

MEMORANDUM OF AGREEMENT

**BETWEEN THE FEDERAL TRANSIT ADMINISTRATION,
THE CITY OF ALEXANDRIA, VIRGINIA,
THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
THE NATIONAL PARK SERVICE**

AND

THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER

REGARDING

THE POTOMAC YARD METRORAIL STATION

WHEREAS the Potomac Yard Metrorail Station consists of a station along the existing Metrorail Blue and Yellow Lines between Ronald Reagan Washington National Airport and the Braddock Road stations within the City of Alexandria, Virginia (**Attachment A, Figures 1 and 2**) (“Undertaking”); and

WHEREAS the Federal Transit Administration (FTA) may provide funding to the City of Alexandria, Virginia (City of Alexandria) for the Undertaking pursuant to Federal transit law (49 U.S.C. Chapter 53) and Section 106 of the National Historic Preservation Act of 1966, as amended (codified at 54 U.S.C. 300101, et seq.) and its implementing regulations at 36 CFR Part 800, as amended, hereinafter collectively referred to as “Section 106;” and

WHEREAS, the City of Alexandria is the Undertaking’s project sponsor and FTA is serving as the Undertaking’s lead Federal agency pursuant to the National Environmental Policy Act (NEPA, codified as 42 USC 4321 et seq.) and is the Federal agency responsible for compliance with Section 106; and

WHEREAS, FTA shall serve as the lead Agency Official and shall act in cooperation with the City of Alexandria, the Washington Metropolitan Area Transit Authority (WMATA), and the National Park Service (NPS) in fulfilling their collective responsibilities under Section 106; and

WHEREAS, the NPS, the Federal Agency with jurisdiction over the Mount Vernon Memorial Highway and George Washington Memorial Parkway, which are part of a unit of the National Park System, and the Greens Scenic Area Easement, has participated in the Section 106 process for the Undertaking; and

WHEREAS, NPS approval is required for the portion of the Undertaking affecting the George Washington Memorial Parkway; and

WHEREAS, after detailed study of various alternatives and their associated impacts, the City of Alexandria, through coordination with FTA and WMATA, has identified a Preferred Alternative for detailed engineering and construction for the Undertaking; and

WHEREAS, FTA, in consultation with the Virginia Department of Historic Resources (VDHR),

has established the Undertaking's Area of Potential Effects (APE) for purposes of the Section 106 analysis, as defined at 36 CFR 800.16(d), to encompass the geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties, as illustrated in **Figure 3 of Attachment A**, recognizing that the APE may require modification as more detailed engineering for the Undertaking is developed; and

WHEREAS, FTA, in consultation with the VDHR and NPS, has identified four historic properties that are eligible for or listed in the National Register of Historic Places (National Register) within the Undertaking's APE, illustrated in **Figure 4 of Attachment A**.

WHEREAS, FTA, in consultation with the NPS and the VDHR, has determined that the Undertaking will have adverse effects on three of the four properties listed in the National Register including: the Mount Vernon Memorial Highway (MVMH; DHR ID#029-0218), the George Washington Memorial Parkway (GWMP; DHR ID#029-0228), and the Parkways of the National Capital Region, 1913-1965 (PNCR; DHR ID#029-5524); and

WHEREAS, FTA, in consultation with the NPS and the VDHR, has determined that the Undertaking will have no adverse effect on the following property eligible for listing in the National Register: Abingdon Apartments (DHR ID#100-5264); and

WHEREAS, FTA, in consultation with the NPS and the VDHR, has determined that the Undertaking will have adverse effects on the MVMH, GWMP, and PNCR resulting from:

- removal of contributing vegetative features of the MVMH and GWMP for construction of a staging area, station facilities, and realigned track. These activities will physically damage the historic properties and will create views not intended in the original design of the roadway; and
- transfer of 0.16 acre of land within the MVMH and GWMP out of NPS ownership and a transfer of 1.71 acres of land within the Greens Scenic Area Easement (a contributing resource to the MVMH and GWMP) currently held by the NPS; and
- permanent construction of station facilities within the National Register boundaries of the GWMP and MVMH.

WHEREAS, FTA, in consultation with the NPS and the VDHR, has determined that the Undertaking will have adverse effects on the Greens Scenic Area Easement, a contributing resource to the MVMH and GWMP; and

WHEREAS, this Memorandum of Agreement (MOA) includes active measures to mitigate any adverse effects to the following historic properties and contributing resources listed in the National Register: MVMH, GWMP, PNCR, and the Greens Scenic Area Easement; and

WHEREAS, FTA, in consultation with the VDHR, has completed identification and evaluation of archaeological resources within the Undertaking's APE, as documented in the following reports: *Phase I Archaeological Survey Report, Potomac Yard Metrorail Station Project, City of Alexandria, Virginia and Arlington County, Virginia* (Lawrence et al. 2013) and *Addendum Phase I Archaeological Survey Report, Potomac Yard Metrorail Station Project, City of Alexandria, Virginia and Arlington County, Virginia* (Lawrence et al. 2015); and

WHEREAS, based on the results of those studies, FTA, the City of Alexandria, WMATA, the VDHR, and the NPS agree that the Undertaking will have no impact on documented archaeological resources but that additional steps will be taken to protect documented archaeological resources proximate to the APE; and

WHEREAS, it is understood that this MOA is based upon review of preliminary engineering, which will be refined as the Undertaking design advances and reviewed at certain points by the signatory parties to this MOA and other consulting parties during Undertaking design; and

WHEREAS, FTA, the City of Alexandria, WMATA, NPS, and the VDHR acknowledge that as a result of modifications to the Undertaking or the addition of ancillary actions to the Undertaking, there may be effects on additional previously identified historic properties within the APE or additional cultural resources or archaeologically sensitive areas outside the APE; therefore, this MOA sets forth the measures that will be implemented to identify and consider any further effects to historic properties; and

WHEREAS, FTA, in coordination with the City of Alexandria and WMATA, has consulted with the VDHR, pursuant to the requirements of Section 106; and FTA, the City of Alexandria, WMATA, and the VDHR determined that it is appropriate to enter into this MOA, pursuant to 36 CFR 800.14(b); and

WHEREAS, FTA has identified and invited the following parties (herein referred to as “consulting parties”) to comment and consult on the effects of the Undertaking on historic resources as part of the Section 106 process and has invited them to sign this MOA as invited signatories: United States Army Corps of Engineers (Norfolk District), City of Alexandria (Historic Preservation Office, Department of Planning and Zoning; Alexandria Archaeology; and the Office of Historic Alexandria), Alexandria Historical Society, Alexandria Historical Restoration and Preservation Commission, Alexandria Federation of Civic Associations, Old Town Business and Professional Association, Arlington County Department of Community Planning (Housing and Development, Neighborhood Services Division), Lynhaven Civic Association, National Capital Planning Commission, and the NorthEast Citizens’ Association ; and

WHEREAS, the Undertaking will cross parkland under the authority of the NPS and the City of Alexandria must obtain a NPS Special Use permit to access NPS parklands, and the NPS has been invited to be a signatory to this MOA; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FTA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with the required documentation and the ACHP has not chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, this MOA was developed with appropriate public involvement (pursuant to 36 CFR 800.2(d) and 800.6(a)), and the public was provided the opportunity to comment on the Undertaking and will hereafter be provided with further opportunities to comment on the Undertaking as stipulated further in this MOA; and

WHEREAS, FTA and the City of Alexandria sought and considered the views of the public on this Undertaking through the public involvement process described in the Final Environmental Impact Statement (FEIS), including public workshops and meetings, a website, mass mailings, public hearing on the Draft Environmental Impact Statement, and public comments thereon, resulting in this MOA

being developed with public participation during the Section 106 process; and

WHEREAS, the VDHR agrees that fulfillment of the terms of the MOA will satisfy the responsibilities of the City of Alexandria and any Virginia state agency under the requirements of the [cite VA HP Law or enabling legislation here], for any components of the Undertaking that require licensing, permitting, and/or funding actions from Virginia state agencies;

NOW, THEREFORE, FTA, the City of Alexandria, WMATA, NPS, and the VDHR agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

FTA and the City of Alexandria shall implement the following stipulations:

I. PURPOSE

This MOA sets forth the process by which FTA and the NPS, with the assistance of the City of Alexandria and WMATA, will meet their responsibilities under Section 106 for the Undertaking. The MOA establishes procedures for ongoing consultation among FTA, the City of Alexandria, WMATA, the VDHR, the NPS, and the consulting parties to consider and resolve the Undertaking's effects on historic properties during the design and construction phases of the Undertaking. The stipulations below set forth measures for avoidance, minimization, and mitigation, and resolution of adverse effects on historic properties, and for design review and public interpretation; in addition, the stipulations specify how the signatory parties and the other consulting parties will be involved in specified review.

II. RESPONSIBILITIES OF THE SIGNATORIES

A. Signatory Parties

FTA, the City of Alexandria, WMATA, the VDHR, and the NPS are the signatory parties (herein "signatory" or "signatory parties") to this MOA. The signatory parties shall participate in the coordination process as specified in subsequent stipulations of the MOA.

B. Federal Transit Administration

FTA shall include the obligations set forth in this MOA as part of its Record of Decision and a condition of FTA approval of any grant issued for design and construction of the Undertaking.

C. City of Alexandria, Virginia

The City of Alexandria shall implement the terms of this MOA during design, construction, and operation of the Undertaking.

D. Washington Metropolitan Area Transit Authority

WMATA shall implement the terms of this MOA during design, construction, and

operation of the Undertaking.

WMATA shall establish a Cultural Resources Management Team (CRMT) for the design and construction phases of the Undertaking to assist WMATA in implementing the provisions of this MOA.

1. The CRMT shall comprise a team of personnel meeting the qualifications specified in Stipulation III.A and shall carry out all cultural resources work pursuant to this MOA in accordance with the relevant documents in Stipulation III.B.
2. A member of the CRMT will be on-site when there is a potential for historic properties (including both built historic properties and archaeological resources) to be affected by the construction and will take responsibility to monitor all construction activities that may affect historic and archaeological resources, when warranted, or when requested by the NPS for NPS historic and archaeological resources.
3. The CRMT will train appropriate members of the on-site contractor staff regarding the stipulations outlined in this MOA and any documents that pertain to the protection of historic resources prior to the commencement of work and at regular intervals not to exceed six months. A requirement to comply with the provisions of the MOA in cooperation with WMATA and the CRMT will be included in all design and construction contracts related to the Undertaking. A copy of this training (presentation and handouts) will be provided to the consulting parties for review and comment prior to implementation.

E. National Park Service

1. Consultation on Further Design. The NPS shall review and concur with design drawings and provide comments to the City of Alexandria and WMATA per Stipulation VI.A.1 for the portion of the Undertaking that intersects the George Washington Memorial Parkway and Greens Scenic Area Easement as described in Stipulation VI.A.1. In addition, the NPS shall review and approve per Stipulation VI.A.1 design drawings for replacement of trees and other vegetation on the property. No construction activities may begin on the project until the final design drawings have been approved by the Signatories.
2. Use of NPS Parklands.
 - a. NPS Permits. WMATA shall obtain from the NPS, Special Use permits to cross parkland and access and use these areas, and any other NPS permits that may be necessary, such as for archaeological survey.
 - b. WMATA shall restore these areas to their pre-construction condition or a mutually agreed-upon condition if pre-construction condition is not possible due to Undertaking elements, pursuant to the terms and conditions in the relevant NPS permit(s).

III. PROFESSIONAL STANDARDS

A. Qualifications

WMATA shall ensure that all cultural resources work performed pursuant to this MOA is carried out by or under the direct supervision of personnel meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 FR 44716) (hereinafter cited as "qualifications") with experiences and background in History, Architectural History, Historic Architecture, and Archaeology, as appropriate. These personnel shall perform or directly supervise all cultural resources work pursuant to this MOA.

B. Standards and Guidelines

WMATA shall complete all cultural resources investigations and preservation work executed as part of this MOA according to the following accepted professional standards and guidelines:

1. *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716; 1983 and successors);
2. *Guidelines for Conducting Historic Resources Survey in Virginia* (VDHR 2011);
3. *Virginia Department of Historic Resources State Collections Management Standards* (VDHR 2011);
4. *Advisory Council on Historic Preservation – Section 106 Archeology Guidance* (ACHP 2007);
5. *Recommended Approach for Consultation on Recovery of Significant Information for Archeological Sites*, ACHP 2007 (64 FR 27085-27087);
6. *Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects*, ACHP 2007; and
7. *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR Part 68).

IV. ARCHAEOLOGICAL RESOURCES STIPULATIONS

FTA has determined through the Section 106 process that the Undertaking will not have an adverse effect on documented archaeological resources. However, development of a Construction Protection Plan is stipulated to assure protection of archaeological resources within 100 feet of project impacts during construction. An Unanticipated Discoveries Plan will be developed as a component of the Construction Protection Plan for archaeological resources that may be encountered during construction. Accordingly, this MOA sets forth the following measures that will be implemented to ensure that documented and undocumented archaeological resources will be protected from adverse impacts.

A. Construction Protection Plan

WMATA will develop a construction protection plan (CPP) in consultation with the FTA, NPS, VDHR, and the City of Alexandria to assure protection of archaeological resources within 100 feet of project impacts. NPS internal procedures shall apply only to activities and resources on NPS properties or the Greens Scenic Area Easement. The CPP will include the following elements:

1. Language will be included in the project bid documents to make contractors aware that archaeologically sensitive areas are present near their work zone and must be avoided.
2. A professional archaeologist shall supervise the installation of protective fencing in the area between the project LOD and the boundaries of 44AX0221 and 44AX0222. Given the relatively shallow depths of archaeological deposits in this area (0-11 centimeters), use of either jersey barriers or a footed fence is recommended, as opposed to in-ground fencing. If such barriers are used, protective surface matting must be laid underneath these types of barriers. The protective fencing should be installed prior to construction and maintained in place during the entirety of the construction project.
3. If any changes occur in the design of construction staging, and consultation between FTA, NPS, WMATA, the City of Alexandria, and VDHR recommends additional investigation, then professional archaeologists shall design and implement a Phase I archaeological survey to test sensitive areas to comply with Section 106 of the National Historic Preservation Act after acquiring any requisite excavation permits, if needed.
4. A professional archaeologist meeting 36CFR Part 61 qualifications will be present to monitor any ground-disturbing activity in the vicinity of archaeological sites 44AX0221 and 44AX0222. Construction activities with the potential to impact subsurfaces include, but are not limited to, excavation, grading, or the removal of the root system of vegetation. In the event that any archaeological remains may be encountered in the monitoring zone, the protocol established for unanticipated discoveries will be followed.
5. A plan for responding to unanticipated discoveries will be included in the CPP. The plan will include the necessary measures to adequately and appropriately identify, assess, and, if necessary, mitigate adverse impacts to resources discovered unexpectedly during construction. FTA, WMATA, and (if the discovery is made on NPS property or the Greens Scenic Area Easement) NPS will implement this plan in the event that any archaeological resources and/or human remains are encountered during construction of the undertaking. NPS staff will be immediately notified of discoveries occurring on NPS property or the Greens Scenic Area Easement, and FTA and WMATA will be notified on the same business day. Should the undertaking uncover Native American human remains on federal property, FTA shall comply with the requirements of the Native American Graves Repatriation Act (NAGPRA, 25 USC 3001).

V. HISTORIC PROPERTIES STIPULATIONS

FTA has determined through the Section 106 process that the Undertaking will have adverse effects on three historic properties due to construction activities and/or the siting of Undertaking-related facilities and infrastructure. It is possible that additional, previously unidentified historic properties may be identified within the Undertaking's APE in the future or in the area of any new Undertaking elements (see Stipulation VII) and that these historic properties may be affected by the Undertaking. Accordingly, this MOA sets forth the following measures that will be implemented for all built historic properties within the Undertaking's APE to not only resolve any adverse effects, but also to avoid adverse effects through sensitive design and positive protections.

A. Identification of Additional Built Historic Properties and Assessment of Undertaking Effects

If additional built historic properties not previously identified in the Section 106 process are identified in the Undertaking's APE during design or construction of the Undertaking, or if new Undertaking elements are added to the Undertaking that result in an adverse effect, the City of Alexandria and WMATA shall consult with FTA, the VDHR, the NPS, and other consulting parties to evaluate eligibility and effects, if needed, in accordance with the process outlined in Stipulation VII for ancillary activities and design modifications.

B. Construction Protection Plans

To avoid Undertaking-related construction damage to any known or unknown built historic property, the City of Alexandria and WMATA, in consultation with FTA, the VDHR, and other relevant consulting parties that have an interest in the affected properties, shall develop and implement Construction Protection Plans (CPP) for built historic properties six months prior to construction; these plans will include best practices and contractor requirements that will avoid, minimize, and mitigate adverse effects. A list of procedures will be included in the CPP, which will be developed prior to construction of the Undertaking. The City of Alexandria and WMATA shall provide the NPS a draft version of the CPP for review and comment on activities within NPS properties or the Greens Scenic Area Easement. The City of Alexandria and WMATA will incorporate NPS comments into the CPP and include NPS-specific construction practices for activities within NPS properties or the Greens Scenic Area Easement. The City of Alexandria and WMATA shall include all historic properties that have the potential to be affected by construction-related activities in CPP(s). The City of Alexandria and WMATA shall implement such plans in conjunction with construction sequencing.

VI. MITIGATION OF ADVERSE EFFECTS TO THE MOUNT VERNON MEMORIAL HIGHWAY (MVMH; DHR ID#029-0218), THE GEORGE WASHINGTON MEMORIAL PARKWAY (GWMP; DHR ID#029-0228), THE PARKWAYS OF THE NATIONAL CAPITAL REGION (PNCR; DHR ID#029-5524), AND THE GREENS SCENIC AREA EASEMENT

Throughout the final design process, FTA, the City of Alexandria, and WMATA, in coordination with the NPS and the other consulting parties, shall monitor the development of design drawings to avoid adverse effects to the Mount Vernon Memorial Highway; George Washington Memorial Parkway; and Greens Scenic Area Easement. Context-sensitive design specifications for historic

properties will be developed in accordance with Stipulation VI.A and in consultation with the NPS, the City of Alexandria's Board of Architectural Review, and other consulting parties that have an interest. Context-sensitive design may be used to avoid adverse effects. Consultation and monitoring of the design drawings shall follow the review process outlined in Stipulations V.B and VI.A.1.

NPS and the City of Alexandria, in coordination with FTA, WMATA, and other consulting parties, have agreed to implement the following measures to minimize and mitigate adverse effects on the properties listed in this section.

A. Design Review

1. WMATA shall submit design drawings of the Undertaking (including site plan, elevations, and specifications, where applicable) complete to 60 percent or equivalent (semi-final review) and 90 percent or equivalent (final review) to the City of Alexandria and the NPS for NPS resources and as otherwise appropriate, and provide opportunities for review and comment from consulting parties that have an interest in the affected properties. The purpose of the review is to a) assess the compatibility of the proposed designs with the approaches to new construction recommended in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR Part 68), and b) ensure adequate landscape restoration and screening along the west side of the MVMH/GWMP and within the Greens Scenic Area Easement in the vicinity of the Undertaking, in order to avoid or minimize permanent adverse visual effects to historic properties. WMATA shall carefully consider the comments provided by the other signatory parties and the other consulting parties and incorporate suggested modifications, as appropriate. Review and comment on such submissions shall follow the process set forth in Stipulation VIII. NPS concurrence is required if this pertains to the MVMH/GWMP or Greens Scenic Area Easement. WMATA shall provide opportunities for public input in the design development process by soliciting comments through community meetings and ongoing outreach efforts in accordance with processes and schedules established as part of those meetings and efforts.

B. Mount Vernon Memorial Highway (DHR ID#029-0218), George Washington Memorial Parkway (DHR ID#029-0228), Parkways of the National Capital Region (DHR ID#029-5524), and the Greens Scenic Area Easement

1. Convey land to the United States in fee for permanently impacted areas of the GWMP and Greens Scenic Area easement. The exact amount of land and properties to be exchanged between the Parties will be determined in a finalized agreement, consistent with the equal value exchange in property or interest in property per 54 U.S.C. 102901.
2. Completion of a current conditions landscape plan for all areas of vegetation to be removed from the GWMP and Greens Scenic Area Easement, prior to construction: Evaluate the number, type, size, age, and health of vegetation. Include restoration plan as referenced in the FEIS. **Integrate timeline, identify responsible parties, stipulate professional standards for final review and approval, etc.**
3. Restoration of the vegetative screening along the western side of the MVMH/GWMP and along the Greens Scenic Area Easement in areas used for construction of the Undertaking, in a manner consistent with the recommendations in the 2009 Cultural Landscape Report, *The Vegetation of the George Washington Memorial Parkway, Central Section: Alexandria to Arlington Memorial Bridge*: **Integrate timeline,**

identify responsible parties (NPS to have approval authority), stipulate professional standards for final review and approval, etc., in accordance with the design review process outlined in Stipulation VI.A.1.

VII. DESIGN DEVELOPMENT, ALIGNMENT MODIFICATIONS AND ANCILLARY ACTIVITIES

The Undertaking may result in unforeseen effects on other historic properties and archaeological sites due to changes made during design development, alignment modifications, or as a result of associated ancillary activities including, but not limited to, construction staging areas, storm water management facilities, wetland mitigation areas, reforestation areas, environmental stewardship activities, or other actions. Should such activities be added for which cultural resources studies or assessments have not been completed, the City of Alexandria shall consult with VDHR, and also the NPS if within the MVMH/GWMP, and other consulting parties that have an interest in the affected properties, and implement all required cultural resources studies in accordance with the applicable professional standards in Stipulation III and with the following procedures:

A. Identification

The City of Alexandria shall review any additions or changes to the Undertaking and implement identification investigations as necessary to identify any historic properties that may be impacted by the additions or changes to the Undertaking. The City of Alexandria shall provide all completed information to the VDHR, FTA, the NPS, WMATA, and other consulting parties that have an interest in the affected properties under this PA for review and comment. NPS concurrence is required if this pertains to the MVMH/GWMP or Greens Scenic Area Easement. If the VDHR does not provide written comments within 30 calendar days of receipt, the City of Alexandria may assume VDHR acceptance of the results.

B. Evaluation

The City of Alexandria shall evaluate all cultural resources identified in the areas inventoried under Stipulation VII.A in accordance with 36 CFR 800.4(c) to determine their eligibility for the National Register. The City of Alexandria shall provide the results of any such evaluation efforts to the VDHR, FTA, WMATA, and other consulting parties that have an interest in the affected properties, for review and comment. NPS concurrence is required if this pertains to the MVMH/GWMP or Greens Scenic Area Easement. If the VDHR does not provide written comments within 30 calendar days of receipt, the City of Alexandria may assume VDHR acceptance of the results.

C. Treatment

Should any property eligible for inclusion in the National Register be identified under Stipulation VII.A, the City of Alexandria shall make a reasonable and good faith effort to avoid adversely impacting the resources by realigning or modifying the Undertaking. If adverse effects are unavoidable, the City of Alexandria, WMATA, FTA, NPS, the VDHR, and other consulting parties that have an interest in the affected properties shall consult in accordance with 36 CFR 800.6 to develop and implement appropriate treatment options. NPS concurrence is required if this affects the MVMH/GWMP or Greens Scenic Area Easement. The City of Alexandria shall perform cultural resources work in accordance with the relevant professional standards in Stipulation III.

VIII. DOCUMENT AND DESIGN REVIEW

During the implementation of this MOA, the City of Alexandria, in coordination with FTA and WMATA, shall provide the VDHR, the NPS, and the other consulting parties with the opportunity to

review and comment on appropriate documents, reports, and design plans as specified in the stipulations throughout the MOA. NPS concurrence is required if any of these pertain to the MVMH/GWMP or Greens Scenic Area Easement. In general, review periods will encompass a timeframe not to exceed 30 calendar days from receipt of the item for review, unless otherwise specified in the MOA.

A. The VDHR and the NPS shall provide comments to the City of Alexandria and WMATA regarding any plan or document submitted pursuant to this MOA, as promptly as possible, but not to exceed 30 calendar days of the receipt of such revisions.

B. If the VDHR does not submit comments in writing within 30 calendar days of the receipt of any such submissions, the City of Alexandria and WMATA may assume VDHR acceptance of the submitted document.

C. If the VDHR, the NPS, or another consulting party objects within 30 calendar days of the receipt of any submissions, then FTA, the City of Alexandria, WMATA, the VDHR, and the NPS shall consult within 15 days of the receipt of an objection in an effort to resolve it.

D. If FTA, the City of Alexandria, and WMATA cannot resolve VDHR, the NPS, and/or the other consulting parties' objections, and if further consultation with the VDHR and the NPS is deemed unproductive by any party, then the parties shall adhere to the dispute resolution procedures detailed under Stipulation X.

E. FTA, WMATA, the City of Alexandria, the VDHR, and the NPS acknowledge that the timeframes set forth in this stipulation will be the maximum allowable under normal circumstances. In exigent circumstances (such as when construction activities have been suspended or delayed pending resolution of the matter), each party agrees to expedite their respective document review and dispute resolution obligations.

IX. MONITORING AND REPORTING

Each six months following the execution of this MOA until it expires or is terminated, the City of Alexandria shall provide all signatories and concurring parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received during efforts to carry out the terms of this MOA.

X. DISPUTE RESOLUTION

A. Objections by the Signatories

Should any of the signatories to this MOA object in writing to FTA within 30 days to any plans or actions proposed pursuant to this PA, FTA shall first consult with the objecting party to resolve the objection. If FTA determines that such objection cannot be resolved through such consultation, FTA shall within a 30-day time period:

1. Forward all documentation relevant to the objection, including FTA's proposed resolution, to the ACHP. Prior to reaching a final decision on the dispute, FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatory parties, and other consulting parties, and provide them with a copy of this written response. FTA shall then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the objection within the 30-day time period, FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FTA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

3. FTA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

B. Objections by Consulting Parties and the Public

At any time during the implementation of this MOA, should a consulting party or member of the public raise an objection pertaining to this agreement or the effect of the Undertaking on historic properties, the City of Alexandria shall consult with FTA, the objector, and the signatory parties to this agreement, as needed. After considering these discussions, the City of Alexandria shall account for and resolve the objection in an appropriate manner.

XI. OTHER

A. Contact Information

For purposes of notices and consulting pursuant to this MOA, the following contact information should be used for the signatory agencies:

FTA

Daniel Koenig, Environmental Protection Specialist
Federal Transit Administration, D.C. Metro Office
1990 K Street NW, Suite 510
Washington, D.C. 20006

CITY OF ALEXANDRIA

[contact info]

WMATA

[contact info]

VDHR

[contact info]

NPS

[contact info]

B. Emergency Situations

If an emergency situation that represents an immediate threat to public health, safety, life or property creating the potential to affect a historic property should occur during the duration of this MOA, the regulations set forth in 36 CFR 800.12 shall be followed. The City of Alexandria shall notify FTA, WMATA, and the VDHR of the condition that has created the situation and the measures to be taken to respond to the emergency or hazardous condition, and immediately notify the NPS if it pertains to the MVMH/GWMP or Greens Scenic Area Easement. FTA, the VDHR, and the NPS may submit comments to the City of Alexandria within seven days of the notification. If the City of Alexandria

determines that circumstances do not permit seven days for comment, the City of Alexandria shall notify FTA, WMATA, the VDHR, and the NPS and invite any comments in the determined and stated time available. The City of Alexandria shall consider these comments in developing a response to the treatment of historic properties in relation to the emergency.

C. Anti-Deficiency Act – Federal Parties

The obligations of Federal agencies under this MOA are pursuant to 31 USC 1341(a)(1); therefore nothing in this MOA shall be construed as binding the United States to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose, or to involve the United States in any contract or obligation for the further expenditure of money in excess of such appropriations.

XII. AMENDMENTS

Any signatory to this MOA may propose to FTA that the MOA be amended, whereupon FTA shall consult with all signatories and consulting parties to consider such an amendment. This MOA will be amended when agreed to in writing by all signatories. FTA or its designee shall provide a copy of the amended MOA to all consulting parties within thirty (30) days of execution by the signatories.

XIII. COORDINATION WITH OTHER FEDERAL REVIEWS

In the event any other federal agency provides funding, permits, licenses, or other assistance to the Potomac Yard Metrorail Project as it was planned at the time of the execution of this MOA, such funding or approving agency may comply with Section 106 by agreeing in writing to the terms of this MOA and so notifying and consulting the SHPO and ACHP. Any necessary amendments will be coordinated pursuant to Stipulation XII.

XIV. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. If the MOA is terminated, the City of Alexandria and FTA must comply with 36 CFR Part 800, Subpart B with regard to individual undertakings of the program covered by the MOA, pursuant to 36 CFR 800.14(b)(2)(v), prior to work continuing on the Undertaking. The City of Alexandria and FTA shall notify the signatories as to the course of action they will pursue.

XV. DURATION

This MOA will be null and void if its terms are not carried out within ten (10) years **[or specify another appropriate time period]** from the date of its execution. Prior to such time, FTA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XII.

XVI. EFFECTIVE DATE OF AGREEMENT

The MOA shall become effective when executed by the last of the Signatories.

Execution of this Memorandum of Agreement by the FTA, the City of Alexandria, WMATA, VDHR, and the NPS, the submission of documentation and filing of this MOA with the ACHP pursuant to 36 CFR 800.6(b)(1)(iv) prior to the FTA's approval of the Undertaking, and implementation of the terms of this MOA, provide evidence that the FTA has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.*

SIGNATORIES:

FEDERAL TRANSIT ADMINISTRATION

By:_____ Date:_____

CITY OF ALEXANDRIA, VIRGINIA

By:_____ Date:_____

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

By:_____ Date:_____

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

NATIONAL PARK SERVICE

By:_____ Date:_____

4.INVITED SIGNATORIES:

[insert invited signatory name]

By:_____ Date:_____

CONCURRING PARTIES:

[insert name of concurring party]

By:_____ Date:_____

Notes:

** Remember that the agency must submit a copy of the executed MOA, along with the documentation specified in 36 CFR. 800.11(f), to the ACHP prior to approving the Undertaking in order to meet the requirements of Section 106. 36 CFR 800.6(b)(1)(iv)*

DRAFT

Attachment A

Figure 1: Project Location and Study Area

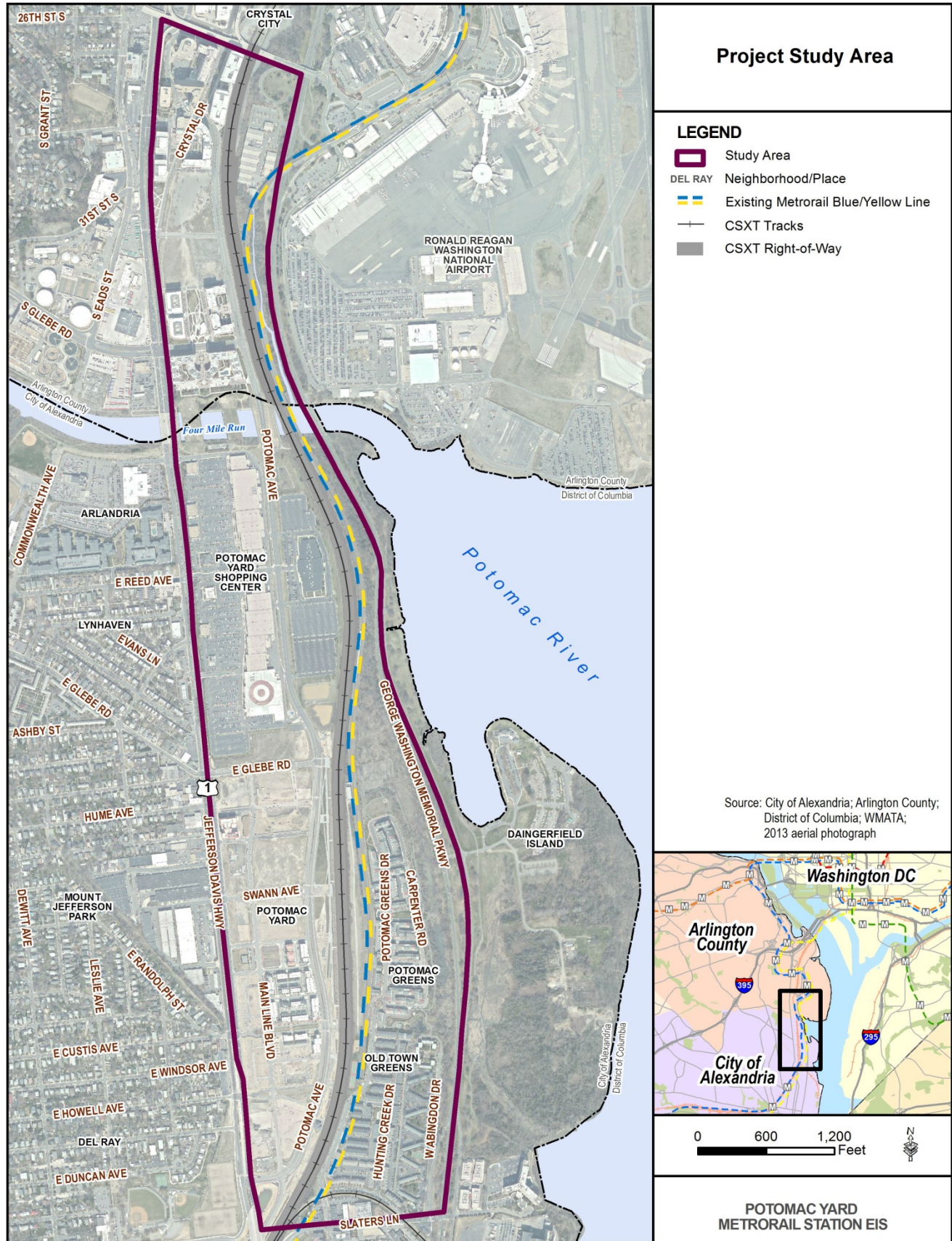


Figure 2: Project Preferred Alternative

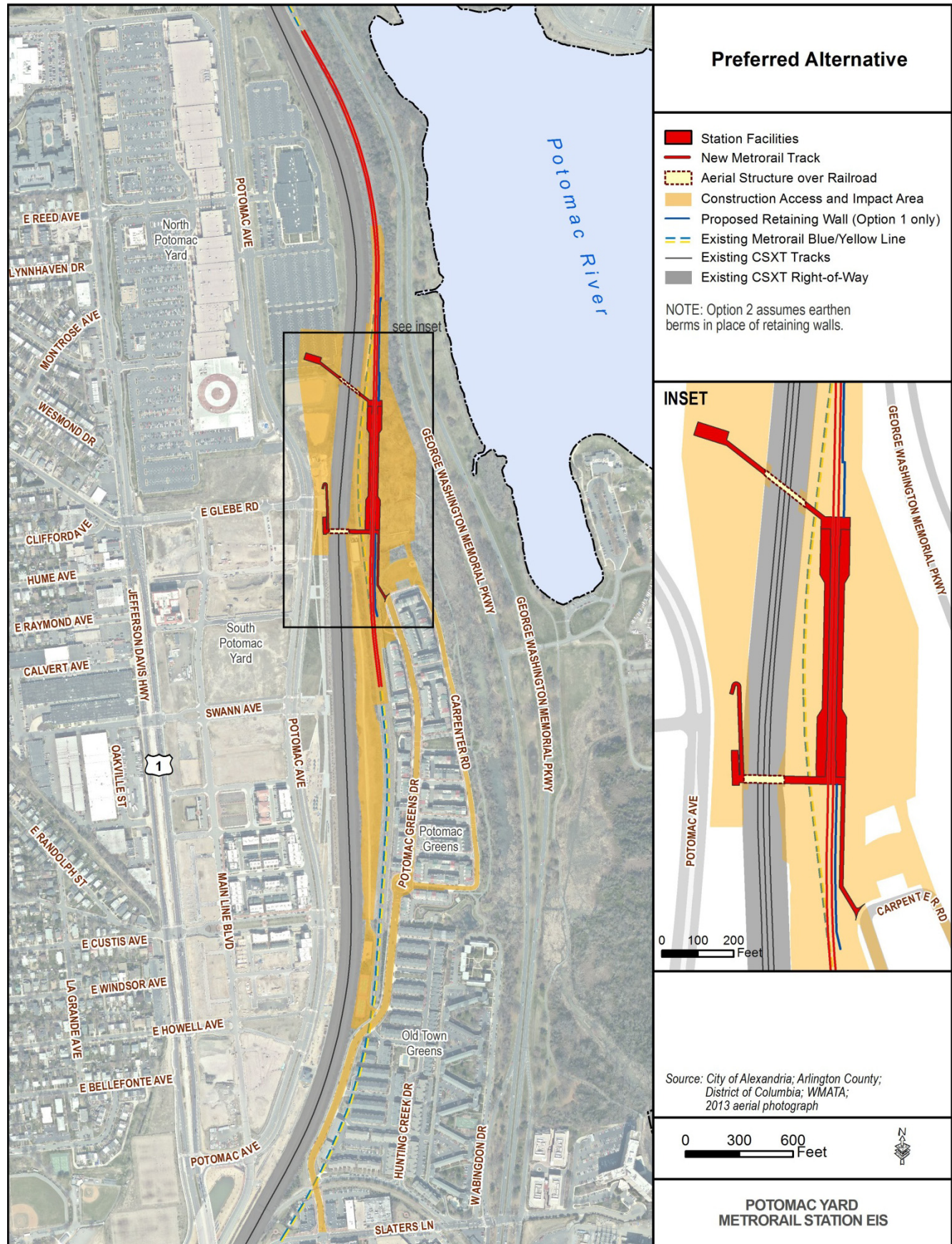


Figure 3: Area of Potential Effects

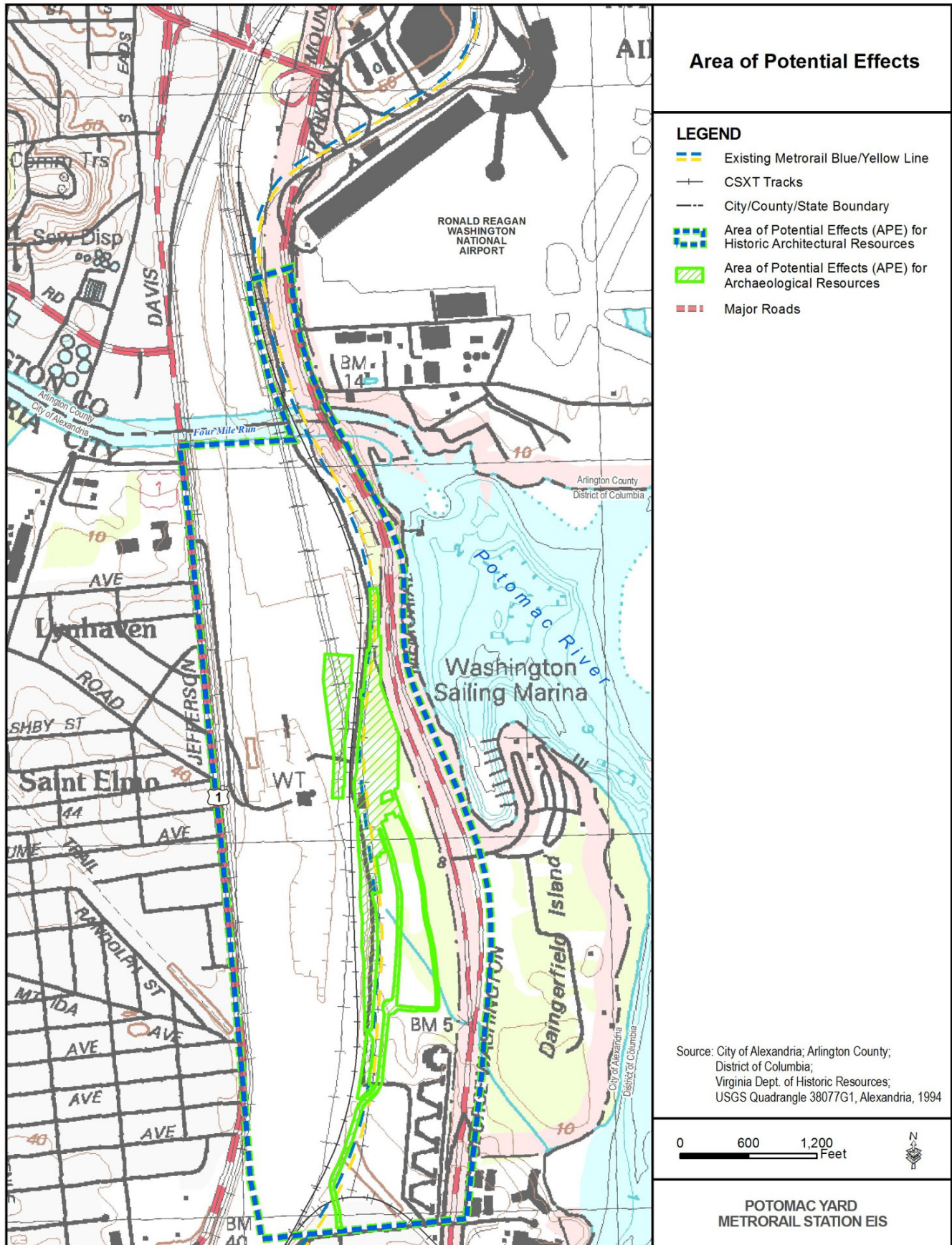


Figure 4: Historic Properties in the APE

