

Attachment A – Proposed New Alignment



LEGEND:

- Proposed Road Design
- Proposed Landscape Median
- Proposed Bridge
- Proposed 148' ROW, Wider at Turn Lanes
- Proposed Construction Limits
- Proposed Construction Easements
- Existing Streams, Creeks, Waterways

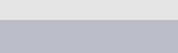





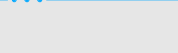
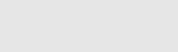
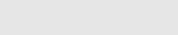
RICHMOND HIGHWAY (U.S. ROUTE 1)
 TELEGRAPH ROAD TO MULLIGAN ROAD
SHEET 1

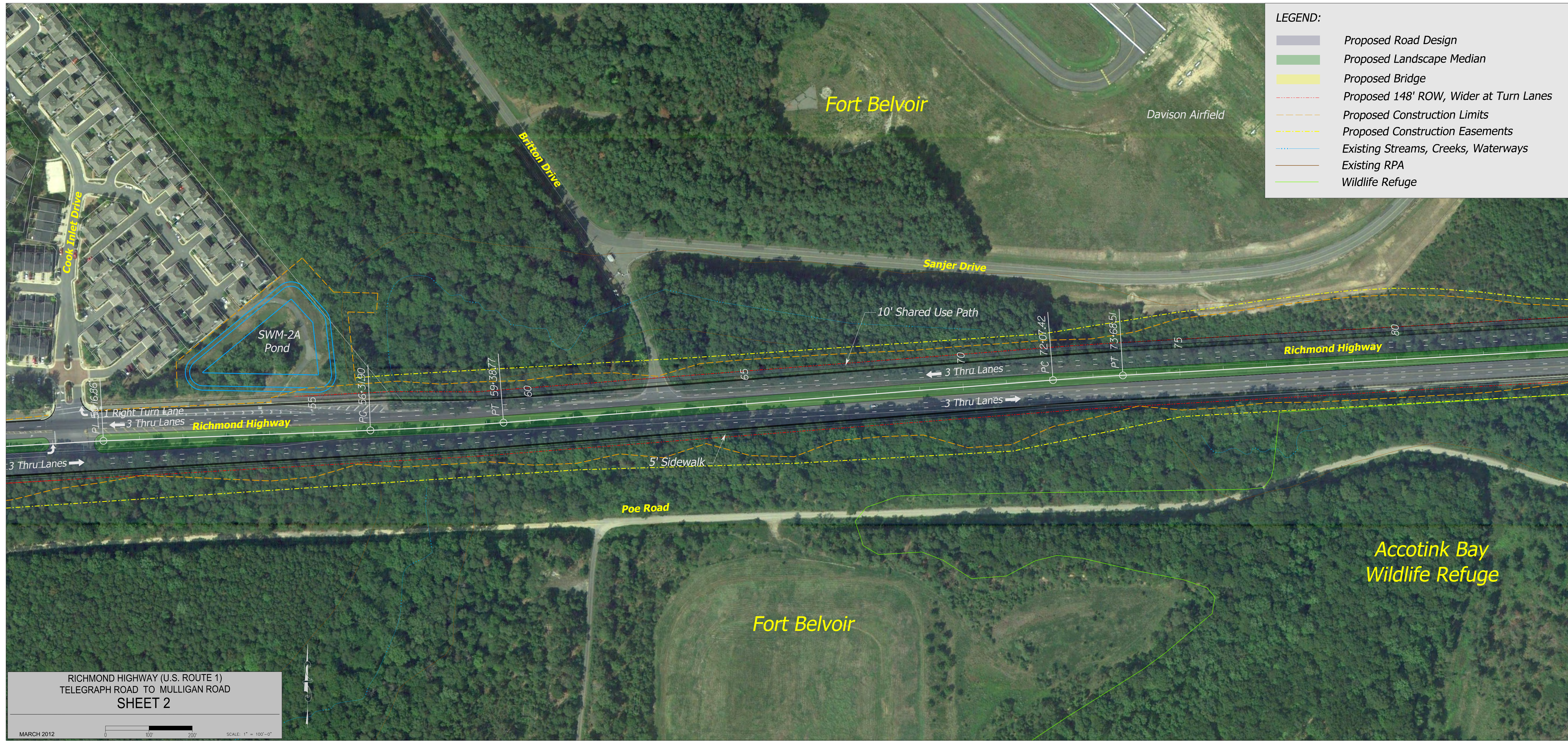
MARCH 2012

0 100' 200'

SCALE: 1" = 100'-0"

LEGEND:

-  Proposed Road Design
-  Proposed Landscape Median
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-  Existing RPA
-  Wildlife Refuge



RICHMOND HIGHWAY (U.S. ROUTE 1)
TELEGRAPH ROAD TO MULLIGAN ROAD
SHEET 2

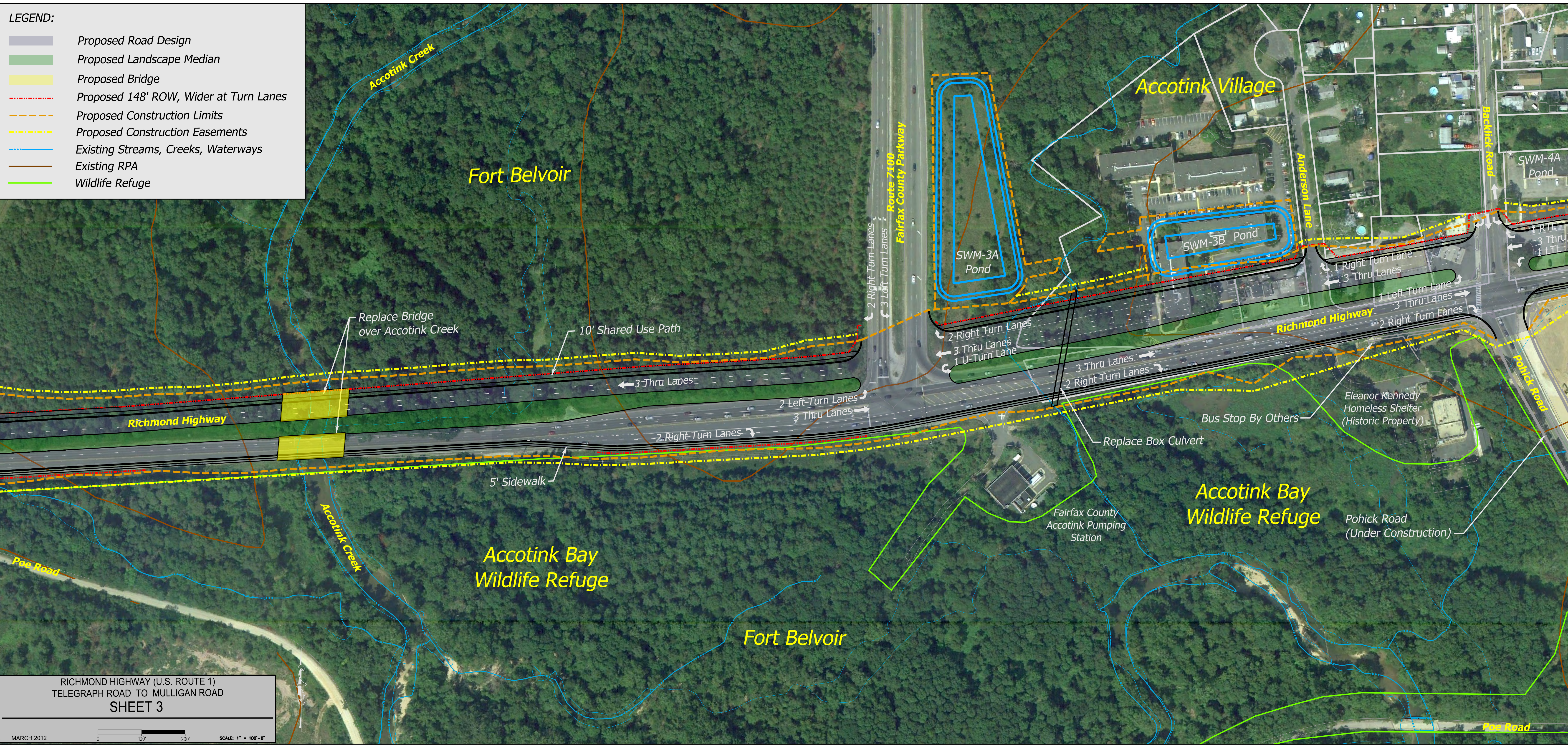
MARCH 2012

0 100' 200'

SCALE: 1" = 100'-0"

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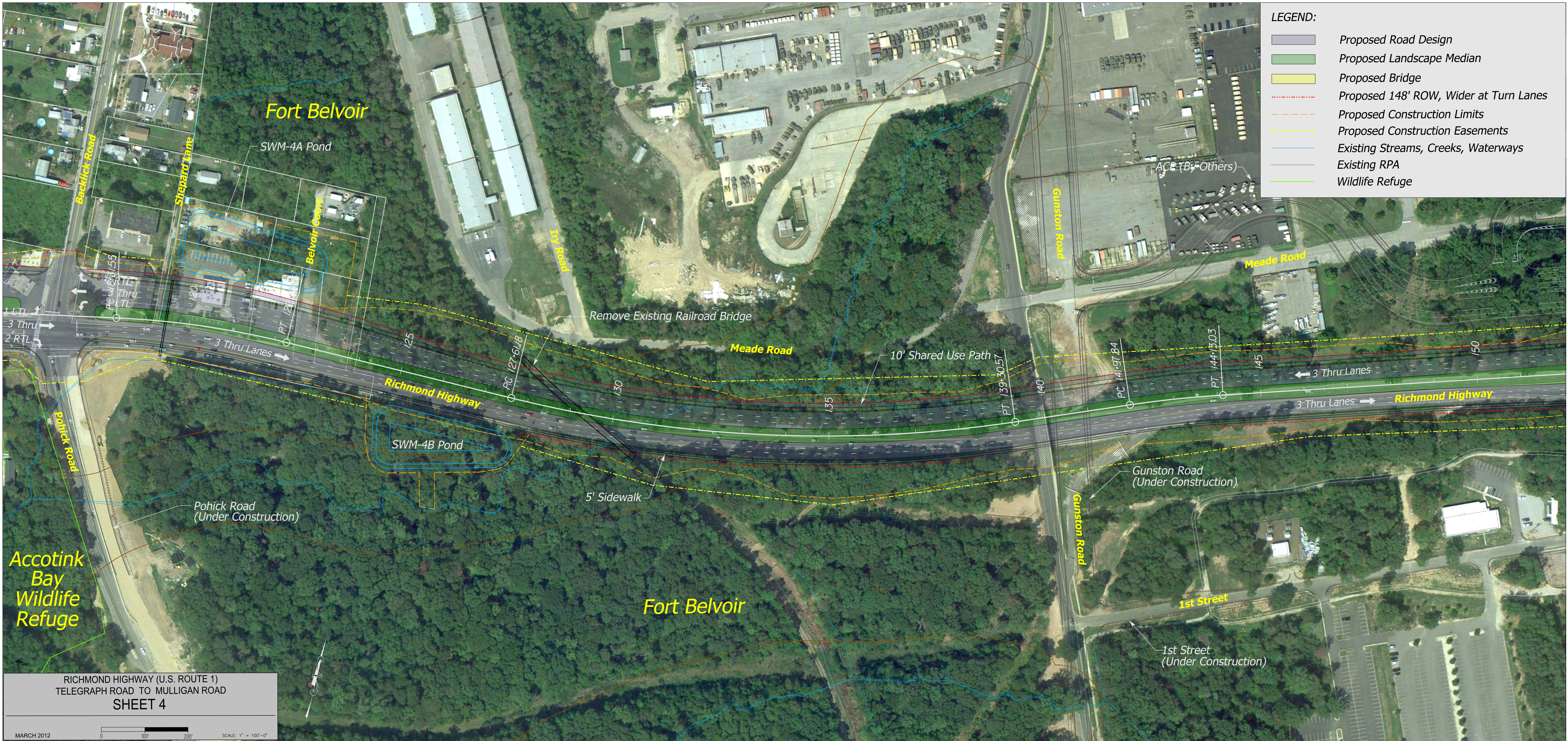


RICHMOND HIGHWAY (U.S. ROUTE 1)
 TELEGRAPH ROAD TO MULLIGAN ROAD
 SHEET 3

MARCH 2012

0 100' 200'

SCALE: 1" = 100'-0"



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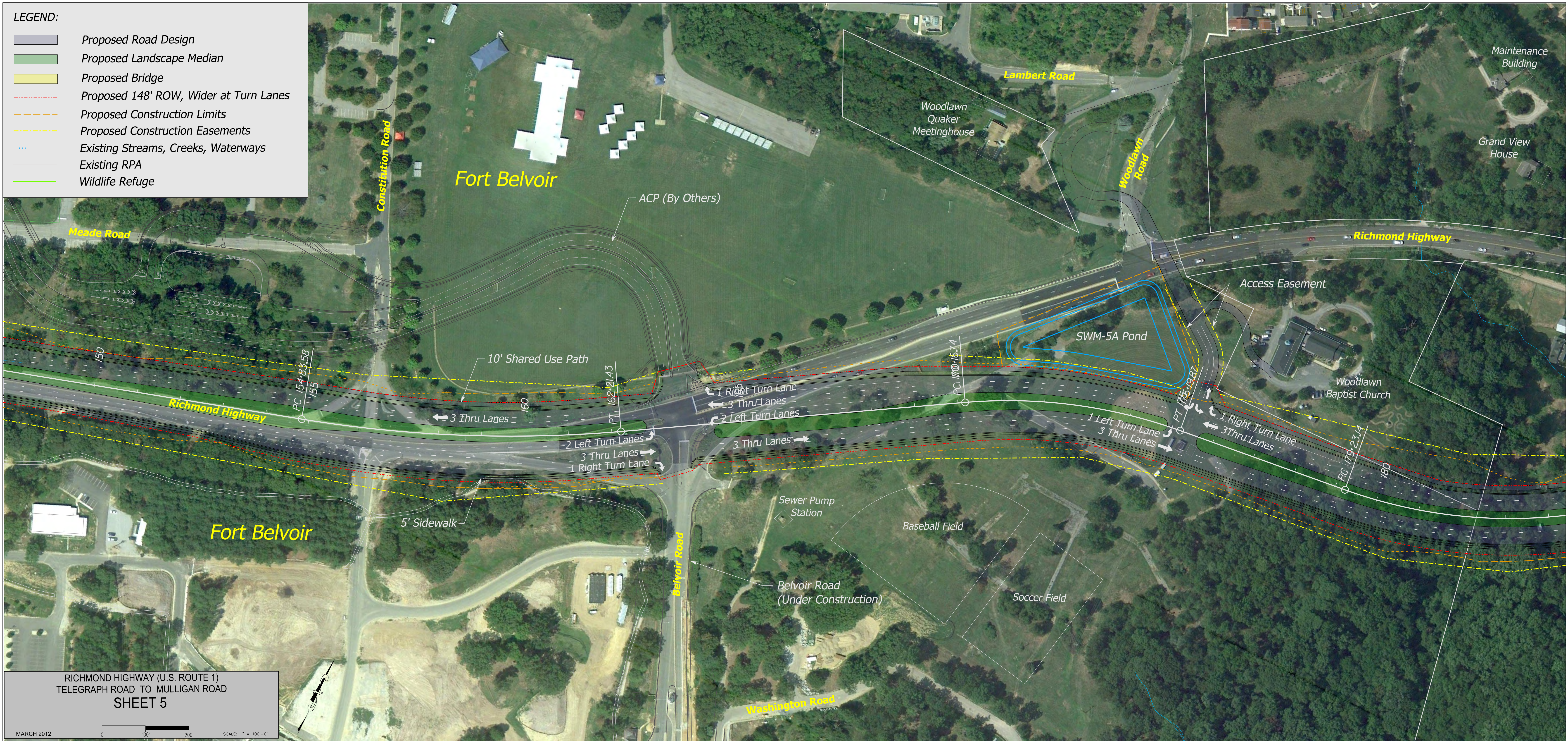
RICHMOND HIGHWAY (U.S. ROUTE 1)
 TELEGRAPH ROAD TO MULLIGAN ROAD
SHEET 4

MARCH 2012

0 100' 200' SCALE: 1" = 100'-0"

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RICHMOND HIGHWAY (U.S. ROUTE 1)
TELEGRAPH ROAD TO MULLIGAN ROAD
SHEET 5

MARCH 2012



SCALE: 1" = 100'-0"

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-  Existing RPA
-  Wildlife Refuge



RICHMOND HIGHWAY (U.S. ROUTE 1)
TELEGRAPH ROAD TO MULLIGAN ROAD
SHEET 6

MARCH 2012

0 100 200

SCALE: 1" = 100'-0"

Attachment B – Draft Project MOA

AGREEMENT NO.

MEMORANDUM OF AGREEMENT

AMONG THE

THE DEPARTMENT OF THE ARMY

THE

**DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

THE

**COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF TRANSPORTATION**

AND THE

COUNTY OF FAIRFAX, VIRGINIA

**FOR THE DESIGN AND
CONSTRUCTION OF TRANSPORTATION IMPROVEMENTS ON
FORT BELVOIR AND U.S. ROUTE 1
BETWEEN
TELEGRAPH ROAD & MOUNT VERNON MEMORIAL HIGHWAY**

IN

FAIRFAX COUNTY, VIRGINIA

Memorandum of Agreement
Design and Construction of Route 1 Improvements
Between Telegraph Road & Mount Vernon Memorial Highway
Fairfax County, Virginia

THIS MEMORANDUM OF AGREEMENT (Agreement) is made as of the date of the final signature below by and among the following parties: the United States of America, acting by and through the Department of the Army (Army), the Department of Transportation's Federal Highway Administration (FHWA) acting by and through the Federal Highway Administration Eastern Federal Lands Highway Division; the Commonwealth of Virginia, acting by and through the Virginia Department of Transportation (VDOT); and the County of Fairfax, Virginia (County).

RECITALS

WHEREAS, Fairfax County and VDOT pursued Department of Defense Office of Economic Adjustment (DoD) funding for transportation improvements that are necessary to improve patient access to the new Fort Belvoir Community Hospital, constructed under BRAC 2005.

WHEREAS, DoD has invited Fairfax County to apply for funding in the amount of \$180 million for the design and construction of improvements to Route 1 to improve patient access to the new Fort Belvoir Community Hospital constructed under BRAC 2005 (the Project).

WHEREAS, upon approval of the application for funding by Fairfax County, DoD funding of \$180 million for the design and construction of the Project will be provided directly from the DoD Office of Economic Adjustment to FHWA, in accordance with an Interagency Agreement, to administer the Project at the request of the County.

WHEREAS, the Project constitutes improvements to approximately 3.5 miles of Route 1 from Telegraph Road to Mount Vernon Memorial Highway, which may include widening the roadway from four lanes to six lanes, provision of pedestrian and bicycle improvements, and preservation of a corridor for future transit.

WHEREAS, Fairfax County, DoD and VDOT have agreed that FHWA Eastern Federal Lands Highway Division, using funds provided by DoD, will design and construct the Project in accordance with VDOT and FHWA road construction standards and specifications.

WHEREAS, FHWA, VDOT and Fairfax County have agreed to cooperate in acquiring title to property not owned by the Army but necessary for construction of the Project and shall permit FHWA such access as needed for roadway construction through acquisition of rights-of-way or rights-of-entry.

WHEREAS, it is the intent of the FHWA to award a Design-Build contract to construct the Project.

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WHEREAS, if all proposals exceed available Project Funds, the Parties will jointly seek additional funding prior to award of the contract or jointly agree to phase the project based upon available project funds prior to the notice to proceed, or award on a phase or option of a contract, such phasing of the Project being subject to DoD review and concurrence.

WHEREAS, it is the expectation of the Parties to this Agreement that all obligations of the Parties arising under this Agreement will be fully funded, the Parties agree to seek sufficient funding through their budgetary processes to fulfill their obligations under this Agreement. Pursuant to the Anti-Deficiency Act, 31 U.S.C. §1341(a)(1) (1994), nothing contained in this Agreement shall be construed as binding the Army or the FHWA to expend any sum in excess of appropriations made by Congress for the purposes of this Agreement, or as involving the United States in any contract or other obligation for the further expenditure of money in excess of such appropriations. Nothing in this agreement shall be construed as binding the Commonwealth or VDOT to expend any sum in excess of appropriations made by the Virginia General Assembly and allocations made by the Commonwealth Transportation Board for the purposes of this Agreement. Nothing in this agreement shall be construed as binding Fairfax County to expend any sum in excess of appropriations made by the County Board of Supervisors for the purposes of this Agreement.

~~**WHEREAS**, if environmental cleanup is required by applicable environmental law or regulation and when VDOT has certified that the completed Project meets or exceeds VDOT and FHWA requirements and standards in order to allow VDOT to approve, operate and maintain the completed Project, VDOT agrees to accept conveyance of an interest in property (a roadway easement) (hereinafter "an interest in property") as necessary to operate and maintain the roadway; and VDOT agrees to initiate the acceptance of the road as part of the systems of state highways to be maintained by VDOT.~~

Comment [MLF1]: Moved to Article 1.C.12.

WHEREAS, the Army is authorized to enter into this Agreement pursuant to 10 U.S.C. 3001 *et seq.*, and is the agency with administrative jurisdiction, custody, and control over Fort Belvoir.

WHEREAS, 23 U.S.C. § 308(a) authorizes the FHWA to perform engineering and other services in connection with the survey, design, construction and improvements of highways for other Federal or State cooperating agencies.

WHEREAS, the FHWA will be the lead Federal Agency with administrative, financial, and project implementation and management oversight of the Project and shall administer the project on behalf of DoD, Fairfax County and VDOT.

WHEREAS, the Commonwealth Transportation Commissioner, acting pursuant to the decision of the Commonwealth Transportation Board, is authorized to enter into

Comment [MLF2]: VDOT Comment – Need to use current title, "Commissioner of Highways"?

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this Agreement pursuant to the authority contained in §§33.1-12 and 33.1-13 of the Code of Virginia, 1950 as amended. VDOT is the State agency with administrative oversight, maintenance and jurisdictional authority for the Project once the Project is completed and accepted into the systems of state highways.

WHEREAS, the County, pursuant to §33.1-422, Code of Virginia, has the responsibility to approve any transportation improvement within the County prior to construction of such improvements in consultation with the Commonwealth Transportation Commissioner and the Commonwealth Transportation Board;

Comment [MLF3]: Previous reference was to roads to be included in the secondary system. This code reference seems more appropriate.

WHEREAS, on August 26, 2010, the Army and the Commonwealth of Virginia executed an Agreement entitled "Memorandum of Agreement between the Department of the Army and the Commonwealth of Virginia Department of Transportation for Construction of Roadway Improvements at the Intersections of Pohick Road and Belvoir Road with Richmond Highway/Route 1 and Construction of a New Five-Lane Bridge on Gunston Road Over Richmond Highway/Route 1 and Construction of the Route 1 Widening Project, which Agreement specified, among other things, the existing easements previously granted to VDOT by the Army for the construction, operation and maintenance of Route 1 and the easement to be granted to VDOT by the Army for this Project to widen Route 1.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

ARTICLE I: SCOPE OF WORK

A. The Army agrees to:

1. Assign and designate an individual as the Project Point of Contact so that all communication regarding the design and construction of the Project will be coordinated through that identified person.
2. The designation of the FHWA as the lead agency for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470s) in accordance with 36 CFR §800.2(a)(2);
3. To the extent authorized by law, to participate in a Congestion Management Plan developed for the Northern Virginia Region by FHWA, or its designee, in cooperation with VDOT and the County ~~for the Northern Virginia Region~~, to address traffic congestion caused by the construction of transportation projects in the region.
4. ~~For the purposes of this section, Hazardous Materials shall include, but not be limited to, Munitions and Explosives of Concern (MEC), munitions~~

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~~constituents, releases of petroleum and/or petroleum products, asbestos, or any hazardous substance.~~

- a. Prior to beginning construction and prior to the conveyance of an interest (easement) in Fort Belvoir property to the Commonwealth:
 - i. To perform all environmental investigations, property assessments, and studies for munitions and explosives of concern and munitions constituents (MEC), releases of petroleum or any hazardous substance ~~Hazardous Materials~~ on the Project right-of-way or land owned by the Army (“ARMY LAND”~~Army land~~) that are necessary to complete the Project as specified in the Approved Plan, or modifications to the Approved Plan, as required under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. § 9601 *et seq.*) and other applicable Federal and State laws and regulations. Army will provide the reports of these investigations, assessments, or studies to FHWA, VDOT and the County.
 - ii. To perform environmental response to MEC, releases of petroleum or any hazardous substances on the Project right-of-way or discoveries or release of Hazardous Materials on ARMY LAND as required under CERCLA and other applicable Federal and State laws and regulations as necessary for completion of design, construction, maintenance and operation of the Project in accordance with the Project schedule.
 - iii. If the FHWA takes response action for discoveries or release of Hazardous Materials on the ARMY LAND, the Army shall be responsible for reimbursement for those costs. Any reimbursement must be based on an auditable accounting.
 - ~~iv. Perform any asbestos and/or lead based paint inspections and abatement as required by Federal, State, and local laws and regulations for any structures present on ARMY Land, and demolish such structures as required for the construction of the Project. The costs for such inspection, abatement, and demolition will be paid by the Army.~~
- b. During construction, or after conveyance of the interest in property to the Commonwealth, for discoveries of MEC, Army releases of petroleum or any hazardous substances~~Hazardous Materials~~, whether on or off Army Land:

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- i. Upon any notification of discovery of ~~MEC, Army releases of petroleum or any hazardous substances, Hazardous Materials,~~ MEC, Army releases of petroleum or any hazardous substances, Hazardous Materials, the Parties agree to immediately confer to determine the scope of any investigation and the requisite response action.
 - ii. ~~If discovery or release of the Hazardous Material has been caused by the Army, then the Army shall have the obligation to take all response and remediation action in a timely fashion as required~~ The Army will perform timely response and remediation in accordance with CERCLA and other applicable Federal and State laws and regulations.
 - iii. As an alternative to 4(b)(ii), should the parties deem it more feasible and practical, the FHWA, in coordination with the Army, may take all response action as required under CERCLA and other applicable Federal and State laws and regulations. The Army shall bear the cost of any such response action. Reimbursement must be based on an auditable accounting.
5. Convey to the Commonwealth an interest in property (easement) necessary for the maintenance and operation of the completed Project.
6. When required by the issuer of the permit, and in conjunction with the FHWA, VDOT and the County, fulfill the obligations as “owner” of ARMY LAND for obtaining any environmental permits, regulatory clearances or approvals necessary under applicable Federal, State, or local law or regulation for construction of the Project.
7. Army required modifications or additions will be subject to the approval of FHWA, VDOT and the County in accordance with applicable American Association of State Highway and Transportation Official (AASHTO) and VDOT standards, regulations and guides, and the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, current edition, as amended.
8. ~~Act as a cooperating agency and p~~Participate in decisions associated with improvements to Army land or where Army interests are involved, including but not limited to the relocation and establishment of new alignments of Route 1 and related secondary roads and utilities, as necessary to implement the Project;
9. As a cooperating agency, Cooperatively participate in NEPA environmental studies and documentation activities, design activities, right-of-way transfers, public involvement, and any other Project activities as applicable;

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10. Cooperate in the FHWA's activities as necessary to provide and obtain the required final environmental and historical clearances and the requisite coordination and approval processes, and assist the FHWA in obtaining permits and Rights-of-Entry for the Project;
11. Assist with the relocation of Army-owned utilities and non-Army owned utilities that are on Army land;
12. Participate in all design and construction field reviews and other project development activities and milestones on Army property in accordance with the project development schedule and cooperate to maintain the project schedule and funding established for the Project, as applicable;
13. Conduct its required processes and activities in accordance with this Project concurrent and in accordance with the project development schedule and cooperate to maintain the project schedule and funding established for the Project; and,
14. Participate in the final inspection of the constructed facility.

B. The FHWA agrees to:

1. Assign and designate a Project Point of Contact for the Project so that all communication regarding the design and construction of the Project will be coordinated and managed through that identified person.
2. Provide full federal oversight for the Project.
3. Prepare a Financial Plan. The Financial Plan shall: (i) address all transfers and expenditures of all Funds; (ii) include funding sources and yearly needs in order to complete the Project with the goal of acceptance of the Project into the Commonwealth's system of highways by 2017; and, (iii) be updated annually. Within 90 days of the completion of each phase of design or construction, as requested for that phase, the FHWA will provide the DoD, VDOT, and the County an auditable accounting of all funds expended for that phase.
4. Expeditiously proceed with the environmental review process. The funding for this activity has been provided under separate agreement between the County and FHWA.

Comment [MLF4]: This was a comment/question from OEA. Will FHWA provide Full Federal Oversight?

Comment [USDOT5]: Kurt: Yes, I believe this is correct. Similar to what Fed-Aid divisions will be doing for other projects.

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5. Procure a Design-Build (D-B) Contractor

- a. FHWA will conduct a two-part process to secure a D-B Contractor with the first step being a Request for Qualifications (RFQ), and the second step being a Request for Proposal (RFP) from firms deemed qualified through the RFQ process.
- b. Prior to issuance of either the D-B RFQ or the D-B RFP, FHWA will conduct a review of its' proposed documents, soliciting input from VDOT, the County, and the Army in the form of written comments. FHWA will incorporate comments by VDOT and the County into the RFQ and RFP as appropriate.
- c. FHWA will conduct review and selection of qualified contractors based on responses to the RFQ. At least one representative of VDOT and one representative of the County will participate as voting members in the selection process.
- d. FHWA will conduct review and selection of the D-B Contractor based on responses to the RFP. At least one representative of VDOT and one representative of the County will participate as voting members in the selection process.
- e. Complete the design and construction for the Project in accordance with applicable AASHTO and VDOT standards and guides and specifications in cooperation with VDOT and the County.

Comment [mh6]: convene a meeting to review the proposed documents and solicit input from VDOT, etc. -- ??

6. ~~For the purposes of this section, Hazardous Materials shall include, but not be limited to, Munitions and Explosives of Concern (MEC), munitions constituents, releases of petroleum and/or petroleum products, asbestos, or any hazardous substance.~~

- a. Prior to beginning construction on any portion of the Project off-ARMY LAND:
 - i. Perform all environmental investigations, property assessments, or studies for munitions and explosives of concern and munitions constituents (MEC), releases of petroleum or any hazardous substances ~~Hazardous Materials~~ on all properties located off ARMY LAND that are necessary to complete the Project as specified in the Approved Plan, as required under CERCLA and other applicable Federal and State laws and regulations and as appropriate under the standards of environmental due diligence. Provide copies of the reports of these investigations, assessments,

Comment [mh7]: Approved right of way plan?

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or studies, along with any recommendations to VDOT and the County prior to commencement of right of way acquisition.

- ii. Perform environmental response to discoveries or releases of MEC, release of petroleum or any hazardous substances~~Hazardous Materials~~ as required under CERCLA and other applicable Federal and State laws and regulations on the properties located off ARMY LAND required for the completion of the design and construction of the Project. This obligation does not apply if a release of MEC, release of petroleum or hazardous substance ~~Hazardous Material~~ on off-ARMY LAND property has been caused by the Army. In that event, the Army is responsible for response and remediation under Paragraph ~~Army~~A(4)(b). If, as permitted by Paragraph ~~Section Army~~ A(4)(b)(iii) of this Agreement, environmental response is conducted by the FHWA, FHWA agrees to perform such response.
- iii. Perform asbestos inspection, demolition, and abatement in or on any structure or fixture located on properties on or off ARMY LAND as necessary for the construction of the Project, as required by applicable Federal or State law and regulations.
- iv. The costs of investigation, assessment, study, and response required by this paragraph shall be paid from Project funds.

Comment [mh8]: Paragraph A(4)(b) of this Agreement

Comment [mh9]: Paragraph A(4)(b)(iii) of this Agreement

b. During construction

- i. Notify the Army, VDOT, the County, and, in accordance with State and Federal law, appropriate State and Federal agencies discoveries or releases of MEC, release of petroleum or any hazardous substances~~Hazardous Materials~~ during the course of construction. Provide VDOT and the County with a description of remediation/disposal activities undertaken to address such MEC, release of petroleum or any hazardous substances~~Hazardous Materials~~.
- ii. For a discovery or release of MEC, release of petroleum or any hazardous substances~~Hazardous Materials~~ off ARMY LAND, not caused by the Army, then the FHWA shall take all response action as required under CERCLA and other applicable Federal and State laws and regulations.
- iii. For discovery or release of MEC, release of petroleum or any hazardous substances~~Hazardous materials~~ caused by the Army,

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coordinate with the Army all required response activities required by CERCLA and other applicable Federal and State laws and regulations. Provide plans for required waste management and remediation activities to VDOT and the County for review. If the FHWA takes response action for contamination on off-ARMY LAND property caused by the Army, the Army shall be responsible for reimbursement for those costs. Any reimbursement must be based on an auditable accounting.

- iv. Except as otherwise provided in this document, for properties located off-ARMY LAND, if agreed to by VDOT and the County, FHWA shall take all response action related to discoveries or releases of MEC, release of petroleum or any hazardous substances~~Hazardous Materials~~ and abatement of asbestos and demolition of any structures or fixtures existing on the off-ARMY LAND properties. If the FHWA takes response action, Project Funds shall be utilized for reimbursement for those costs. Any reimbursement must be based on an auditable accounting.
- v. Perform any asbestos and/or lead-based paint inspections and abatement as required by Federal, State and local laws and regulations for any structures present on or off-ARMY LAND properties, and demolish such structures as required for the construction of the Project. The costs for such inspection, abatement, and demolition will be paid out of Project Funds.

7. Obtain written comments and concurrence from the Parties for the following activities and/or products:

- a. RFQ and RFP (for design-build contract);
- b. Design reviews as appropriate for Design-Build;
- c. Plan changes – including plans, specifications, and estimates;
- d. Schedules and schedule updates
- e. Budget and budget updates
- f. Completed construction project.
- g. Contract modifications.

8. Prepare and provide plans and plats for the acquisition of right-of-way by VDOT.

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9. Coordinate with utility owners and the other Parties to the Agreement, prepare utility relocation plans, obtain utility agreements, and relocate utilities as required for the Project. Franchise utilities (electric, gas, communications) shall be responsible for securing their own easements. FWHA shall prepare deeds and plats as required for transfer of easements for County-owned utilities (sanitary sewer, water, storm water).
10. Apply for and obtain all required environmental permits, including for compensatory mitigation, and approvals in coordination with Army, VDOT and the County as required.
11. Award Project contracts in accordance with Federal procurement laws and regulations.
12. Conduct and document the final inspection, with the other Parties to the Agreement in attendance, and provide final inspection documentation.
13. Provide as-built plans to the Parties to the Agreement.
14. Prepare deed, a metes and bounds description, and survey plat of the interest in property to be conveyed to the Commonwealth. Mark all property corners with permanent survey markers.
15. Be responsible for the administrative settlement or adjudication of claims arising from contracts awarded by the FHWA and covered by this Agreement in accordance with the Federal Acquisition Regulation and the Transportation Acquisition Manual and subject to the availability of Project Funds. Settlements shall be subject to VDOT and County approval when settlement would be paid out of Project Funds.
16. Prepare monthly written status reports on the Project for all Parties.
17. Hold regular meetings with all Parties on the Project regarding the status of the Project. Include all Parties in the partnering meetings with the Contractor.
18. Allow VDOT and the County, or its consultants, access to the Project throughout the procurement, design, right-of-way acquisition and construction process and to participate in field reviews, onsite inspections, records reviews and to monitor the entire process.
19. Prepare and submit detailed monthly performance and financial reports for DoD as required by inter-agency agreement for eligible Project expenditures as outlined in this Agreement. Include all necessary documentation required by the

Comment [mh10]: Is this something we really want to agree to?

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Interagency Agreement for Project Funds Transfer between DoD and FHWA.
Provide copies of all submissions to VDOT and the County.

20. Provide DoD, VDOT and the County all design and other work performed by FHWA or its contractor on the Project which have been paid with Project funds in the event that FHWA does not award contract(s) for the construction of the Project.
21. Design future replacement of the existing railroad transit corridor bridge with a bridge consistent with the Real Property Master Plan Digest, Fort Belvoir Virginia, dated December 2009, which requires “Conversion of the abandoned railway into a transit corridor – either as BRT or light-rail system to connect to Franconia-Springfield Metrorail Station and VRE Station.” At the time of design, FHWA will coordinate with Fort Belvoir to determine if a more recent Master Plan information is available, and shall use the latest Fort Belvoir adopted Master Plan to prepare a Type, Size and Location design for the bridge.
22. Administer Contract Modifications using the following procedure:
 - a. All potential contract modifications will be evaluated for impacts to scope (design and construction), cost, schedule, and risk, using a standard form to be established by FHWA.
 - b. Contract modifications will be reviewed and approved by all Parties (Army, FHWA, VDOT and County for Army property; FHWA, VDOT and County for non-Army property) before direction is given to the Designer of Record and/or the Contractor to implement changes.
 - c. FHWA shall maintain a log of all contract modifications from the date of approval of the Design Documents through completion of the Project.
 - d. Project Changes will be evaluated on individual and aggregate basis to maintain Project budget and schedule.
23. Prepare and maintain a Project schedule throughout the project. Prepare an initial schedule for review and approval by the Parties and, on approval, establish baseline. Provide monthly updates of the Project Schedule with explanations for variations in planned activities. Schedule shall be developed prior to contract award and shall include consideration of interim milestones that could allow portions of the project to be completed in advance to provide incremental improvements in capacity and/or functionality during construction.
24. Manage risk using a process by which FHWA, in cooperation with VDOT and the County, will identify, score, and rank risks to the Project. Risk Register shall be developed to include the Risk, Comment and Mitigation, Probability, Impact, and Risk Score, defined as the product of the Probability and the Impact. The Risk Register shall be sorted with the greatest Risk listed first with others listed in decreasing order based on Risk Score. FHWA shall develop risk mitigations

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simultaneously with current activities to ensure project progress based on evaluation of level of risk, cost of mitigation, and other factors as appropriate. Risk Register will be reviewed monthly at the regular progress meetings and probability and impacts re-evaluated as necessary.

25. Enter into a separate Federal-Aid Project Agreement ([PR-2](#)) with VDOT to provide funding to complete tasks that are assigned to VDOT in this Agreement.
26. Enter into a separate Federal-Aid Project Agreement with the County to provide funding to complete tasks that are assigned to the County in this Agreement.
27. In accordance with VDOT's Road and Bridge Standards and the Project D-B RFP, to maintain, or cause to be maintained, all Project facilities constructed within VDOT right-of-way or easement until accepted by VDOT.
28. To the extent reasonably possible, conduct its construction on roadways in such a manner so as to not unreasonably disrupt the movement of pedestrian and vehicular traffic. The FHWA will maintain access to operating businesses to the extent permitted by construction based on approved plans.
29. To install signs and associated structures, pavement markings, lighting and barricades in accordance with plans approved by VDOT and COUNTY in compliance with all applicable standards and requirements used by VDOT and COUNTY, including but not limited to: the most current respective edition of the Manual on Uniform Traffic Control Devices (MUTCD), Virginia Work Area Protection Manual, VDOT Northern Virginia District Traffic Engineering Design Guidelines for Traffic Control Devices, VDOT Road and Bridge Specification and VDOT Road and Bridge Standards. FHWA shall be responsible for maintaining the items installed until accepted by VDOT for maintenance.
30. To conduct and document the final inspection, with the other Parties to the Agreement in attendance, and provide final inspection documentation after obtaining written concurrence of the other Parties.
31. To provide special provisions and notice of restrictions to its contractor(s) that are acceptable to VDOT for roads maintained by VDOT that are affected by the Project. These shall be listed as performance requirements in the construction contract documents and will serve as the basis for the traffic maintenance (control) plans prepared prior to the issuance of VDOT land use permits.
32. Provide all Right of Way Services for the Project. Include in the scope of services to be provided by the D-B Contractor all right-of-way services required to complete the Project. Through the D-B Contractor, provide all necessary R/W

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functions and activities to acquire Project R/W both on-ARMY LAND and off-ARMY Land. Services shall be provided in accordance with the provisions of Appendix A - Right-of-Way Acquisition by Design-Builder.

- a. Any property remaining as residue parcels after completion of design and acquisition shall be deeded to the Parties to the Agreement or adjacent owners as mutually agreed by the Parties to the Agreement. Residue parcels shall be used, in order of priority,
 - i. To provide for Project requirements (storm water management, access, utilities, etc.),
 - ii. To provide permanent space for maintenance of improvements constructed by the Project,
 - iii. To reduce Project Cost by offsetting impacts to property owners whose property was either given or taken in order to complete the Project, or
 - iv. Other Reasons

C. VDOT agrees to:

1. Assign and designate a Project Point of Contact so that all communication regarding the design and construction of the Project will be coordinated and managed through that identified person.
2. Enter into a separate Federal-Aid Project Agreement (PR-2) with FHWA to receive funding to complete tasks that are assigned to VDOT in this Agreement.
3. Coordinate with FHWA and its contractor(s) all Right of Way Services for the Project:
 - a. Coordinate with FHWA and provide support for all necessary R/W functions and activities by FHWA to acquire Project R/W both on-ARMY LAND and off-ARMY Land required for the construction of the Project. Review Federal lands transfer and/or right-of-way and/or easement documents for both Federal and non-Federal lands as applicable. Plans, plats, and metes and bounds descriptions will be provided by FHWA. Review and approve documents required for R/W acquisition including, but not limited to, rights-of-entry, title reports, appraisals, owner/tenant relocations, property owner negotiations, property closings and preparation of Certificates of Take. In the event a property owner is not willing to convey property for the Project, execute condemnation package(s) prepared by FHWA including filing with the circuit court any Certificates of Take. Review all subsequent AAC's (Agreement After Certificate). VDOT will pursue cases requiring court action with assistance from the FHWA and its contractor, until final case resolution.

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- b. VDOT will assign either staff from inside VDOT to work on the Route 1 Widening Project, or will hire a contractor to represent VDOT to work on the Route 1 Widening Project. This staff or contractor will serve as VDOT's Route 1 R/W Coordinator, and will manage the Right of Way Services Contractor and coordinate all R/W functions and activities to maintain project schedule and clear R/W for construction. Expenses for VDOT's staff and (or) Route 1 R/W Coordinator will be paid for using Project Funds.
- c. The VDOT Route 1 R/W Coordinator will coordinate with Fairfax County's R/W Coordinator to determine what, if any, proffers may exist within the project limits that would result in the dedication of R/W to the project, rather than purchase or take.
- d. Coordinate with FHWA and the County to establish objectives for negotiation.
- e. For those properties deemed necessary to be acquired through the power of eminent domain, prepare, review and approve condemnation package(s) and execute condemnation. Record the appropriate Certificate of Deposit or Certificate of Take. Assign cases to fee counsel approved by the Office of the Attorney General, Commonwealth of Virginia, review and approve invoices, and provide copies of all invoices to FHWA and the County. Approved invoices provided to FHWA for payment will be paid within 30 days of receipt from Project funds.
- f. Provide written monthly progress reports to FHWA and the County detailing the status of condemnation proceedings including impacts to schedule and cost.
- g. Any property remaining as residue parcels after completion of design and acquisition shall be deeded to the Parties to the Agreement or adjacent owners as mutually agreed by the Parties to the Agreement. Residue parcels shall be used, in order of priority,
 - i. To provide for Project requirements (storm water management, access, utilities, etc.),
 - ii. To provide permanent space for maintenance of improvements constructed by the Project,
 - iii. To reduce Project Cost by offsetting impacts to property owners whose property was either given or taken in order to complete the Project, or
 - iv. Other Reasons
- h. Grant read-only access to FHWA and the County, and grant full access to the Design-Builder, to VDOT's Right of Way and Utilities Management System ("RUMS") to manage and track the acquisition process. Training in the use of RUMS and technical assistance will be provided by VDOT.

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4. Participate in all design and construction field reviews (including pre-construction and progress meetings) and other Project development activities and milestones as applicable.
5. When required by the issuer of the permit, and in conjunction with the FHWA, fulfill the obligations as “owner” of the off-ARMY LAND property for obtaining any environmental permits, regulatory clearances or approvals necessary under applicable Federal, State, or local law or regulation for construction of the Project on off-ARMY LAND property.
6. After approval of Project construction plans, and upon receipt of complete permit applications from the FHWA, issue Land Use Permits for access necessary for construction on the off-ARMY LAND parcels.
7. If the completed Project improvements, or any phase of independent utility, meet VDOT standards and specifications, approve the Project, or any phase of independent utility within 60 days of its completion.
8. Within 90 days of approval of the completed Project, or any phase of independent utility, and upon receipt of the metes and bounds description, accept an interest in property (in the form of an easement) in order to allow VDOT to operate and maintain the completed Project, or any phase of independent utility, and initiate the acceptance of the road as part of the systems of state highways to be maintained by VDOT.
9. Regulate and control future access connections to Route 1 through review and approval of proposed future connections to ensure that the roadway continues to operate in a manner acceptable to VDOT and the County.
10. Issue Land Use Permits or provide easements as appropriate for utilities under or across Route 1 and connecting to adjacent properties as required for the development of the Project. FHWA or its designee will coordinate with VDOT and the County to ensure agreement on location of the facilities and the method of construction.
11. To participate in the final inspection of the constructed Project;

12. ~~WHEREAS, Upon performance of if environmental cleanup is required by applicable environmental law or regulation and when VDOT has certified that the completed Project meets or exceeds VDOT and FHWA requirements and standards in order to allow VDOT to approve, operate and maintain the completed Project, VDOT agrees to accept conveyance of an interest in property (a roadway easement) (hereinafter “an interest in property”) as necessary to operate and~~

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maintain the roadway; and VDOT agrees to initiate the acceptance of the road as part of the systems of state highways to be maintained by VDOT.

D. The COUNTY agrees to:

1. Assign and designate a Project Point of Contact for the project so that all communication regarding the Project will be coordinated and managed through that identified person.
2. Cause the FHWA to administer design and construction of the Project.
3. Cause the FHWA to design and construct modifications or additions to the Project, which are beyond the design of the Approved Plan. All required modifications or additions will be subject to the approval of the Army (for Army property), FHWA, VDOT and the County in accordance with applicable American Association of State Highway and Transportation Officials (AASHTO) and VDOT standards, regulations and guides, and the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, current edition, as amended.
4. Enter into a separate Federal-Aid Project Agreement (PR-2) with FHWA to receive funding to complete tasks that are assigned to the County in this Agreement;
5. Act as a cooperating agency and be responsible for guiding decisions associated with improvements to County land or where County interests are involved, including but not limited to the relocation and establishment of new alignments of Route 1 and related secondary roads, and utilities as necessary to implement the Project;
6. Cooperatively participate in NEPA environmental studies and documentation activities, design activities, right-of-way transfers, public involvement, and any other project activities as applicable;
7. Approve the final designs for all improvements related to County-owned facilities;
8. Cooperate in the FHWA's activities as necessary to provide and obtain the required final environmental and historical clearances and the requisite coordination and approval processes, and assist the FHWA in obtaining permits for the Project;

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9. Review and provide comments on the utility relocation plans and assist with the relocation of County-owned utilities;
10. Participate in all design and construction field reviews and other project development activities and milestones as applicable;
11. Cooperate in applicable project activities, including right of way acquisition, in accordance with the Project Management Plan, to ensure satisfactory completion of the project;
12. Conduct its required processes and activities in accordance with this project concurrent and in accordance with the project development schedule and cooperate to maintain the project schedule and funding established for the project subject to appropriations made by the Board of Supervisors of Fairfax County, Virginia, in its sole discretion;
13. Participate in the final inspection of the constructed facility.

ARTICLE II: DESCRIPTION OF THE CONVEYANCE

- A. The interest in property to be conveyed to the Commonwealth lies generally along the existing alignment of Route 1 between Telegraph Road and Mount Vernon Memorial Highway. Existing Route 1 is generally within an existing 80' wide easement. The proposed improvements will be contained within a 148' wide base easement, with additional easement granted for intersection turn lanes, slopes, utilities, drainage improvements, etc., which alignment is located both on Army land and privately held land.
- B. Both the Army and private land owners shall convey the interest in property to the Commonwealth by a good and sufficient deed in a form agreed upon in good faith by the Parties.
- C. The interest in property conveyed to the Commonwealth shall be subject to the following encumbrances:
 1. Existing easements, reservations, and restrictions of record;
 2. Institutional controls, conditions, notices, reservations, or restrictions necessary to ensure the health, welfare, and safety of the public or protection of the environment; provided that in imposing any conditions and restrictions, the Army shall make a good faith effort to use reasonable means, without

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significant additional cost to the Army, to avoid and/or minimize interference with VDOT's operation and maintenance of the roadway;

3. Existing building or zoning laws, as applicable; and
 4. Land use permits as appropriate for utilities under or across Route 1 at the time of the conveyance.
- D. In exercising its rights and authorities under this Agreement or any easements, reservations, restrictions, or encumbrances existing, reserved or requested by the Army pursuant to this Agreement and/or the deed conveying an interest in property, the Army will notify and consult with VDOT to minimize interference with roadway operation or maintenance.
- E. The Parties acknowledge that conveyance to the Commonwealth of an interest in property through the ARMY LAND has been determined by VDOT to be necessary to complete the widening of Route 1. The Parties further acknowledge that the final "on-the-ground" alignment of the Project may differ somewhat from the alignment contemplated in the preliminary drawings available at the time of this Agreement. Accordingly, to ensure that the minimal area needed to support long-term operation and maintenance of the has been conveyed to the Commonwealth, the Parties agree to collaboratively review and determine whether a boundary adjustment of the parcel in which the interest in property is to be conveyed is practicable and warranted. Such review will be conducted after construction of the Project is completed but prior to conveyance of the interest in property. Agreed upon adjustments to the boundary will be reflected in the Deed.
- F. The interest in the Property is to be conveyed in accordance with [10 USC 2668](#)~~the Defense Authorization Acts~~ for use as a highway and related purposes. The Commonwealth, for itself and its successor(s) and assign(s), covenants and agrees that the use of the interest in property across the ARMY LAND shall be limited to use for highway, transit, and related purposes. These uses may include, if agreed to, other transportation demand- related improvements.

ARTICLE III: NOTICES

Any notice, request, demand, instruction, or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally (including by messenger or a nationally recognized overnight delivery service) or sent by United States registered or certified mail, return receipt requested, postage prepaid, or by courier, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by messenger or two business days

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after deposit in the mails, if mailed. A Party may change its address for receipt of notices by service of notice of such change in accordance herewith.

If to the Army:

Garrison Commander
Headquarters, United States Army Garrison, Fort Belvoir
9820 Flagler Road, Suite 213
Fort Belvoir, VA 22060-5928
Phone: 703-805-2052

With a copy to:

William L. Sanders
Director of Public Works
U.S. Army Garrison
9430 Jackson Loop, Suite 100
(Building 1442)
Fort Belvoir, VA 22060-5130
Phone: 703-806-3017
Email: Bill.Sanders1@us.army.mil

If to FHWA:

Melisa Ridenour, PE
Division Engineer
Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166
Phone: (703) 404-6201
Fax: (571) 434-1599
email: melisa.ridenour@dot.gov

With a copy to:

Mr. Robert Morris
Senior Project Manager
Department of Transportation
Federal Highway Administration

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Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166
Phone: (703) 404-6302
Fax: (703) 404-6217
email: robert.morris@dot.gov

If to VDOT:

Mal Kerley
Chief Engineer
Virginia Department of Transportation
1401 East Broad Street
Richmond, VA 23219
Phone: 804-786-4798
Email: Mal.Kerley@vdot.virginia.gov
With a copy to:

Tom Fahrney
Commonwealth BRAC Coordinator
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, VA 22030
Phone: 703-259-2381
Email: Tom.Fahrney@vdot.virginia.gov

If to the County:

Tom Biesiadny
Director, Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033
Phone: (703) 877-5663
Fax: (703) 877-5723
email: tom.biesiadny@fairfaxcounty.gov

With a copy to:

Laura Miller
County BRAC Coordinator
Fairfax County Department of Transportation
4050 Legato Road, Suite 400

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Fairfax, VA 22033
Phone: (703) 877-5686
Fax: (703) 877-5723
email: laura.miller@fairfaxcounty.gov

ARTICLE IV: GENERAL TERMS AND CONDITIONS

- A. No part of the Project Funds shall be used by FHWA to pay for the following:
1. Unless otherwise agreed to by the Parties in writing, design or construction of the Project to a standard less than the preferred alternative resulting from the NEPA process, generally as shown in the Fairfax County Comprehensive Plan;
 2. Installation of new utilities or other improvements, including related right-of-way costs, for the development of ARMY LAND by the Army;
 3. Costs incurred as a result of discovery or releases of hazardous substances, petroleum, or MECHazardous Materials on the ARMY LAND including, but not limited to, Army response costs, contractor delay claims, contractor work order claims, or any re-design costs of the Project necessary to avoid or mitigate discovery of such materials;
 4. Relocation or modification of groundwater monitoring wells or any other remedial monitoring device installed on the ARMY LAND within the Project right-of-way;
 5. Costs incurred as result of the discovery or releases of hazardous substances, petroleum, or MECHazardous Materials off of the ARMY LAND caused by the Army, the FHWA, or their contractors;
 6. Payment of contractor claims for delay determined by the FHWA or a Court of competent jurisdiction to be the result of an act or omission or the result of events under the control of the FHWA.
- B. This Agreement, including the attached Project Management Plan, contains the entire agreement and understanding of the Parties, and may not be amended, modified, or discharged nor may any of its terms be waived except by an instrument in writing signed by all of the Parties.
- C. The failure of a Party to insist in any instance upon strict performance of any of the terms, conditions, or covenants contained, referenced, or incorporated into this

Comment [MLF11]: What is the intent of this comment? Need help understanding.

RM – I think this is a holdover from the FC Parkway when VDOT funds were involved. Can it come out?

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Agreement shall not be construed as a waiver or a relinquishment of the Party's rights to the future performance of such terms, conditions, or covenants.

- D. The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the Articles, paragraphs, sections, or subsections to which they apply or otherwise affect the interpretation thereof.
- E. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of the Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.
- F. Nothing set out in this Agreement shall constitute a waiver of the Parties' rights to seek any and all damages to the extent authorized by law, nor shall anything in this Agreement limit any defenses that the Parties may have with respect to such claims for damages.
- G. Nothing in this Agreement shall be construed as creating any rights of enforcement by any person or entity that is not a Party hereto, nor any rights, interest, or third party beneficiary status for any entity or person other than the Parties hereto.
- H. Unless otherwise expressly provided herein, terms used in this Agreement are defined as they are in CERCLA or in regulations promulgated under CERCLA and shall have the meaning assigned to them in CERCLA or in such regulations.
- I. This Agreement has been drafted jointly by the Parties hereto. As a result, the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction shall be applied against any Party.
- J. All parties to the Agreement will be afforded the opportunity to inspect, review and comment on, at any time, work in progress, the financial records, and any other supporting documentation related to this Agreement; and to participate in all meetings and field reviews.
- K. This Agreement is assignable; however, no transfer or assignment of this Agreement, or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by all Parties, which approval shall not be unreasonably withheld.

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- L. The Parties accept full responsibility for any property damage, injury, or death caused by the acts or omissions of their respective employees, acting within the scope of their employment, or their contractors' scope of work, to the extent allowed by the law. All claims shall be processed pursuant to applicable governing law.
- M. Any claim filed alleging an injury during the performance of this Agreement, which may be traced to a party, shall be received and processed by the party having responsibility for the particular injury-causing condition, under the law that governs such party.
- N. Nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authorities. Nothing in this Agreement shall be deemed to bind any Party to expend funds in excess of available appropriations.
- O. The Parties shall not discriminate in the selection of employees or participants for any employment or other activities undertaken pursuant to this Agreement on the grounds of race, creed, color, sex, or national origin, and shall observe all of the provisions of Titles VI and VII of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000(d) et. seq.). The Parties shall take positive action to ensure that all applicants for employment or participation in any activities pursuant to this Agreement shall be employed or involved without regard to race, creed, color, sex, or national origin.
- P. No member of, or Delegate to, or Resident Commissioner in Congress shall be admitted to any share or part of this Agreement, or to any benefits that may arise therefrom, unless the share or part or benefit is for the general benefit of a corporation or company.
- Q. The Parties will abide by the provisions of 18 U.S.C. §1913 (Lobbying with Appropriated Monies).
- R. Contracts entered into by any Federal Agency pursuant to this Agreement are subject to all laws governing federal procurement and to all regulations and rules promulgated there under, whether now in force or hereafter enacted or promulgated, except as specified in this Agreement.
- S. Nothing in this Agreement shall be construed as in any way impairing the general powers of the parties for supervision, regulation, and control of its property under such applicable laws, regulations, and rules.
- T. Because the interest in property conveyed to the Commonwealth will be an easement, the Parties to this Agreement shall take all necessary acts to ensure the

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Commonwealth obtains concurrent jurisdiction over the Project on the ARMY LAND upon approval of the Project by VDOT as part of the process of accepting the roadway into the systems of state highways for operation and maintenance by VDOT. This requirement is not applicable to the conveyance of a fee simple interest.

ARTICLE V: FUNDING LIMITATIONS

It is the expectation of the Parties to this Agreement that all obligations of the Army, FHWA, VDOT and the County arising under this Agreement will be fully funded. The Parties agree to seek sufficient funding through the budgetary process to fulfill their obligations under this Agreement.

The obligation of the Army and the FHWA to expend, pay, or reimburse any funds under this Agreement is subject to the availability of appropriated funds, and nothing in this Agreement shall be interpreted to require obligations or payments by the Army or the FHWA in violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

VDOT's obligation to expend, pay, or reimburse any funds under this Agreement is subject to the availability of appropriations by the Virginia General Assembly and allocations by the Commonwealth Transportation Board.

The County's obligation to expend, pay, or reimburse any funds under this Agreement is subject to the availability of appropriations by the Fairfax County Board of Supervisors.

ARTICLE VI: DISBURSEMENT OF FUNDS

- A. DoD funds (in aggregate up to \$180 million) will be provided directly from the DoD Office of Economic Adjustment to FHWA in accordance with an Interagency Agreement for use on the Project. All funds and activities are subject to the requirements of Title 23 and standard Federal-aid procedures.
- B. FHWA and its contractor(s) shall make direct payments of benefits to property owners for negotiated settlements, relocation benefits, and payments to be deposited with the court. VDOT will process vouchers and issue State Warrants for all payments and send to the FHWA and its contractor(s), who will be responsible for disbursement and providing indefeasible title to VDOT.
- C. VDOT will be reimbursed for costs in connection with the Project through FHWA's Rapid Approval and State Payment System (RASPS) in accordance with standard Federal-Aid procedures from Federal funds provided directly to FHWA for activities such as cooperative participation in FHWA's efforts to obtain

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necessary environmental and historical clearances and permits and to implement treatment measures, acquisition of right-of-way, roadway abandonment and acceptance activities on the Project.

- D. For the initial request for funds, or if additional Federal funds are needed by VDOT for project activities from funds provided to FHWA, VDOT will prepare, execute, and forward a Project Agreement, PR-2 (~~or similar VDOT document~~) to request funding for applicable work activities (including a schedule and costs) to FHWA and the County for review and approval. FHWA will authorize and execute the project amount based on the PR-2. VDOT may invoice the FHWA under normal FHWA current billing procedures as work progresses for reimbursement. The PR-2 may also be modified as necessary to cover abandonment and acceptance activities. The VDOT will submit a monthly progress report to FHWA and the County describing the activities performed and expenses billed. Upon completion of the applicable project activities, the Project Agreement, PR-2 (~~or similar VDOT document~~) will be modified and closed.
- E. The County currently receives Federal aid in the form of a grant from DoD to mitigate impacts from BRAC 2005 relocations within the County. It is expected that the DoD grant will cover County costs associated with the development of the Project. In the event the DoD grant does not cover the County's cost for its cooperative participation in the project, the County will be reimbursed for costs in connection with the Project in accordance with standard Federal-Aid procedures from Federal funds directly allocated to FHWA for activities such as cooperative participation in FHWA's efforts to obtain necessary environmental and historical clearances and permits and to implement treatment measures, acquisition of right-of-way, roadway abandonment and acceptance activities on the Project. At the request of FHWA, the County will direct that remaining Federal-Aid funds be de-allocated and returned to FHWA and reallocated by the FHWA for design or construction of the Project.
- F. For the initial request for funds, or if additional Federal funds are needed by the County for project activities from funds provided to FHWA, the County will prepare, execute, and forward a Project Agreement to request funding for applicable work activities (including a schedule and costs) to FHWA and VDOT for review and approval. FHWA will authorize and execute the project amount based on the submittal. The County may invoice the FHWA under normal FHWA current billing procedures as work progresses for reimbursement. The County will submit a monthly progress report to FHWA and VDOT describing the activities performed and expenses billed. Upon completion of the applicable project activities, the Project Agreement, PR-2 (or similar document) will be modified and closed.

ARTICLE VII: DISPUTE RESOLUTION

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Any dispute between the Parties that cannot be resolved by the Project Point of Contacts shall be formally presented in writing to the Chief Engineer of VDOT, the Garrison Commander for Fort Belvoir, the Division Engineer for EFLHD-FHWA and the Director of the Fairfax County Department of Transportation for resolution. Any resolution of the dispute shall be reduced to writing signed by the Reviewers.

If the dispute cannot be resolved by the second level of review, then the matter may be presented to the Commissioner of VDOT, the Assistant Secretary of the Army (Installations and Environment), the Administrator of the FHWA, and the County Executive of Fairfax County.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as verified by their signatures below.

**UNITED STATES OF AMERICA
DEPARTMENT OF THE ARMY**

By: _____
_____ Date

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**UNITED STATES OF AMERICA
FEDERAL HIGHWAY ADMINISTRATION**

By: _____
_____ Date

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION**

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By: _____
_____ Date _____

FAIRFAX COUNTY

By: _____
_____ Date _____

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Appendix A – Right-of-Way Acquisition by Design-Builder

The Design-Builder, under contract to the Federal Highway Administration (“FHWA”), acting as agent on behalf of the Virginia Department of Transportation (VDOT), shall provide all right of way acquisition services for the Project's acquisition of fee right of way and permanent, temporary and utility easements, including survey plats. Right of way acquisition services shall include certified title reports, appraisal, appraisal review, negotiations, and relocation assistance services and, parcel closings, to include an attorney's final certification of title. The Design-Builder's lead right of way acquisition consultant shall be a member of VDOT's prequalified right of way contracting consultants (listed on VDOT's web site) and the Design-Builder's right of way team shall include VDOT prequalified appraisers and review appraisers (also listed on VDOT's web site). FHWA, in consultation with VDOT, will retain authority for approving appraisal scope and appraiser, just compensation, relocation benefits, and settlements. VDOT must issue a Notice to Proceed for Right of Way Acquisition to the Design-Builder prior to any offers being made to acquire the property. This represents a hold point in the Design-Builder's Baseline Schedule. FHWA must also issue a Clearance for Construction to the Design-Builder once the property has been acquired prior to commencing construction on the property. This also represents a hold point in the Design-Builder's Baseline Schedule. The Design-Builder will NOT be responsible for the right of way acquisition costs. As used in this RFP, the term "right of way acquisition costs" means the actual purchase price paid to a landowner for right of way, including fee, any and all easements, and miscellaneous fees associated with closings as part of the Project. All right of way acquisition costs will be paid by VDOT, and shall not be included in the Offeror's Lump Sum Bid. Notwithstanding the foregoing provision, should additional right of way (whether fee or easements) be required to accommodate Design-Builder's unique solution and/or Contractor's means, methods and resources used during construction above and beyond the right of way limits depicted on the preliminary drawings included in the RFP Information Package, then all right of way acquisition costs for such additional fee or easements shall be paid by the Design-Builder. These costs would include (but not be limited to) the costs of any public hearings that may be required, actual payments to property owners and all expenses related to the additional acquisitions and associated legal costs as well as any additional monies paid the landowners to reach a settlement or pay for court award. In the event additional right of way is needed as a result of an approved scope change request by the Design-Builder, the Design-Builder shall follow the procedures indicated in the "Right of Way Acquisition Guidelines" included in the RFP information package. Additionally, the Design-Builder is solely responsible for any schedule delays due to additional right of way acquisition associated with the Design-Builder's design changes and no time extensions shall be granted.

The following responsibilities shall be carried out by either the Design-Builder or VDOT as specified in each bulleted item below:

- The Design-Builder shall acquire property in accordance with all Federal and

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State laws and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the "Uniform Act") and Titles 25.1 and 33.1 of the 1950 Code of Virginia, as amended. The acquisition of property shall follow the guidelines as established by VDOT, State and Federal guidelines, the VDOT Right of Way Manual of Instructions, the VDOT Utilities Manual of Instructions, and IIM-LD-243.4 and Chapter 12 of the VDOT Survey Manual, which require individual plats to be prepared and recorded with each deed, easement agreement, certificate or other instrument relating to the acquisition of any interest in real property required for this Project. All conveyance documents for the acquisition of any property interest shall also be accompanied by properly marked plan sheets and profile sheets.

- VDOT shall designate a hearing officer to hear any Relocation Assistance appeals. VDOT agrees to assist with any out of state relocation by persons displaced within the rights of way by arranging with such other state(s) for verification of the relocation assistance claim.

Comment [MLF12]: Do these remain VDOT responsibilities?

- The Design-Builder shall submit a Project specific Acquisition and Relocation Plan to FHWA for approval, in consultation with VDOT, prior to commencing right of way activities. No offers to acquire property shall be made prior to the Acquisition and Relocation Plan approval. This represents a hold point in the Offeror's CPM Schedule. The Acquisition and Relocation Plan shall describe the Offeror's methods, including the appropriate steps and workflow required for title examinations, appraisals, review of appraisals, negotiations, acquisition, and relocation, and shall contain the proposed schedule of right of way activities including the specific parcels to be acquired and all relocations. The schedule shall include activities and time associated with FHWA's review and approval of just compensation, relocation benefits and administrative settlements. The plan shall allow for the orderly relocation of displaced persons based on time frames not less than those provided by the Uniform Act. This plan shall be updated as necessary during the life of the Project.

- Both a FHWA Representative and a VDOT Representative will be available to make timely decisions concerning establishing review and approval of just compensation, approval of relocation benefits, and approval of administrative settlements on behalf of VDOT. The FHWA Representative, in consultation with VDOT, is committed to issuing decisions on approval requests within twenty one (21) days. The commitment is based on the Plan providing a reasonable and orderly workflow and the work being provided to the FHWA Representative as completed.

- The Design-Builder shall obtain access to and use VDOT's Right of Way and Utilities Management System ("RUMS") to manage and track the acquisition process. RUMS will be used for Project status reporting; therefore, entries in RUMS shall be made at least weekly to accurately reflect current Project status. VDOT standard forms and documents, as found in RUMS, will be used to the extent possible. Training in the

Memorandum of Agreement
Design and Construction of Route 1 Improvements
Between Telegraph Road & Mount Vernon Memorial Highway
Fairfax County, Virginia

use of RUMS and technical assistance will be provided by VDOT. County shall have read-only access to the RUMS system for the purposes of monitoring R/W acquisition progress.

- The Design-Builder shall provide a current title examination (no older than sixty (60) days) for each parcel at the time of the initial offer to the landowner. Each title examination report shall be prepared by a VDOT approved attorney or Title Company. If any title examination report has an effective date that is older than sixty (60) days, an update is required prior to making an initial offer to the landowner. A Title Insurance Policy in favor of the Commonwealth of Virginia in form and substance satisfactory to the FHWA and VDOT shall be provided by the Design-Builder for every parcel acquired.
- The Design-Builder shall prepare appraisals in accordance with VDOT's Appraisal Guidelines.
- The Design-Builder shall provide appraisal reviews complying with technical review guidelines the Design-Builder shall submit a scope of work detailing the type of appraisal to be prepared for each parcel and the name of the proposed appraiser for FHWA review and approval prior to commencing the individual parcel appraisal. The proposed appraiser shall be of an appropriate qualification level to match the complexity of the appraisal scope.
- The Design-Builder shall provide appraisal reviews complying with technical review guidelines found in VDOT's Right of Way Utilities Manual of Instructions and make a recommendation of just compensation. The Design-Builder's right of way consultant shall be a member of the VDOT pre-qualified contracting consultant list, and include a VDOT pre-qualified Fee Appraiser. The reviewer shall be approved by FHWA, in consultation with VDOT, and shall also be on VDOT's approved fee appraiser list. VDOT shall have the responsibility to recommend final approval of all appraisals to FHWA.
- The Design-Builder shall make direct payments of benefits to property owners for negotiated settlements, relocation benefits, and payments to be deposited with the court. Payment documentation is to be prepared and submitted with the Acquisition Report (RW-24). VDOT will process vouchers and issue State Warrants for all payments and send to the Design-Builder, who will be responsible for disbursement and providing indefeasible title to VDOT.
- The Design-Builder shall prepare, obtain execution of, and record documents conveying title to such properties to the Commonwealth of Virginia and deliver all executed and recorded general warranty deeds to FHWA and VDOT. For all property purchased in conjunction with the Project, title will be acquired in fee simple (except that VDOT may, in its sole discretion, direct the acquisition of a right of way easement with respect to any portion of the right of way) and shall be conveyed to the "Commonwealth

Memorandum of Agreement
Design and Construction of Route 1 Improvements
Between Telegraph Road & Mount Vernon Memorial Highway
Fairfax County, Virginia

of Virginia, Grantee" by a VDOT-approved general warranty deed, free and clear of all liens and encumbrances, except encumbrances expressly permitted by VDOT in writing in advance. All easements, except for private utility company easements shall be acquired in the name of "Commonwealth of Virginia, Grantee". Private utility company easements will be acquired in the name of each utility company when the private utility company has prior recorded easements.

- Because these acquisitions are being made on behalf of the Commonwealth, VDOT shall make the ultimate determination in each case as to whether the recommendation for settlement is appropriate or whether the filing of an eminent domain action is necessary, taking into consideration the recommendations of the Design-Builder. When VDOT recommends the filing of a certificate to FHWA, the Design-Builder shall prepare a Notice of Filing of Certificate and the certificate assembly. All required documents necessary to file a certificate shall be forwarded to the FHWA and VDOT Project Managers. VDOT will review and execute the certificate, provide the money as appropriate and will return the assembly to the Design-Builder. The Design-Builder shall update the title examination and shall file the certificate.
- When FHWA, in consultation with VDOT, determines that it is appropriate, the Design-Builder shall be responsible for continuing further negotiations for a minimum of sixty (60) days in order to reach settlement after the filing of certificate. After that time the case will be assigned to an outside attorney appointed by VDOT and the Office of the Attorney General. When requested, the Design-Builder shall provide the necessary staff and resources to work with VDOT and its attorney throughout the entire condemnation process until the property is acquired by entry of a final non-appealable order, by deed, or by an Agreement After Certificate executed and approved by VDOT and the appropriate court. The Design-Builder will provide updated appraisals (*i.e.*, appraisal reports effective as of the date of taking) and expert testimony supporting condemnation proceedings upon request by FHWA and VDOT. Services performed by the Design-Builder or its consultants after an eminent domain action is assigned to an outside attorney will be paid, if and when necessary, under a contract modification.
- The Design-Builder will be responsible for all contacts with landowners for rights of way or construction items.
- The Design-Builder shall maintain access at all times to properties during construction.
- The Design-Builder shall use reasonable care in determining whether there is reason to believe that property to be acquired for rights of way may contain concealed or hidden wastes or other materials or hazards requiring remedial action or treatment. When there is reason to believe that such materials may be present, the Design-Builder shall notify FHWA within three (3) calendar days. The Design-Builder shall not proceed with acquiring such property until they receive written notification from FHWA.

Memorandum of Agreement
Design and Construction of Route 1 Improvements
Between Telegraph Road & Mount Vernon Memorial Highway
Fairfax County, Virginia



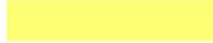

- During the acquisition process and for a period of three years after final payment is made to the Design-Builder for any phase of the work, and until the Commonwealth of Virginia has indefeasible title to the property, all Project documents and records not previously delivered to FHWA and VDOT, including but not limited to design and engineering costs, construction costs, cost of acquisition of rights of way, and all documents and records necessary to determine compliance with the laws relating to the acquisition of rights of way and the costs of relocation of utilities, shall be maintained and made available to FWHA and VDOT for inspection and/or audit. Throughout the design, acquisition and construction phases of the Project, copies of all documents and correspondence shall be submitted to FHWA, and both the Central Office and respective Regional Right of Way office.
- Prior to Project completion, the Design-Builder shall provide and set VDOT RW-2 right of way monuments within the Project Limits.

Comment [MLF13]: VDOT Comment: I believe the requirement for keeping records is 3 years after the FHWA final voucher, not final payment to the DB.

Attachment C – Area of Potential Effect



Legend

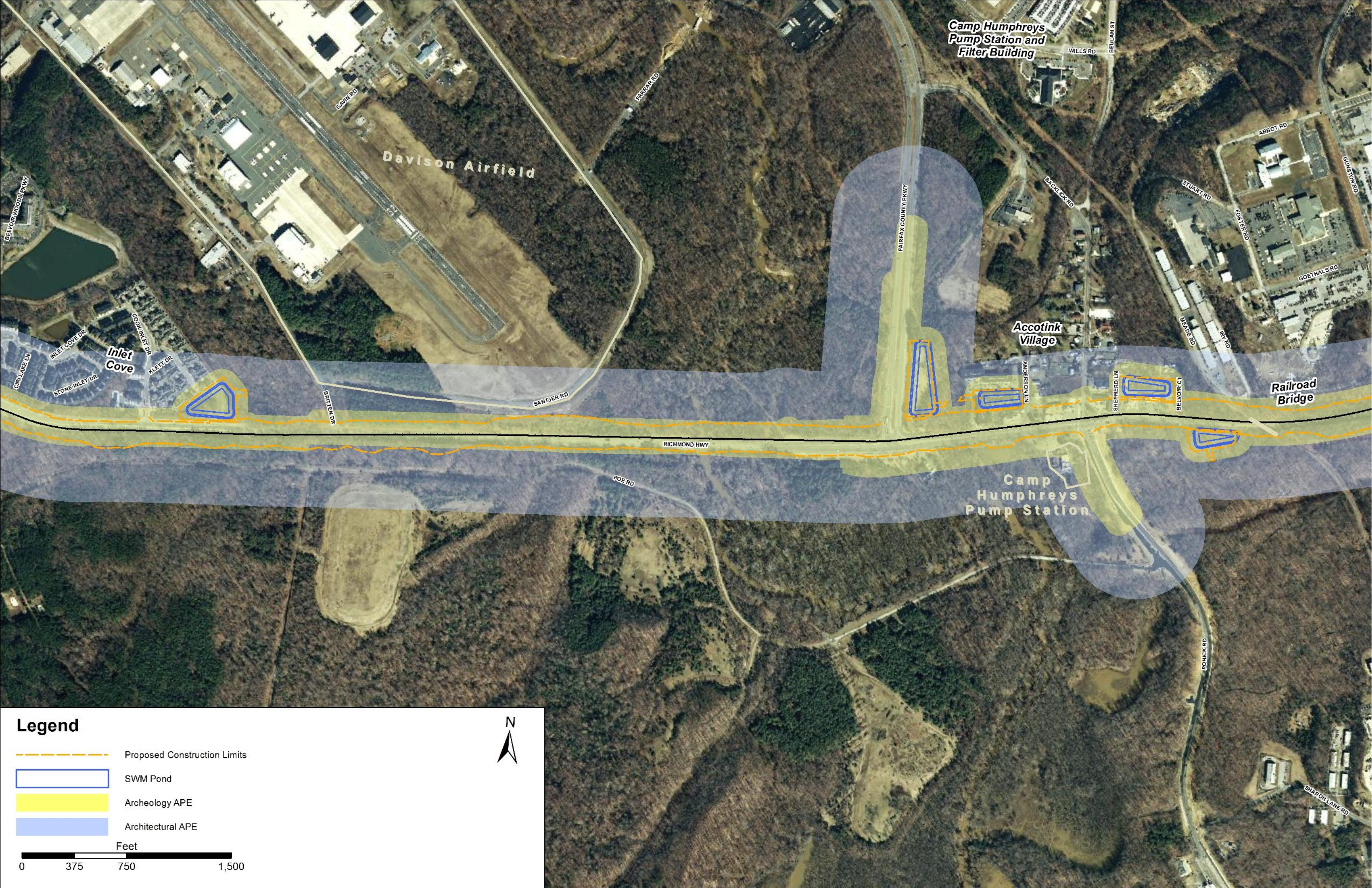
-  Proposed Construction Limits
-  SWM Pond
-  Archeology APE
-  Architectural APE

Feet

0 375 750 1,500



STEWART RD



Camp Humphreys
Pump Station and
Filter Building

Davison Airfield



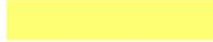

Accotink
Village

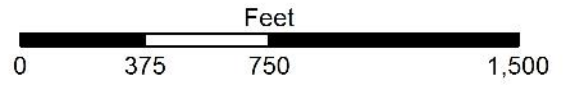
Inlet
Cove

Railroad
Bridge

Camp
Humphreys
Pump Station



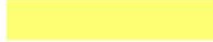

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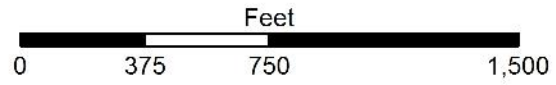
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-  SWM Pond
-  Archeology APE
-  Architectural APE







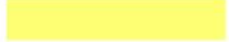

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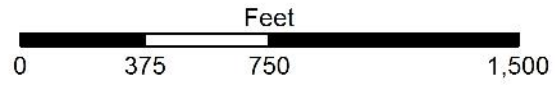
-  Proposed Construction Limits
-  SWM Pond
-  Archeology APE
-  Architectural APE





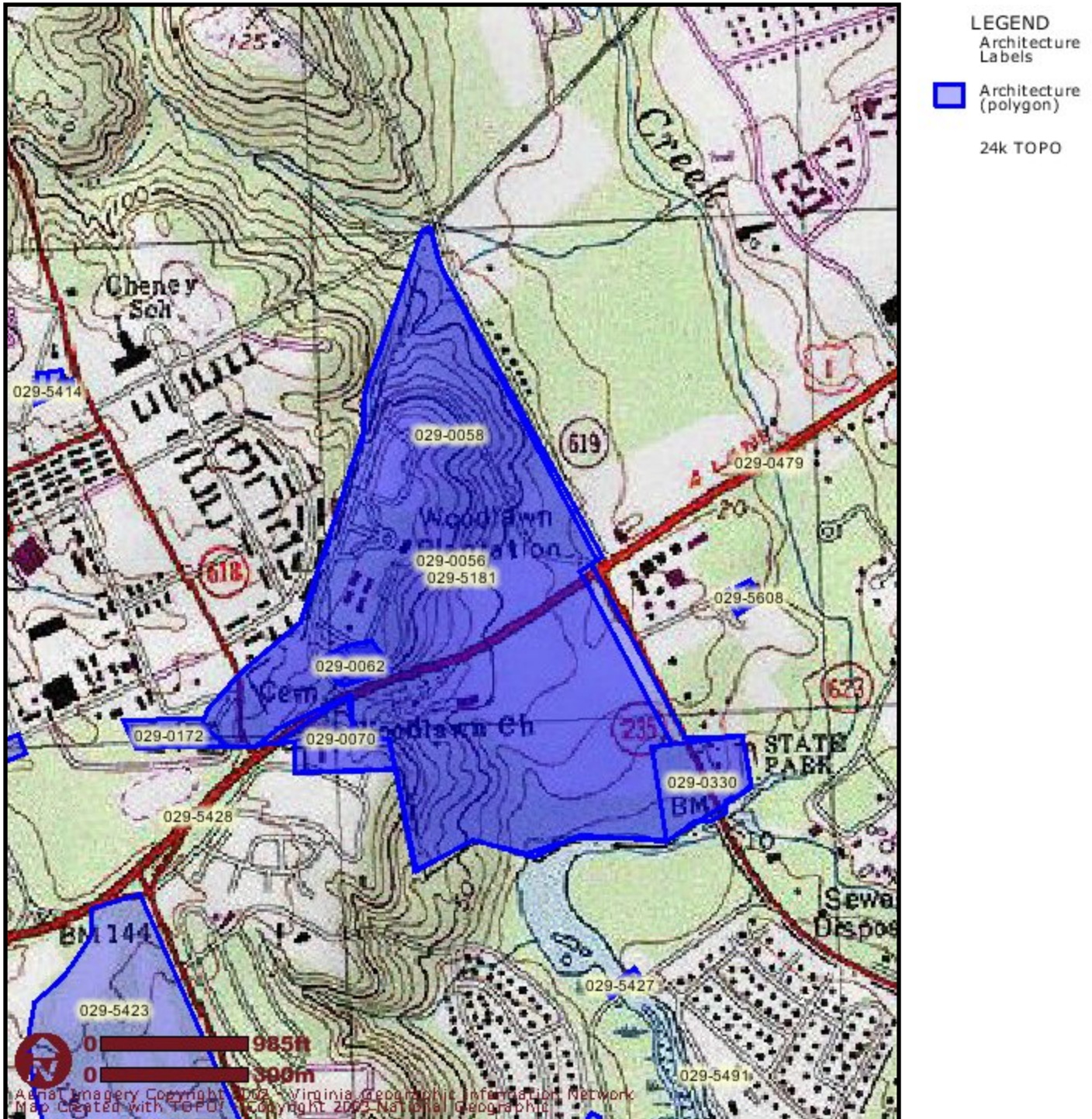
Legend

-  Proposed Construction Limits
-  SWM Pond
-  Archeology APE
-  Architectural APE



Attachment D – Woodlawn Historic District Boundaries

Virginia Department of Historic Resources Data Sharing System, 04/13/2012



Virginia Department of Historic Resources - April 6, 2012
4:34 pm

Woodlawn National Register Eligible
Historic District Boundaries

Attachment E – Correspondence



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Douglas W. Domenech
Secretary of Natural Resources

Kathleen S. Kilpatrick
Director

Tel: (804) 367-2323
Fax: (804) 367-2391
TDD: (804) 367-2386
www.dhr.virginia.gov

19 May 2011

Mr. Jack Van Dop
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166-6511

RE: U.S. Route 1 Improvements at Fort Belvoir
Fairfax County
VDHR File No. 2001-0007

Dear Mr. Van Dop:

The Department of Historic Resources (DHR) has received your letter of 13 April 2011 regarding the above referenced project. It is our understanding that the Federal Highway Administration (FHWA) proposes to conduct improvements along U.S. Route 1 between Telegraph Road and Mount Vernon Memorial Highway in Fairfax County, Virginia. The improvements are necessary due to an expected traffic increase along this approximately 3.5-mile section of Route 1 resulting from BRAC activities at Fort Belvoir. Your letter of 13 April is intended to initiate consultation under the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA).

Several years ago FHWA and the Virginia Department of Transportation (VDOT) had plans to improve and widen this section of Route 1. The VDOT did extensive environmental and historic property surveys along the road corridor in support of its NEPA and Section 106 compliance. Numerous consulting party meetings were held to discuss the project and its anticipated effects on identified historic properties. However, funding was withdrawn from the undertaking before the Section 106 process was completed. Due to the number of intervening years between the initial cultural resources surveys and the initiation of the current undertaking, DHR would expect FHWA to update the survey reports in order to confirm their residual validity. It is also advisable to re-initiate contact with those consulting parties involved in the earlier Route 1 project coordination.

Administrative Services
10 Courthouse Ave.
Petersburg, VA 23803
Tel: (804) 862-6416
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Office
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Tidewater Region Office
14415 Old Courthouse Way 2nd
Floor
Newport News, VA 23608
Tel: (757) 886-2807
Fax: (757) 886-2808

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5428
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7031
Fax: (540) 868-7033

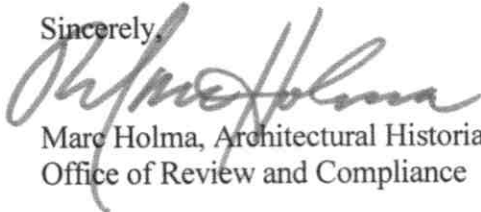
Page 2
19 May 2011
Mr. Jack Van Dop

Of those historic properties identified in 2001 for the Route 1 project some are particularly noteworthy. These are the Alexandria Friends Meetinghouse, Woodlawn Plantation, and the Woodlawn Historic District. As you are probably already aware, Woodlawn Plantation is a National Historic Landmark (NHL), which requires special consideration under Section 106 regulations.

The DHR is ready to assist FHWA in fulfilling its mandated requirements under Section 106. Please continue to work closely with us throughout this early planning stage to ensure that significant historic properties are considered in the project design.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc Holma".

Marc Holma, Architectural Historian
Office of Review and Compliance

C: Ms Helen Ross, VDOT
Mr. Stuart Tyler, Parsons Transportation Group

From: Justin R Coleman [mailto:jrcoleman@simmsshowerslaw.com]
Sent: Thursday, June 02, 2011 1:06 PM
To: VanDop, Jack (FHWA)
Cc: Rob Showers; Woodlawn Baptist Church
Subject: HFPP-15; Environmental and Historic Preservation Consultation for Rt. 1 Expansion

Dear Mr. VanDop,

My name is Justin Coleman. I am an associate at Simms Showers, LLP. Our office has been retained by Woodlawn Baptist Church to represent them in regards to the expansion of Richmond Highway and its impact on our client's real property.

Our client received your letter inviting them to participate in a "consultation process" regarding the expansion and its effects on the historic properties, including our client's property, surrounding Richmond Highway. Our client forwarded this letter to our attention.

We are willing to meet with your office to discuss these matters. Please let us know what days the Federal Highway Administration is considering holding these meetings so we can plan accordingly with our client.

Again, we respectfully request that all communications to our client be directed to our office. Thank you.

Sincerely,

Justin R. Coleman, Esq.
Simms Showers LLP
305 Harrison St. SE
Third Floor
Leesburg, VA 20175
(703) 771-4671 (office)
(703) 771-4681 (fax)
jrcoleman@simmsshowerslaw.com

WARNING: THE INFORMATION CONTAINED IN THIS EMAIL IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE RECIPIENT NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. If the reader of this message is not the intended recipient or you have received this message in error, please notify us immediately by telephone, return the original message to us and delete it from your machine. Any unauthorized review, dissemination, distribution or copying of this message is strictly prohibited. Thank you.

From: [VanDop, Jack \(FHWA\)](#)
To: [Tyler, Stuart](#)
Cc: [Ashton, Surbhi](#)
Subject: FW: Rte 1 Improvements at Ft. Belvoir, Fairfax Co., (From Telegraph Rd to Mt. Vernon Memorial Hwy); Initiation of Section 106 Consultation Process
Date: Thursday, June 02, 2011 9:23:28 AM
Attachments: [FHWA-EFL_Rte_1_Improv_Sect_106_Consult_Letter.pdf](#)

FYI

From: Muse, John C. [mailto:John.Muse@VDOT.Virginia.gov]
Sent: Thursday, June 02, 2011 8:23 AM
To: VanDop, Jack (FHWA)
Cc: Ross, Helen P.; Vaughan, Jan; Iosco, Robert C.; Fahrney, Tom W.
Subject: Rte 1 Improvements at Ft. Belvoir, Fairfax Co., (From Telegraph Rd to Mt. Vernon Memorial Hwy); Initiation of Section 106 Consultation Process

Jack,

Tom Fahrney forwarded your May 12 letter to my office the other week regarding the Section 106 Consultation process for the Rte 1 Improvements Study. I am writing to accept VDOT's participation in the consultation process. By copy of this email to Helen Ross, our Architectural Historian & Preservation Manager, I am designating her as the primary VDOT contact in the consultation process. Please let us know when a meeting with consulting parties will be scheduled.

-John

Note New Address/New Office Number

John C. Muse | District Environmental Manager | Virginia Department of Transportation | 4975 Alliance Drive |
Fairfax, Virginia 22030 | 703.259.1215 (o) | 571.641.1176 (c)

From: Judy Riggin [mailto:rigginjm@verizon.net]
Sent: Tuesday, June 07, 2011 3:42 PM
To: VanDop, Jack (FHWA)
Subject: Friends' response to May 12 Route One letter

Hello Jack,

I just located the May 12 letter sent to Jim Nations this afternoon at the meetinghouse.

In response to it, I am formally requesting that Alexandria Monthly Meeting of the Religious Society of Friends be named as a consulting party for the Route 1 Improvements at Fort Belvoir project.

I will also note that we are now listed (meetinghouse, burial grounds, and property) on the National Register of Historic Places by the name, "Woodlawn Quaker Meetinghouse," so that may be the most suitable term for your use during this project.

Thanks, Judy



Preserving America's Heritage

June 9, 2011

Jack VanDop
Senior Technical Specialist
FHWA – Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166-6511

Ref: *Route 1 Improvements from Telegraph Road to Mount Vernon Memorial Highway
Fort Belvoir, Fairfax County, Virginia*

Dear Mr. VanDop:

On May 16, 2011, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), or Programmatic Agreement (PA), developed in consultation with the Virginia State Historic Preservation Office (SHPO), and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA, and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact John T. Eddins, Ph.D., at 202-606-8553 or at jeddins@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov



DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

REPLY TO
ATTENTION OF:

June 21, 2011

RECEIVED
2011 JUN 27 PM 12: 25

EASTERN FEDERAL LANDS
HIGHWAY DIVISION
STERLING, VA

Eastern Virginia Regulatory Section
NAO-2011-0839

Federal Highway Administration
Eastern Federal Lands Highway Division
ATTN: Mr. Jack Van Dop
21400 Ridgetop Circle
Sterling, VA 20166

Dear Mr. Van Dop:

This letter is in response to your letters dated April 13, 2011 and May 12, 2011 concerning planned improvements to Route 1 between Telegraph Road and Mount Vernon Memorial Highway in Fairfax County. You indicated that the Federal Highway Administration, Eastern Federal Lands Highway Division will prepare an Environmental Assessment (EA) for this project. Considering the location and nature of the project, it will likely impact waters and/or wetlands regulated by the Norfolk District Army Corps of Engineers (Norfolk District) under Section 404 of the Clean Water Act (33 U.S.C. 1344), and a permit or permits will likely be required. The Norfolk District will participate as a cooperating agency in the development of the EA. We wish to participate in any interagency meetings and/or field reviews you conduct.

Our regulations require that we consider a full range of public interest factors and conduct an alternatives analysis in order to identify the least environmentally damaging practicable alternative (LEDPA), which is the only alternative we can authorize. In addition to wetland and waters impacts, we must consider factors such as land use (including displacements of homes and businesses), floodplain hazards and values, water supply and conservation, water quality, safety, cost, economics, threatened and endangered species, historic and cultural resources, and environmental justice. The EA should address all of these factors to avoid the need for us to prepare a separate document.

Measures to avoid and minimize impacts to aquatic resources should be considered and documented in the EA. Bridging is preferred for stream and wetland crossings, particularly where there are high-quality streams, larger wetland areas, threatened or endangered species habitat, or otherwise unique and valuable resource areas. All crossings for which culverts will be installed must be countersunk at least six inches below streambeds to allow for passage of aquatic species. We recommend that to the extent practicable, existing disturbed areas be utilized for road improvements, as this should help minimize impacts to higher quality, less disturbed resources.

Wetland impacts are typically mitigated 2:1 for forested; 1.5 to 1 for scrub/shrub, and 1:1 for emergent. Typically, we require stream mitigation for unavoidable stream impacts to greater than 300 linear feet of stream at a crossing. However, we also consider the cumulative impacts to streams from a given project, and may require mitigation for shorter lengths of stream if there are

many impacts in close proximity, or if there are multiple impacts to the same stream and/or its direct tributaries. We encourage natural channel design to the extent practicable for streams that must be relocated. We utilize the Unified Stream Methodology (USM) for determining how much stream mitigation is required for projects. The USM is also used to determine the amount of mitigation credit that will be granted for stream mitigation projects. The use of credits from an approved mitigation bank that includes the impact areas in its geographic service area is the preferred means of compensation for impacts.

The project may affect historic and cultural resources. As per 36 CFR 800.2(a)(2), the FHWA, Eastern Federal Lands Highway Division is hereby designated as the lead federal agency to fulfill the collective Federal responsibilities under Section 106 of the National Historic Preservation Act, for the undertaking. We authorize your agency to conduct Section 106 coordination on our behalf. Any Memorandum of Agreement prepared by your agency under 36 CFR 800.6 should include the following clause in the introductory text:

“WHEREAS, pursuant to Section 10 and/or Section 404 of the Clean Water Act, a Department of the Army permit will likely be required from the Corps of Engineers for this project, and the Corps has designated FHWA as the lead federal agency to fulfill federal responsibilities under Section 106;”

Please contact Alice Allen-Grimes at (757) 201-7219 or alice.w.allen-grimes@usace.army.mil, if you have any questions.

Sincerely,



Kimberly A. Prisco-Baggett
Chief, Eastern Virginia
Regulatory Section

Copy furnished:

Parsons Transportation Group, Washington, DC



DEPARTMENT OF THE ARMY
U.S. ARMY INSTALLATION MANAGEMENT COMMAND
US ARMY GARRISON, FORT BELVOIR
DIRECTORATE OF PUBLIC WORKS
9430 JACKSON LOOP, SUITE 100
FORT BELVOIR, VIRGINIA 22060-5116

REPLY TO
ATTENTION OF

23 June 2011

RECEIVED
2011 JUN 27 PM 12:27

EASTERN FEDERAL LANDS
HIGHWAY DIVISION
STERLING, VA

Directorate of Public Works

SUBJECT: Section 106 Consultation, Route 1 Improvements at Fort Belvoir, Fairfax County, Virginia from Telegraph Road to Mount Vernon Memorial Highway

Mr. Jack VanDop
Senior Technical Specialist
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166

Dear Mr. VanDop:

In response to your letter of May 12, 2011, U.S. Army Garrison Fort Belvoir will be a participant in National Historic Preservation Act (Section 106) consultation for the above referenced project. Fort Belvoir has reviewed its historic properties inventory and provides the following summary of historic properties within the Area of Potential Effect (APE), as defined in your letter of May 11, 2011 to the Virginia State Historic Preservation Office (SHPO).

a. Architectural Properties:

1. Pohick Episcopal Church (VDHR #:029-0046)
2. Facility 1433 Railroad Bridge (VDHR #:029-5424)
3. Camp A.A. Humphreys Pump Station and Filter Building (VDHR File #: 029-0096)
4. Woodlawn Historic District (VDHR #: 029-5181)
5. Woodlawn Quaker Meeting House (VDHR #:029-0172)
6. Woodlawn National Historic Landmark (VDHR #: 029-0056)
7. Woodlawn Road Transfer Parcel (VDHR #: 2005-0931)

b. Archeological Properties:

1. 44FX1657 – Recommended for Further Study
2. 44FX1679 – Recommended for Further Study
3. 44FX1680 – Recommended for Further Study
4. 44FX1811 – Recommended for Further Study
5. 44FX1936 – Recommended for Further Study

“LEADERS IN EXCELLENCE”

6. 44FX1937 – Recommended for Further Study
7. 44FX1211 (Woodlawn Quaker Cemetery) – See 029-0172
8. 44FX1212 (Woodlawn Baptist Cemetery) – See 029-5181

Fort Belvoir's records indicate that sites 44FX1657, 1679, 1680, 1811, 1936, and 1937 were recommended ineligible for National Register listing by a January 2002 archeological study performed in association with an earlier Route 1 improvement project (VDHR File #: 2001-0007). Fort Belvoir has no records indicating that the SHPO either received or concurred with the finding of that report. Fort Belvoir recommends that Pohick Church be invited to participate in consultation as their property falls within the APE for this undertaking.

Copies of this correspondence have been submitted to FHWA, the Advisory Council on Historic Preservation, Woodlawn Baptist Church, Catawba Indian Nation, Fairfax County, The Historical Society of Fairfax County, Alexandria Monthly Meeting of the Religious Society of Friends, Gum Springs Historical Society, Virginia Council on Indians, National Park Service, National Trust for Historic Preservation, SHPO and Virginia Department of Transportation.

Point of contact is Derek Manning, Cultural Resources Manager, at 703-806-3759.

Sincerely,



Bill Sanders
Director

From: Lisa LaRue-Baker - UKB THPO [mailto:ukbthpo-larue@yahoo.com]
Sent: Tuesday, April 10, 2012 6:02 PM
To: Kimberley, Ryan (FHWA)
Cc: lstapleton@unitedkeetoowahband.org
Subject: Re: FHWA/US Army highway improvement project, Fairfax County, VA

The United Keetoowah Band of Cherokee Indians in Oklahoma defers consultation on this project to federally recognized tribes with a documented historic interest in this location. Thank you for contacting us,

Lisa LaRue-Baker
Acting THPO
United Keetoowah Band of Cherokee Indians in Oklahoma
PO Box 748
Tahlequah, OK 74465

c 918.822.1952 f 918.458.6889
ukbthpo-larue@yahoo.com

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--- On Wed, 3/28/12, Ryan.Kimberley@dot.gov <Ryan.Kimberley@dot.gov> wrote:

From: Ryan.Kimberley@dot.gov <Ryan.Kimberley@dot.gov>
Subject: FHWA/US Army highway improvement project, Fairfax County, VA
To: UKBTHPO-Larue@yahoo.com
Cc: christopher.daniel9@us.army.mil, Jack.VanDop@dot.gov
Date: Wednesday, March 28, 2012, 10:05 AM

Dear Lisa,

As we discussed on the phone today, the Federal Highway Administration and the US Army Garrison Fort Belvoir are planning to conduct roadway improvements on Rt. 1 in Fairfax County, VA. The project will impact numerous historic and prehistoric sites. A Section 106 Programmatic Agreement is being developed with the Virginia SHPO and other consulting parties. Based on our conversation, the project will occur outside of the area of traditional interest for the United Keetoowah Band of Cherokee Indians in Oklahoma (UKB). Please provide confirmation that UKB has elected to defer Section 106 responsibility for this undertaking.

Sincerely,
Ryan Kimberley
FHWA
703-404-6211

From: Caitlin Haire [mailto:caitlinh@ccppcrafts.com]

Sent: Friday, May 04, 2012 11:21 AM

To: VanDop, Jack (FHWA)

Subject: Route 1 Improvements

Mr. Vandop,

We Concur with the introduction language in the Draft you sent us. We wish to be a signatory to the PA. Please send the document for us to sign. If you need anything else from us or have any questions let me know. Thanks

Caitlin

--

Caitlin Totherow
Catawba Indian Nation
Tribal Historic Preservation Office
1536 Tom Steven Road
Rock Hill, SC 29730

803-328-2427 ext. 226
Caitlinh@ccppcrafts.com

Please Note: We CANNOT accept Section 106 forms via e-mail, unless requested. Please send us hard copies. Thank you for your understanding

Attachment F – Catawba Burial Policy and Procedures

**Catawba Indian Nation Tribal Historic Preservation Office
Policy and Procedure**

Burials

Policy

1. No research designs will be considered for the sole purpose of the location and excavation of pre-contact burials.
2. There will be an ongoing and open dialogue with regard to policy and procedures affecting burials between the Tribal Historic Preservation Office (THPO) Executive Director, the Archaeology Department, and the Department of Traditional Medicine of the Catawba Nation and the Executive Committee of the Catawba Nation.
3. No changes or adjustments to the policy and procedures affecting burials can be made without agreement between the THPO Executive Director, the Archaeology Department, the Department of Traditional Medicine of the Catawba Nation and the Executive Committee of the Catawba Nation.
4. A tract of ground will be set aside for the sole purpose of the re-interment of burials. The location of this tract of ground will not be made available to the general population. The location will be on record in the offices of the THPO Executive Director, the Archaeology Department and the Department of Traditional Medicine of the Catawba Nation, the Department of Planning and Development of the Catawba Nation and the Executive Committee of the Catawba Nation.

Procedure

When human burials are located during the course of other projects (i.e. construction, archaeological survey and/or excavation) the following procedures will be carried out.

1. The Department of Traditional Medicine of the Catawba Indian Nation will be notified immediately.
2. A meeting between the THPO Executive Director, the Archaeology Department and the Department of Traditional Medicine of the Catawba Nation will be called within 24 hours of the discovery.
3. The following options for action will be considered;
 - a. No action. The burial/s will be left in place and the project will proceed without regard to the disturbance to the burial/s.
 - b. The burial/s will be left in place but protected by modification to the projected construction or survey plans.
 - c. The burial/s will be excavated, measurements and photos taken but the remains will not be removed from the burial pit. The burial pit will be mapped and recorded and back filled when the work is completed.
 - d. The burial/s will be exhumed and reburied.
4. When the decision to exhume a burial/s has been made the following procedures will be followed.
 - a. A member of the Department of Traditional medicine will be present during the entire exhumation process and will be in charge performing and directing those rituals and/or ceremonies appropriate.
 - b. No excavation will be done prior to notification from the Department of Traditional Medicine that all-necessary rituals and/or ceremonies have been completed.

- c. A professionally qualified member of the Department of Archaeology will do all excavation necessary to exhume the burial.
- d. A member of the Department of Traditional Medicine of the Catawba Nation will physically remove human remains and grave goods from the burial pit when directed to do so by the Archaeological Field Director.
- e. Human remains will be transported from the burials site wrapped plain colored archival quality paper inside archival quality boxes by a member of the Archaeology Department or the Department of Traditional Medicine. Remains will be immediately delivered to the Archeology Department.
- f. Human remains will be stored in the Archaeology Laboratory for analysis a period not to exceed 72 hours. During this analysis period the human remains will be stored in a secured area and will not be in view of the general public.
- g. No invasive or destructive analysis methods will be employed on human remains.
- h. Destructive or invasive analysis methods must be pre-approved by the Director of THPO, the Archaeology Department and the Department of Traditional Medicine.
- i. An extension of the analysis period can only be granted after a meeting of the Director of THPO, the Archaeology Dept. and the Department of Traditional Medicine at which all parties agree.
- j. The Department of Traditional medicine will be notified immediately upon completion of the analysis of human remains.

Contact Information:

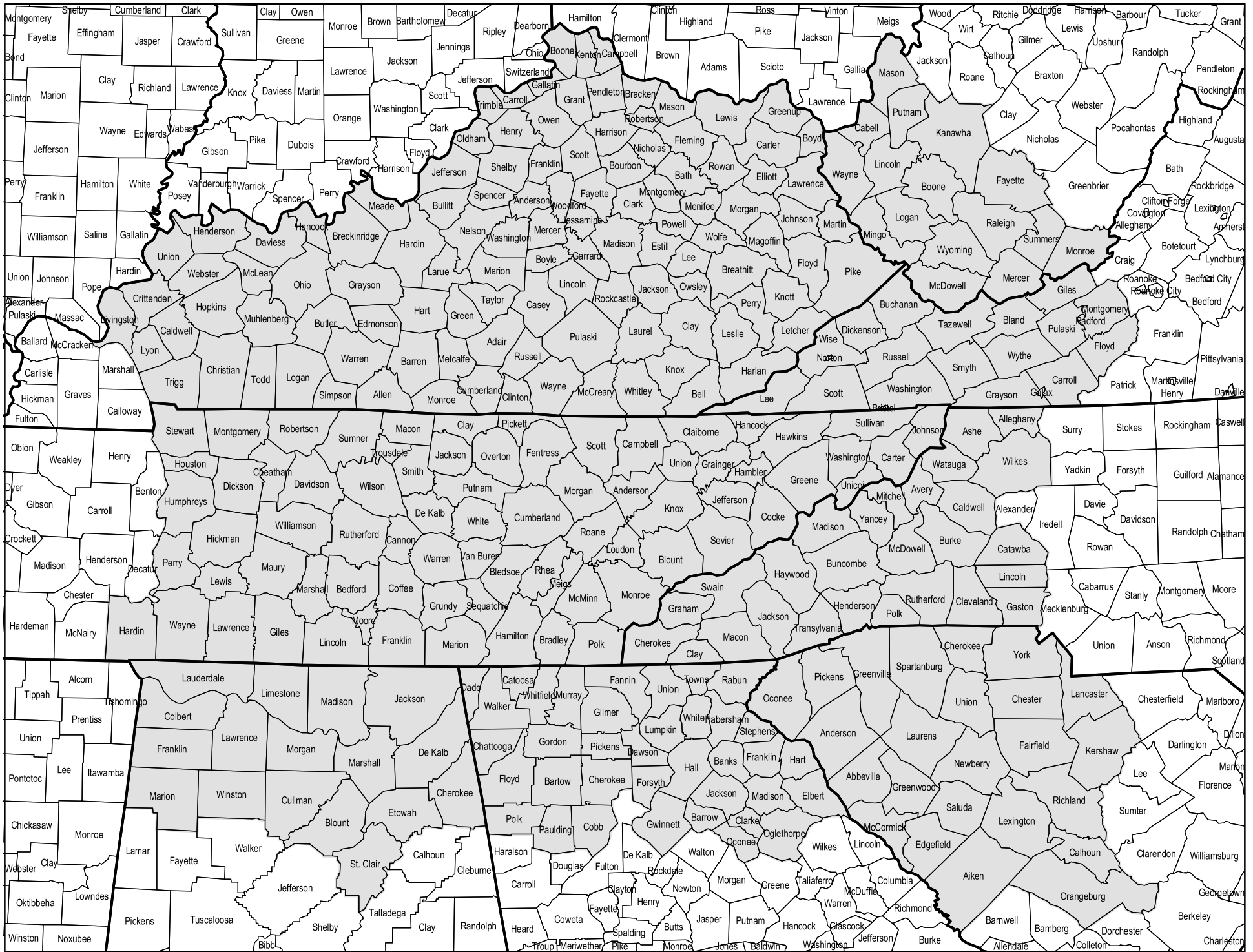
Dr. Wenonah G. Haire
Director
Tribal Historic Preservation Office
PO Box 750
Rock Hill South Carolina 29731

803-328-2427 ext. 224

Sandra Reinhardt
Archaeology Dept.
Tribal Historic Preservation Office
PO Box 750
Rock Hill, South Carolina 29731

803-328-2427 ext. 233

Attachment G – Eastern Band of Cherokee Indians Aboriginal Territory Map



Attachment G - Eastern Band of Cherokee Indians Aboriginal Territory Map of Area of Interest