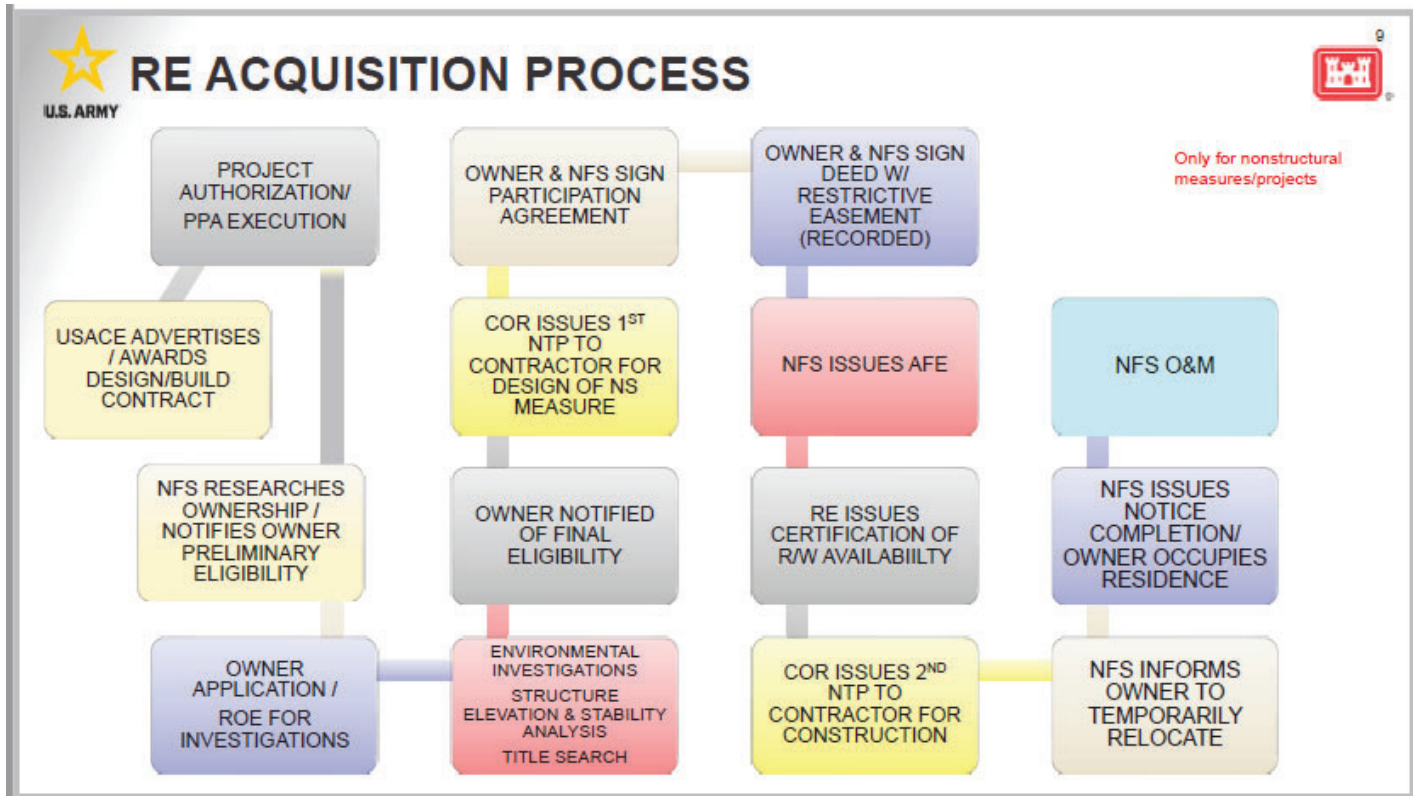


Table 5 – Residential Elevations Per-Property Schedule Timeline

Estimated Residential Elevations Timeline	Estimated Month and Year
PPA - Execution by All Parties	Not Provided in Main Report
Determination of Initial Phase Area and Housing Cluster	Period of Work Not Provided
Notice to Proceed to NFS (Once Phase Area and Housing Cluster Determined)	Unable to Provide Date
NFS Notifies Owners of Preliminary Eligibility (Incl. Ownership Research Time)	Spring 2026
Owner Application	Winter 2026
ROE for Investigations	Spring 2027
Environmental and Structural Investigations and Title Searches	Summer 2027
Owner Notified of Final Eligibility By NFS	Summer 2028
NTP for Design/Design Period	Summer 2028- Winter 2029
Initial Designs Complete; Revisions as Needed After Homeowner Feedback	Winter 2029 - Fall 2029
Owner and NFS Sign Participation Agreement/Easement Deed	Fall 2029 - Winter 2030
NFS Issues Authorization for Entry to USACE	Spring 2030
USACE Real Estate Issues Certification of Availability	Spring 2030

### **Risk Discussion – Acquisition Schedule:**

1. At this time, the PDT has not established a PPA execution date. As a result, the Real Estate Acquisition Schedule is current based on anticipated seasonal milestones consistent with the overall project schedule provided in the main report. The uncertainty of the PPA execution date introduces risk to the overall schedule, as delays in execution could shorten the period available to complete acquisition activities or affect subsequent milestones. The PDT acknowledges and accepts the risk recognizing that the acquisition timeline is contingent on the timing of PPA execution, and adjustments to the schedule may be required once the date is confirmed.

2. The NS Guidance requires specific documentation from property owners, including verification from the tax assessor that no property taxes are due and payable, and documentation from mortgages holders confirming the mortgage is in good standing and that there is no objection to the nonstructural project. The time required for owners to secure these documents may vary significantly, depending on individual circumstances and responsiveness of third parties. Since these factors are outside of the Government's control, it is difficult to predict timelines or ensure consistency across parcels or cluster areas, potentially resulting in schedule delays that could impact the award of construction contracts. Early engagement with property owners and clear communication regarding documentation requirement may help mitigate this risk, but acquisition timelines shall remain flexible to account for variability in owner responsiveness and mortgage holder cooperation.

### **Section 16: Relocation of Facilities or Public Utilities**

For flood risk management projects, the non-Federal Sponsor is required to relocate affected public facilities and utilities necessary for the construction, operation, and maintenance of a project. A relocation may take the form of an alteration, lowering, raising, or replacement (and attendant removal) of the affected public facility/utility or part thereof. Since the Recommended Plan consists of a nonstructural plan in which the construction of the nonstructural features will be performed entirely on privately owned structures located on private property, there is no expectation to perform a relocation of a public utility or facility. However, permission from servicing utilities will be needed for this work, and in many cases the utility company may need to perform the utility work themselves. All service utilities will be elevated to the designed flood elevation for the nonstructural feature as part of the overall construction cost.

## **Section 17: Environmental Contamination**

According to the main report, the residences for which nonstructural measures are recommended do not lie within or near any potentially contaminated sites. Although unlikely, historic industrial activity could have produced Hazardous, Toxic, and Radioactive Waste (HTRW) not identified in the preliminary analysis. It is likely that the structures, particularly those that are older, contain at least minor quantities of contaminants, such as lead paint, asbestos, and fuel storage tanks. It is assumed that no significant impact to the environment from hazardous, toxic, and radioactive waste is expected because of implementation of the proposed action.

No elevation or floodproofing of structures will occur containing lead paint or products or asbestos and/or asbestos-containing materials if the proposed actions may disturb the lead or asbestos and/or asbestos-containing material. Prior to any actions being commenced, the lead paint or products or asbestos and/or asbestos-containing material that may be disturbed by the floodproofing activity must be removed by the property owner at their sole cost and expense and in compliance with all applicable local, state, and federal laws and regulations. Lead paint or products or asbestos and asbestos-containing materials that would not be affected when carrying out the nonstructural flood risk management treatment would not need to be removed prior to commencing such work. See the main report for additional HTRW information.

## **Section 18: Project Public Support**

A public meeting was held in October of 2023. Homeowners and members of the public expressed support for the project, while requesting options for acquisition of their property due to high flood insurance premiums, see the Main Report for more information. The Project Delivery Team (PDT) has been working closely with NJDEP and the Township of Denville on developing the Recommended Plan. Given the voluntary nature of the nonstructural plan, there is no expectation of unfavorable responses from property owners that could adversely impact the real estate cost, schedule, and easement requirement outlined in this report.

## **Section 19: Non-Federal Sponsor Risk Notification**

NJDEP will serve as the non-Federal sponsor for project design and construction and will retain the responsibilities to perform the project's LERRD requirements. A Risk Notification Letter dated May 24, 2022, was provided to NJDEP as a written notice about the risks associated with advanced land acquisition prior to the execution of the PPA and prior to USACE providing its notice to proceed with real estate acquisition after the execution of the PPA. A copy of the letter is provided as Exhibit B.

## **Section 20: Risk Discussion/Other Pertinent Information**

1. The implementation schedule for this project currently does not include a PPA execution date. The given timeline assumes that the PPA is to be executed in enough time before the Spring 2026 NFS process beginning date to allow for the work periods for the compilation and provision of the Notice to Proceed to the NFS and for the NFS to complete the preparations for the start of the notification to homeowners of preliminary eligibility. If the actual PPA date does not provide adequate work periods for activities required before the process start date currently scheduled, the entire timeline will be delayed.

2. An application is required for participation in residential elevations. Absent specific guidance for the implementation of commercial floodproofing, the commercial owner application process will be consistent with the NS Guidance. While not real estate interests, the application is a required project participation document, the responsibility of the NFS, and treated as a real estate document for crediting purposes. Eligible administrative costs associated with the application process may be creditable to the NFS and are included in the BCERE.

3. There is a potential risk that utilities serving eligible properties may require separate floodproofing measures, which could necessitate individual agreements with the utility providers. Due to the current level of design, it is not yet possible to determine the extent of utility-related needs for each property. These determinations will be made on a case-by-case basis as design advances and more property-specific information becomes available. If required, utility coordination could result in additional acquisition cost and schedule impacts. To manage this risk, utility requirement will be reassessed during later design phases, and early engagement with utility providers will be encouraged where feasible

4. Historic Structures. At this level of design, it is not known whether there are historic structures included in the Recommended Plan. Buildings older than 50 years may need to be evaluated for the National Register of Historic Places (NRHP) before floodproofing or elevation can occur. Should a building be listed with NRHP, it may increase acquisition costs or potentially cause schedule delays.

5. Although voluntary buyouts were not included in the Recommend Plan, the use may be re-evaluated as a viable nonstructural measure during future design phase. If voluntary buyouts are incorporated into the project at a later stage, this would result in a significant change to the real estate requirements, including the potential need for fee acquisition of affected properties. This change introduces a risk to the project, including increased real estate acquisition costs, extended acquisition timelines, and potential schedule delays. The feasibility and impact of incorporating voluntary buyouts will be assessed as more detailed property-level information become available and design advances.

PREPARER

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Stanley H. Graham  
Chief, Real Estate Division  
Baltimore District

**Exhibit A**

Non-Federal Sponsor Real Estate Acquisition  
Capability Assessment Form

ASSESSMENT OF NON-FEDERAL SPONSOR'S  
REAL ESTATE ACQUISITION CAPABILITY

Non-Federal Sponsor: **New Jersey Department of Environmental Protection**

Project: **Rockaway River and Den Brook Township, Morris County, New Jersey  
CAP Section 205 Flood Risk Management Study**

I. Legal Authority:

a. Does the Sponsor have legal authority to acquire and hold title to real property for project purposes?

**Yes. N.J.S.A. § 58:16A-5 gives the State of New Jersey, as the non-Federal Partner for a Federal Civil Works project, the legal authority to acquire and hold title to real property for project purposes.**

b. Does the Sponsor have the power of eminent domain for this project?

**Yes. The Sponsor has the power of eminent domain under the authority of the Eminent Domain Act, N.J.S.A. § 20:3-1 et seq. However, condemnation is not expected to be utilized for the non-structural component of this project, given that participation in the tentatively selected non- structural plan is voluntary on the part of landowners. Any property once acquired by the sponsor whether it was purchased or condemned will be the Sponsor's possession.**

c. Does the Sponsor have "quick-take" authority for this project?

**Yes. The Sponsor has quick-take authority under authority of the New Jersey Eminent Domain Act, N.J.S.A. § 20:3-1 et seq. This authorizes the Sponsor to take property immediately after filing a condemnation complaint. However, quick-take is not expected to be utilized, given that participation in the tentatively selected plan is voluntary on the part of landowners.**

d. Are any of the lands/interests in land required for the project located outside the Sponsor's political boundary?

**No. All real estate requirements for the project are within the Sponsor's political boundary.**

e. Are any of the lands/interests in land required for the project owned by an entity whose property the Sponsor cannot condemn?

**Currently, there are no real estate requirements required that the Sponsor cannot acquire via condemnation. However, use of condemnation is not anticipated for the non-structural component of this project, given that participation in the tentatively selected non-structural plan is voluntary on the part of landowners.**

## 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 Public Law 91- 646, as amended?

**Yes – The project anticipates relocation assistance to be paid under PL 91-646 for persons meeting the eligibility criteria for displaced persons. The Sponsor has asked USACE to research training opportunities on the subject matter. The District will be coordinating with the Sponsor for the appropriate training. The Sponsor requests to be trained by USACE in order to increase its knowledge of process and procedure and increase compliance and reduce errors regarding property acquisition for Federally Funded projects including Public Law 91-646.**

b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training?

**Not at this point in time, but the Sponsor is open to discussing making training available to the Sponsor.**

c. Does the Sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?

**The Sponsor's in-house staff has ample real estate acquisition experience for more conventionally-sized Federal and non-Federal construction projects. However, for a project of this size and scale the Sponsor would need to scale up a much larger program in order to handle acquisition efforts. Therefore, the Sponsor may request that USACE Real Estate Division take the lead or assist with real estate acquisition to ensure enough resources are dedicated to the real estate process.**

d. Is the Sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?

**Yes. However, in order to carry out a non-structural plan for a project of this scale the Sponsor would require additional full-time staff for real-estate acquisition.**

e. Can the Sponsor obtain contractor support, if required, in a timely fashion?

**Yes. However, the actual process and contracting arrangements the Sponsor would use is to be determined.**

f. Will the Sponsor likely request USACE assistance in acquiring real estate?

**As of this assessment, the Sponsor may require assistance from USACE in acquiring real estate. No written request has been received by USACE at this time. However, since the standard project partnership agreement offers the Sponsor the opportunity to request USACE assistance with real estate acquisition, the option remains open to the Sponsor.**

### III. Other Project Variables

a. Will the Sponsor's staff be located within reasonable proximity to the project site?

**Yes – The Sponsor's staff is located within a reasonable proximity to the project site and additionally the Sponsor will be in partnership with the local municipality which offers representation within the immediate area.**

b. Has the Sponsor approved the project/real estate schedule/milestones?

**The sponsor approves of the Phased Implementation Strategy (Figure 5-2 of the Final Report) and the Residential Elevations Per-Property Schedule Timeline (Table 5 of the Real Estate Report) with the understanding that a more refined project and real estate schedule will be developed in the Design and Implementation phase, as more information becomes available.**

### IV. Overall Assessment

a. Has the Sponsor performed satisfactorily on other USACE projects?

**Yes - The Sponsor has performed satisfactorily on several other USACE projects, all structural coastal storm damage reduction projects which involved several miles of barrier island oceanfront uplands and submerged lands. A representative list of projects is as follows:**

**Brigantine Inlet to Great Egg Harbor Inlet, NJ, Absecon Island HSDR Project  
Great Egg harbor Inlet to Peck Beach, NJ HSDR Project  
Lower Cape May Meadows Cape May Point, NJ, HSDR and Environmental  
Restoration Project**

**Townsend's Inlet to Cape May Inlet, NJ, HSDR Project  
Barnegat Inlet to Little Egg Inlet HSDR Project**

b. With regard to this project, the Sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/ insufficiently capable.

**With regards to this project, based on answers provided and the ongoing discussions regarding nonstructural project processes and implementation, the Sponsor at the time of this draft report is considered fully capable.**

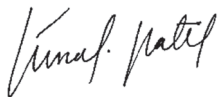
V. Coordination

a. Has this assessment been coordinated with the Sponsor?

**Yes, this assessment was coordinated with the Sponsor. The Sponsor provided answers regarding their capabilities, acquisition authorities, and staffing. The Capability Assessment has also been discussed with the Sponsor.**

b. Does the Sponsor concur with this assessment?

**Yes - Completion of the assessment was accomplished by a coordinated effort between USACE and the Sponsor.**



08/26/25

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Kunal Patel

Assistant Director, Division of Resilience Engineering and Construction  
New Jersey Department of Environmental Protection

**GRAHAM.STANLEY** Digitally signed by  
GRAHAM.STANLEY.H.124973950  
**Y.H.1249739509**  
Stanley H. Graham  
Chief, Real Estate Division  
Baltimore District

Date: 2025.03.19 16:49:11 -04'00'

**Exhibit B**

Non-Federal Sponsor Risk Notification Letter



DEPARTMENT OF THE ARMY  
BALTIMORE DISTRICT, CORPS OF ENGINEERS  
2 HOPKINS PLAZA  
BALTIMORE, MARYLAND 21201

May 24, 2022

Real Estate Division  
Civil Projects Support Branch

Mr. Kunal Patel, PhD, PE, CFM  
Bureau Chief, Flood Engineering and Climate Resilience Design  
Division of Resilience Engineering and Construction, NJ DEP  
44 S. Clinton Ave, 3<sup>rd</sup> floor, Mail Code 44-03A  
Trenton, NJ 08625-0420

Project Location, Denville, NJ

Dear Mr. Patel:

This letter is in reference to the Rockaway River and Den Brook, Denville Township, Morris County, NJ Flood Risk Management Study. As part of the study process, our office is required to formally advise the non-Federal sponsor of this project, NJ DEP, of the risks associated with acquiring lands prior to execution of the Project Partnership Agreement (PPA). Should you choose to acquire land you anticipate will be required for the project, please be advised that you assume full and sole responsibility for any and all costs, responsibility, or liability arising out of the acquisition effort.

These risks include, but are not 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 Project Partnership Agreement (PPA) mutually agreeable to the non-Federal sponsor and the government may not be executed and implemented.
- d. 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.
- e. 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.
- f. The non-Federal sponsor 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 well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after the PPA execution and the Government's notice to commence acquisition and performance of Lands, Easements, Rights of

Way (LER).

g. The non-Federal sponsor may incur costs or expense in connection with its decision to acquire or perform LER 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 of the PPA.

If you have any questions regarding this matter or require additional information, please contact Mr. Eric Lamb at (410) 962-5101.

Sincerely,

HOMESLEY.CRAIG  
G.R.1231317925

Digitally signed by  
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Date: 2022.05.24 10:07:41 -04'00'

Craig R. Homesley  
Chief, Civil Projects Support Branch  
Real Estate Division  
Real Estate Contracting Officer