



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** JUNE 22, 2016

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER /s/

**DOCKET TITLE:**

Consideration of the Authorization for Execution of Documents for the Records of Decision for the Potomac Yard Metrorail Station Environmental Impact Statement and Other Associated Documents.

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**ISSUE:** Authorization for the City Manager to execute documents to be incorporated into the Records of Decision for the Potomac Yard Metrorail Station Environmental Impact Statement and other associated documents.

**RECOMMENDATION:** That City Council:

- (1) Authorize the City Manager to sign the Memorandum of Agreement (MOA) in substantially the form as attached among the Federal Transit Administration (FTA), the City of Alexandria, the Washington Metropolitan Area Transit Authority (WMATA), the National Park Service (NPS), and the Virginia State Historic Preservation Officer Regarding the Potomac Yard Metrorail Station (also known as the "Section 106 MOA");
- (2) Authorize the City Manager to sign the Agreement Regarding Wetlands Mitigation for the Potomac Yard Metrorail Station between the National Park Service and the City of Alexandria (also known as the "Wetlands Agreement") in substantially the form as attached; and
- (3) Authorize the City Manager, subject to City Attorney approval, to sign other associated documents pertaining to the Potomac Yard Metrorail Station project to advance the project schedule, as needed, during City Council's recess.

**BACKGROUND:** On May 20, 2015, the City Council selected Alternative B as the locally preferred alternative for the purposes of fulfilling the City's obligation under the Environmental Impact Statement (EIS)

process through the National Environmental Policy Act (NEPA) for construction of the proposed Potomac Yard Metrorail Station. Following selection of the preferred alternative, work began on the Final EIS, which compares the No Build Alternative with the Preferred Alternative, identifies impacts of the alternatives, states how public comments received on the Draft EIS were addressed, incorporates further design and refinement of the project to minimize community and environmental impacts, and describes measures for avoiding, minimizing, or mitigating adverse impacts. The Final EIS will be available for public review until July 11, 2016. While the Final EIS proposes mitigation, the Records of Decision (ROD) include commitments to avoid, minimize, or mitigate adverse impacts. Therefore, any agreements related to these commitments must be signed prior to issuance of the RODs.

**DISCUSSION:** Two agreements which require the City Manager's signature before they can be incorporated into the RODs are the Section 106 MOA and the Wetlands Agreement.

### **1. Section 106 Memorandum of Agreement**

Section 106 of the National Historic Preservation Act of 1966 requires federal agencies to take into account the effects of project undertakings on historic properties, and provide a reasonable opportunity for comment. Section 106 involves coordination among "consulting parties," and, if adverse effects are identified, the process usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.

As part of the Section 106 consultation, adverse effects have been identified to three of the four properties listed in the National Register of Historic Places: the Mount Vernon Memorial Highway (MVMH), the George Washington Memorial Parkway (GWMP), and the Parkways of the National Capital Region, 1913 - 1965 (PNCR). It should be noted that the boundaries of these properties overlap, but are distinct listings in the National Register and are therefore counted as separate resources. Adverse effects were also identified on the Greens Scenic Area Easement, which is a contributing resource to the MVMH and GWMP.

The Draft MOA (Attachment 1) sets forth the process by which FTA and NPS, with the assistance of the City of Alexandria and WMATA, will meet their responsibilities under Section 106. The MOA establishes procedures for ongoing consultation and sets 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. The Net Benefits Agreement with the NPS previously approved by City Council is a key element of the mitigation included in the Section 106 MOA, specifically:

- FTA, the City of Alexandria, WMATA, NPS, and other consulting parties shall monitor the development of design drawings to avoid adverse effects, following the review process laid out in the MOA.
- The City of Alexandria shall convey land to the United States in fee for permanent impacts areas of the GWMP and Greens Scenic Area Easement.
- A current conditions landscape plan shall be developed for all areas of vegetation to be removed from the GWMP and the Greens Scenic Area Easement, prior to construction.
- Vegetative screening along the western side of the MVMH/GWMP and along the Greens Scenic Area Easement in areas used for construction shall be restored in a manner consistent with the 2009

Cultural Landscape Report for the GWMP.

On June 29, 2016, the signatories to the MOA (FTA, the City, WMATA, NPS, and the Virginia Department of Historic Resources) will be meeting to discuss the draft document attached to this memorandum. The document will be finalized based on this meeting.

2. **Statement of Findings for Floodplains and Wetlands**

NPS is required to prepare a combined Statement of Findings (SOF) to comply with NPS wetland and floodplain management procedures. Executive Orders (EO) 11988 (Floodplain Management) and 11990 (Protection of Wetlands) require the NPS and other federal agencies to evaluate the likely impacts of actions in floodplains and wetlands. NPS Director's Order #77-1: Wetland Protection and NPS Procedural Manual #77-1 provide NPS policies and procedures to comply with EO 11990. NPS Procedural Manual #77-2 provide procedures to comply with EO 11988. The Statement of Findings has been published with the Final EIS.

The Statement of Findings includes the mitigation for wetlands temporarily impacted by construction activities as well as those permanently impacted. This requirement is standard and has been a regular part of the Potomac Yard planning. A total area of approximately 4.37 acres of permanent wetland impacts will be compensated off-site at a 1:1 ratio in Dyke Marsh. A total area of 2.92 to 3.25 acres of temporary wetland impacts will be mitigated on-site at a 1:1 ratio to restore or reconstruct wetlands to return to as close to pre-construction conditions as possible or better. Compensation for and restoration of wetland areas impacted by the project has been budgeted and planned and will be funded by the City out of the Potomac Yard Metrorail Station Fund.

The Wetlands Agreement (Attachment 2) establishes the agreed-upon mitigation, including the funding required to restore 4.37 acres of wetland adjacent to the GWMP at Dyke Marsh which is located just south of the City and contains 485 acres. The City agrees to provide up to \$1 million per impacted acre, not to exceed \$4.37 million, to NPS for the mitigation at Dyke Marsh. Restoring Dyke Marsh has been a high priority of NPS, and former Congressman Moran assisted in obtaining \$25 million in federal appropriations in 2013 for Dyke Marsh restoration.

3. **Other Agreements or Documents**

In addition to the two agreements described above, there may be other associated agreements or documents that need to be executed by the City Manager in order to continue moving the process forward. These would include but not be limited to documents needed to finalize the ROD, to finalize the Metrorail design build procurement process and to finalize other elements of the Potomac Yard Metrorail Station project. These additional agreements would not include execution of the design-build Memorandum of Understanding between the City and WMATA which constitutes the construction contract award, or the actual borrowing of monies or issuance of bonds, both of which will be brought to City Council for approval before execution. If there is any material issue that arises during the summer recess all Council Members would be notified before any document or agreement was executed. All such documents would be subject to City Attorney review and approval.

**FISCAL IMPACT:** The financing plan for the Potomac Yard Metrorail Station entails a self-financing plan that will not require the use of current General Fund revenues. The bulk of the capital costs is contemplated to be paid for using new Potomac Yard-generated tax revenues and developer contributions. The City has

established the Potomac Yard Metrorail Station Fund, the proceeds of which are to be used solely for the design, construction, and financing of the station and are segregated from other City revenues. The Station Fund will receive revenue from net new tax revenues from Potomac Yard, two special tax districts, and developer contributions. The plan also assumes \$69.5 million in Northern Virginia Transportation Authority (NVTA)-granted 70% funds, with the majority of that funding requested for FY 2017. The City has also been awarded a \$50 million loan from the Virginia Transportation Infrastructure Bank (VTIB). The 30-year loan locks in an interest rate of 2.17%. The City has requested a \$20 million TIGER grant, and will be requesting an \$88 million loan through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which like the VTIB loan provides low interest rates and flexible repayment terms to minimize risk.

The cost estimate for the Potomac Yard Metrorail Station includes a contingency of over \$30 million, which is intended to cover expenses unknown at the time of the estimate, including the cost of the wetlands mitigation. The \$4.37 million to be deposited in the NPS Impact Fund Account will be covered by this contingency.

**ATTACHMENTS:**

Attachment 1: Memorandum of Agreement Among the Federal Transit Administration, the City of Alexandria, Virginia, the Washington Metropolitan Transit Authority, the National Park Service, and the Virginia State Historic Preservation Officer  
Regarding the Potomac Yard Metrorail Station

Attachment 2: Agreement Regarding Wetland Mitigation for the Potomac Yard Metro between the National Park Service and the City of Alexandria

**STAFF:**

Emily A. Baker, Deputy City Manager  
Joanna Anderson, Deputy City Attorney  
Morgan Routt, Director, OMB  
Yon Lambert, AICP, Director, T&ES  
Karl W. Moritz, Director, P&Z  
Mitchell Bernstein, P.E., Director, DPI