



# APPENDIX – K

# CULTURAL AND HISTORIC

# RESOURCES COORDINATION AND

# CONCURRENCES, REV 1

I-64 Hampton Roads Bridge-Tunnel Expansion Project

Hampton Roads Connector Partners

240 Corporate Blvd. 4<sup>th</sup> floor

Norfolk, VA 23502

*Hampton-Norfolk, Virginia*

December 19, 2019

# DOCUMENT HISTORY

Issue Date	Description	By	Revision
December 19, 2019	Revised to incorporate design refinement and agency comment	J. Barnes	1

# TABLE OF CONTENTS

K. Cultural and Historic Resources Coordination and Concurrences.....	1
K.1 Cultural Resources Summary .....	1
K.1.1 Historic Properties in the APE.....	1
K.2 References .....	7

## TABLES

Table K-1: Historic Properties in the APE.....	1
--	---

## ATTACHMENTS

Attachment K-1: Programmatic Agreement

Attachment K-2: Cultural Resources Figures

# K. CULTURAL AND HISTORIC RESOURCES COORDINATION AND CONCURRENCES

## K.1 CULTURAL RESOURCES SUMMARY

Multiple cultural resources investigations have been conducted in support of the Hampton Roads Bridge-Tunnel Expansion Project (Project) in order to comply with Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations at 36 CFR Part 800. Previous consultation conducted by FHWA and VDOT under Section 106 with the Virginia Department of Historic Resources (DHR), which serves as the State Historic Preservation Office (SHPO), resulted in a finding of no adverse effect for the HRBT Expansion Project through the 2017 execution of a *Programmatic Agreement Among the Federal Highway Administration, the Virginia State Historic Preservation Officer, and the Virginia Department of Transportation Regarding the Hampton Roads Crossing Study, Cities of Hampton and Norfolk, Virginia* (Attachment K-1 – Programmatic Agreement). VDOT continues to participate in ongoing coordination with DHR regarding the Programmatic Agreement (PA). The PA requires VDOT to meet specific design commitments for avoidance of adverse effects, complete efforts to identify archaeological sites eligible for listing in the National Register of Historic Places (NRHP) within the Area of Potential Effect (APE) for the project, and to assess effects on identified historic properties.

### K.1.1 HISTORIC PROPERTIES IN THE APE

The APE defined for the project included a direct effects APE that is 500 feet wide around each build alternative. In undeveloped areas, the APE for indirect effects extended 500 feet beyond each side of the direct APE; in developed areas where the build alternatives would involve improvements to existing highways, the indirect effects APE extended across tax parcels directly abutting the direct effects APE and across any parcels immediately adjacent to the abutting parcels. The previous cultural resources surveys and the PA have identified 20 historic properties within the HRBT project’s APE (Table K-1). Historic properties are those resources that are listed in or eligible for listing in the NRHP.

Table K-1: Historic Properties in the APE

DHR Inventory No.	City	Resource Name	NRHP Status	Direct APE	Indirect APE
114-5600	Hampton	Hampton Coliseum	Assumed NRHP-eligible	No	Yes
114-0155	Hampton	Elmerton Cemetery	Assumed NRHP-eligible	No	Yes

<b>DHR Inventory No.</b>	<b>City</b>	<b>Resource Name</b>	<b>NRHP Status</b>	<b>Direct APE</b>	<b>Indirect APE</b>
<b>114-0118</b>	Hampton	Pasture Point Historic District	NRHP-listed 2012	No	Yes
<b>114-0006</b>	Hampton	Hampton Institute Historic District	NRHP-listed 1969; NHL 1974	No	Yes
<b>114-0148</b>	Hampton	Hampton National Cemetery	NRHP-listed 1996	No	Yes
<b>114-0101</b>	Hampton	Hampton Veterans Affairs Medical Center Historic District	NRHP-eligible 1991	No	Yes
<b>114-5002</b>	Hampton	Phoebus-Mill Creek Terrace Neighborhood Historic District	NRHP-listed 2006	Yes	Yes
<b>114-0002</b>	Hampton	Fort Monroe	NHL 1960; NRHP-listed 1966	No	Yes
<b>114-0114</b>	Hampton	Chamberlain Hotel	NRHP-listed 2007	No	Yes
<b>114-0021</b>	Hampton	Old Point Comfort Lighthouse	NRHP-listed 1973	No	Yes
<b>114-0041</b>	Hampton	Fort Wool	NRHP-listed 1969	No	Yes
<b>114-5471</b>	Hampton	Battle of Hampton Roads	NRHP-eligible 2007	Yes	Yes
<b>122-5426</b>	Norfolk	Battle of Sewell's Point	NRHP-eligible 2007	Yes	Yes
<b>None</b>	Hampton, Newport News, Norfolk,	Captain John Smith Chesapeake National Historic Trail	Assumed NRHP-eligible	Yes	Yes

DHR Inventory No.	City	Resource Name	NRHP Status	Direct APE	Indirect APE
	Portsmouth, Suffolk				
None	Hampton, Newport News, Norfolk, Portsmouth, Suffolk	Washington-Rochambeau Revolutionary Route National Historic Trail	Assumed NRHP-eligible	Yes	Yes
122-0410	Norfolk	Norfolk Naval Base Historic District	NRHP-eligible 1997	No	Yes
122-5930	Norfolk	Willoughby Elementary School	Assumed NRHP-eligible	No	Yes
122-0954	Norfolk	Ocean View Elementary School	NRHP-eligible 1998	No	Yes
122-5434	Norfolk	Merrimack Landing Apartment Complex/Merrimack Park Historic District	NRHP-eligible 2012	No	Yes
122-0531	Norfolk	Forest Lawn Cemetery	NRHP-eligible 2012	No	Yes

As the design of the Project has progressed, the Limits of Disturbance (LOD) have been refined, resulting in some areas proposed for construction and/or ground-disturbing activities that are located outside of the previously defined direct APE/LOD as documented in the PA and the Supplemental Environmental Impact Statement (EIS). These areas are limited in nature, are within close proximity to the previous direct APE/LOD, and are typically located at intersections that have been previously disturbed. HRCP will continue on-going coordination with VDOT and DHR to determine if any of these areas outside of the previous APE/LOD require additional cultural resource assessment; however, given the previous disturbance in the vicinity, the identification of new sites is unlikely. The Cultural Resources Figures (Attachment K-2) provide maps of the Project area and shows the previous LOD from the PA and SEIS, the revised NEPA LOD adjusted for additional permanent project impacts, the Construction LOD, the indirect APE, historic properties within the APE, and the 2017 archaeological survey area for the *Hampton Roads Crossing Phase I Archaeological Survey Hampton and Norfolk, Virginia* (Regan et al. 2017).

## K.1.2 EXECUTION OF THE PROGRAMMATIC AGREEMENT

HRCP in coordination with VDOT has been working to execute the stipulations of the PA which include design commitments for avoidance of adverse effects to historic properties, mostly related to noise walls, and the completion of efforts to identify archaeological sites. Execution of Stipulation I in the PA regarding Consideration of Historic Properties in Project Design is currently ongoing and includes design commitments to avoid adverse effects to specified historic properties and also includes final assessment of effect by VDOT and review by DHR of the proposed HRBT Expansion Project design. Stipulations required in the PA regarding design commitments to avoid adverse effect to historic properties are briefly summarized and current status is provided below. For further details, please refer to Attachment K-1 – Programmatic Agreement.

### ***Stipulation I***

#### **Hampton Institute Historic District (DHR No. 114-0006) and Hampton Institute National Historic Landmark (DHR No. 114-0006)**

- Construct all permanent Project improvements within the highway right of way and outside of the historic district boundaries – ongoing
- Execute memorandum with Hampton University regarding temporary access to Hampton University property – complete
- Project improvements and construction activities will avoid the Emancipation Oak and will not encroach on the Tree Limit of Disturbance specified in the PA. Barrier fencing will be erected prior to construction along the chain link fence just north of a row of loblolly pines and will be maintained for the duration of construction. Ancillary construction activities (including, but not limited to, clearing and grubbing, vehicle traffic, stockpiling, and staging) are prohibited within the Tree Limit of Disturbance – ongoing
- Prior to construction, conduct a baseline assessment of the condition of the Emancipation Oak and row of loblolly pines (*Pinus taeda*). Provide the SHPO and Hampton University a draft of the baseline assessment plan for review and comment. Provide the SHPO and Hampton University the final baseline assessment report before Project construction begins in vicinity of the Hampton University Historic District – ongoing
- Develop a plan in consultation with SHPO and Hampton University for monitoring the condition of the Emancipation Oak and row of loblolly pines during construction and for a period of one year following completion of construction. Provide a draft of the monitoring plan to SHPO and Hampton University for review and comment. Provide the SHPO and Hampton University the final monitoring plan and ensure the plan is implemented – ongoing
- Conduct design noise analysis and provide SHPO and Hampton University the draft final design noise report for review and comment after FHWA has concurred with the draft. If noise abatement measures are warranted, consult with SHPO and Hampton University on the aesthetic treatment of the barrier; provide the final design to SHPO for concurrence; and Hampton University for review and comment – ongoing

### **Pasture Point Historic District (DHR No. 114-0118)**

- Conduct design noise analysis and provide SHPO, City of Hampton, and Pasture Point Neighborhood Association (PPNA) the draft final design noise report for review and comment after FHWA has concurred with the draft. If noise abatement measures are warranted, consult with SHPO, City of Hampton, and PPNA on the aesthetic treatment of the barrier; provide the final design to SHPO for concurrence; and City of Hampton and PPNA for review and comment – ongoing

### **Hampton National Cemetery (DHR No. 114-0148)**

- Conduct design noise analysis and provide SHPO, and the U.S. Department of Veterans Affairs, National Cemetery Administration (VA/NCA) the draft final design noise report for review and comment after FHWA has concurred with the draft – ongoing
- If noise report indicates a noise barrier in the vicinity of the Hampton National Cemetery, Phoebus Section is warranted, a sun and shadow analysis will be completed. Report will be provided to the VA/NCA to determine whether a barrier would be desired and to the SHPO and VA/NCA for review and comment in relation to the barrier design – ongoing
- If installation of a noise barrier is found to meet the criteria established in VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual*, consult with the SHPO and VA/NCA on the aesthetic treatment of the barrier. Consult with the SHPO and the VA/NCA regarding potential installation of plantings to screen noise barrier from the cemetery. Final design of the noise barrier and plant screen to be provided to SHPO for concurrence, and to the VA/NCA for review and comment. Install the approved plant screen before the end of Project construction and maintain it in good condition for a one-year establishment period – ongoing

### **Phoebus-Mill Creek Terrace Neighborhood Historic District (DHR No. 114-5002)**

- Conduct design noise analysis and provide SHPO, City of Hampton, and the Partnership for a New Phoebus, Inc. the draft final design noise report for review and comment after FHWA has concurred with the draft. If noise abatement measures are warranted, consult with SHPO, City of Hampton, and Partnership for a New Phoebus, Inc. on the aesthetic treatment of the barrier; provide the final design to SHPO for concurrence; and City of Hampton and Partnership for a New Phoebus, Inc. for review and comment – ongoing

### **Norfolk Naval Base Historic District (DHR No. 122-0410)**

- Conduct design noise analysis and provide SHPO, City of Norfolk, and Naval Station Norfolk (NAVSTA Norfolk) the draft final design noise report for review and comment after FHWA has concurred with the draft. If noise abatement measures are warranted, consult with SHPO, City of Norfolk, and NAVSTA Norfolk on the aesthetic treatment of the barrier; provide the final design to SHPO for concurrence; and City of Norfolk and NAVSTA Norfolk for review and comment – ongoing



## **Review of Design**

- Once appropriate level of design plans are reached for HRBT Expansion Project, apply the criteria of adverse effect for the design to the specified historic properties in Stipulation I.F. to ensure no changes to the assessment of effect. Coordinate updated findings with the SHPO and consulting parties and consult to resolve any adverse effects – ongoing

## ***Stipulation II***

In order to fulfill Stipulation II of the PA regarding Terrestrial and Underwater Archaeological Sites and to cover expanded project limits since execution of the PA, two archaeological surveys were completed in 2017 and 2018. These two surveys include the *Hampton Roads Crossing Phase I Archaeological Survey, Hampton and Norfolk, Virginia* completed by AECOM (Regan et al. 2017) and the *Final Management Summary, Archaeological Survey, Hampton Roads Crossing Study, City of Norfolk* by the William and Mary Center for Archaeological Research (Higgins 2018). Neither survey identified any NRHP-eligible or listed archaeological sites in the APE, and the DHR concurred with the findings of the reports (DHR File No. 2015-0783). Therefore, Stipulation II of the PA is complete.

## K.2 REFERENCES

AECOM. 2017. *Hampton Roads Crossing Phase I Archaeological Survey, Hampton and Norfolk, Virginia completed by AECOM.*

VDOT. 2017. *Programmatic Agreement Among the Federal Highway Administration, the Virginia State Historic Preservation Officer, and the Virginia Department of Transportation Regarding the Hampton Roads Crossing Study, Cities of Hampton and Norfolk, Virginia.*

William and Mary Center for Archaeological Research. 2018. *Final Management Summary, Archaeological Survey, Hampton Roads Crossing Study, City of Norfolk by the William and Mary Center for Archaeological Research.*

**ATTACHMENT K-1:  
PROGRAMMATIC AGREEMENT**

**PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER,  
AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION  
REGARDING THE  
HAMPTON ROADS CROSSING STUDY,  
CITIES OF HAMPTON AND NORFOLK, VIRGINIA**

**RECITALS**

**WHEREAS**, the Virginia Department of Transportation (VDOT) proposes to construct highway improvements considered under the Hampton Roads Crossing Study (HRCS) that would relieve congestion at the Interstate 64 (I-64) Hampton Roads Bridge Tunnel (HRBT) in a manner that improves accessibility, transit, emergency evacuation, and the movement of the military and goods along the primary transportation corridors in the Hampton Roads region, including the I-64, Interstate 664 (I-664), Interstate 564 (I-564), and VA Route 164 corridors (VDOT Project No. 0064-965-081, P101, UPC 106724; Virginia Department of Historic Resources [DHR] File No. 2015-0783), hereinafter referred to as “Project”; and

**WHEREAS**, studies contributing to the development and selection of alternatives for the Project were initiated in the 1990s, as summarized in Attachment 1; and

**WHEREAS**, on July 25, 2016, the Federal Highway Administration (FHWA) approved a Draft Supplemental Environmental Impact Statement (Draft SEIS) for the HRCS which examined a no-build and four build alternatives for the proposed improvements; and

**WHEREAS**, VDOT held Location Public Hearings in the City of Hampton on September 7, 2016, and the City of Norfolk on September 8, 2016, for the purpose of providing the public the opportunity to comment on the Draft SEIS; and

**WHEREAS**, after consideration of comments received from the public and local governments, unanimous endorsements from the Hampton Roads Transportation Planning Organization and the Hampton Roads Transportation Accountability Commission, and the recommendations of the six federal agencies and five localities cooperating with the FHWA and VDOT on the Draft SEIS, the Commonwealth Transportation Board (CTB) approved Alternative A as the location of the Project by resolution dated December 7, 2016; and

**WHEREAS**, Alternative A would provide improvements to I-64, and the HRBT, beginning at the I-64/I-664 interchange in Hampton and ending at the I-64/I-564 interchange in Norfolk (Attachment 2), and would create a consistent six (6)-lane facility on the I-64 mainline and provide a new bridge-tunnel on the HRBT; and

**WHEREAS**, in its resolution dated December 7, 2016, the CTB resolved that Alternative A would not include any permanent acquisition of property from Hampton University,

the academic campus of which contains the historic property boundaries of the Hampton Institute Historic District and the Hampton Institute National Historic Landmark (DHR Inventory No. 114-0006); and

**WHEREAS**, in its resolution dated December 7, 2016, the CTB also resolved that Alternative A would not include any permanent acquisition of Hampton University property at Strawberry Banks, located at the north end of the HRBT and southwest of I-64, and this commitment will require VDOT to re-examine the preliminary design presented in the Draft SEIS for adding capacity to the HRBT; and

**WHEREAS**, in its resolution dated December 7, 2016, the CTB also directed VDOT to work with Hampton University by June 30, 2017, to develop a mutually agreeable memorandum outlining the terms should temporary access to University property be necessary; and

**WHEREAS**, the VDOT has received Federal financial assistance for the Project from the FHWA to conduct the study; and

**WHEREAS**, the FHWA has determined that the provision of financial assistance for the Project is an undertaking as defined in 36 C.F.R. 800.16(y); and

**WHEREAS**, pursuant to Section 10 of the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 401 and 403) and Section 404 of the Clean Water Act of 1973 (33 U.S.C. 1344), a Department of the Army permit would be required from the Corps of Engineers (Corps) for the Project; and

**WHEREAS**, the Corps has designated the FHWA as the lead federal agency to fulfill federal responsibilities under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) for the Project, pursuant to Stipulation I.A of the *Programmatic Agreement among the Federal Highway Administration, the U.S. Army Corps of Engineers, Norfolk District, the Tennessee Valley Authority, the Advisory Council on Historic Preservation, the Virginia State Historic Preservation Officer, and the Virginia Department of Transportation Regarding Transportation Undertakings Subject to Section 106 of the National Historic Preservation Act of 1966*, executed August 2, 2016 (hereinafter referred to as the “2016 Federal PA”); and

**WHEREAS**, the FHWA has authorized the VDOT to conduct consultation with the Virginia State Historic Preservation Officer (SHPO) for the Project on its behalf pursuant to Stipulation II.B of the *2016 Federal PA*, including the initiation of the Section 106 process, identification of historic properties, and assessment and resolution of adverse effects; and

**WHEREAS**, for the purpose of identifying historic properties that might be affected by the Project, the VDOT, in consultation with the SHPO and other consulting parties, defined the Area of Potential Effects (APE) for the Project in accordance with 36 C.F.R. 800.4(a)(1) [as described and depicted in the reports *Architectural Survey: Management Summary*, *HRCS SEIS* (Revised July 29, 2016) and *Archaeological Assessment*, *HRCS*

*SEIS* (Revised July 29, 2016)]; the APE for direct effects comprised a 500-foot-wide Study Area Corridor associated with each build alternative; in undeveloped areas, the APE for indirect effects extended 500 feet beyond each side of the Study Area Corridor; in developed areas where the build alternatives would involve improvements to existing highways, the indirect effects APE extended across tax parcels directly abutting the Study Area Corridor and across any parcels immediately adjacent to the abutting parcels (Attachment 3); and

**WHEREAS**, as development of the Project has proceeded, more accurate and narrower Limits of Disturbance (LOD) defining the direct effects APE have been delineated for the preferred alternative, and the LOD and direct effects APE may be refined further in the future; and

**WHEREAS**, the VDOT, in consultation with the SHPO and other consulting parties, has completed studies to identify all buildings, structures, and non-archaeological sites, districts, and objects meeting the criteria for listing on the National Register of Historic Places (NRHP) located within the Project's APE; the VDOT conveyed its findings, discussed in the report *Architectural Survey: Management Summary, HRCS SEIS (Revised July 29, 2016)*, to the SHPO and other consulting parties via letters dated April 1, 2016, July 8, 2016, and November 9, 2016; and the SHPO concurred with these findings on April 28, 2016, July 20, 2016, and December 5, 2016, respectively; and

**WHEREAS**, VDOT, in consultation with the SHPO and other consulting parties, has identified within the Project's APE the twenty (20) buildings, structures, and non-archaeological sites, districts, and objects listed in Attachment 4 that are either listed in the NRHP, determined eligible for listing, or assumed by the FHWA and VDOT to be eligible for listing for the purposes of applying the requirements of Section 106 to the Project; and

**WHEREAS**, VDOT, in consultation with the SHPO and other consulting parties, has applied the criteria of adverse effect to the historic properties listed in Attachment 4, in accordance with 36 C.F.R. 800.5, and determined that none of these properties will be adversely affected by the Project, and conveyed its findings to the SHPO and other consulting parties by letter dated November 22, 2016, and the SHPO concurred with these findings on December 29, 2016; and

**WHEREAS**, the VDOT, in consultation with the SHPO and other consulting parties, has initiated studies to identify within the Project's APE archaeological sites and archaeological districts meeting the criteria for listing on the NRHP; the VDOT conveyed its initial findings, described in the report *Archaeological Assessment, HRCS SEIS (Revised July 29, 2016)*, to the SHPO and other consulting parties by letters dated April 1, 2016 and November 9, 2016; and the SHPO concurred with these initial findings on April 28, 2016 and December 5, 2016, respectively; and

**WHEREAS**, under the terms of this Programmatic Agreement (hereinafter referred to as "Agreement"), VDOT will have responsibility for ensuring completion of the remaining

actions necessary to identify archaeological sites within the Project's direct effects APE; and

**WHEREAS**, VDOT has consulted with the FHWA, the SHPO, and other consulting parties to resolve potential adverse effects of the Project on architectural properties listed in or eligible for listing in the NRHP in accordance with Section 106 of the National Historic Preservation Act (*54 U.S.C. 300101 et seq.*) and its implementing regulations, 36 C.F.R. 800; and

**WHEREAS**, VDOT notified the Advisory Council on Historic Preservation (ACHP) by letter dated February 7, 2016, of the potential adverse effect of the Project pursuant to 36 C.F.R. 800.6(a)(1), and the ACHP chose not to participate in consultation by letter dated February 27, 2017; and

**WHEREAS**, pursuant to 36 C.F.R. 800.10(c), the FHWA notified the Secretary of the Interior (SOI) by letter dated January 18, 2017, of the Section 106 consultation involving the Hampton Institute National Historic Landmark (DHR Inventory No. 114-0006), and the SOI did not respond; and

**WHEREAS**, pursuant to 36 C.F.R. 800.10(c), the FHWA notified the SOI by letter dated February 22, 2017, of the Section 106 consultation involving Fort Monroe National Historic Landmark (DHR Inventory No. 114-0002), and the SOI did not respond; and

**WHEREAS**, the FHWA provided the Federally recognized Indian tribes the Delaware Nation and the Pamunkey Indian Tribe the opportunity to participate in the Section 106 process for the Project as consulting parties pursuant to 36 C.F.R. 800.2(c)(2)(ii) by letters dated July 22, 2015; the Delaware Nation responded on September 29, 2015, that it had no concerns about the Project; and the Pamunkey Indian Tribe did not respond; and

**WHEREAS**, VDOT, on behalf of the FHWA, provided the Cities of Newport News, Hampton, Norfolk, Portsmouth, Chesapeake, and Suffolk the opportunity to participate in the Section 106 process for the Project as consulting parties pursuant to 36 C.F.R. 800.2(c)(3) by letters dated July 17, 2015; and the Cities of Suffolk, Newport News, and Hampton each responded that it would participate in consultation; and

**WHEREAS**, VDOT participated in this consultation pursuant to 36 C.F.R. 800.2(c)(4) and the *2016 Federal PA* and, in accordance with 36 C.F.R. 800.6(c)(2)(iii) and Paragraph II.B.4.c.vi of the *2016 Federal PA*, will be a Signatory to this Agreement; and

**WHEREAS**, VDOT, on behalf of the FHWA, provided the parties listed in Attachment 5 the opportunity to participate in this consultation pursuant to 36 C.F.R. 800.2(c)(5) by letters dated July 17, 2015, April 1, 2016, April 12, 2016, or March 16, 2017, and the following parties responded that they would participate in consultation, and hereinafter these parties will be referred to collectively as "Consulting Parties": Citizens for a Fort Monroe National Park, Norfolk Preservation Alliance, Norfolk Historical Society, Partnership for a New Phoebus, Inc., American Battlefield Protection Program, U.S.

Department of Veterans Affairs National Cemetery Administration, U. S. Coast Guard Base Portsmouth, National Park Service Chesapeake Bay Office, Mr. J. Brewer Moore, Buckroe Historical Society, U.S. Army Corps of Engineers, and African American Historical Society of Portsmouth, Inc.; and

**WHEREAS**, the Consulting Parties have been invited by FHWA to concur in this Agreement pursuant to 36 C.F.R. 800.6(c)(3) and Paragraph II.B.4.c.vii of the 2016 Federal PA; and

**WHEREAS**, in recognition of the fact that Hampton University is the owner of a National Historic Landmark, the Hampton Institute National Historic Landmark, a portion of which is located within the Project APE for indirect effects, the FHWA has extended Consulting Party status to the university and invited the university to concur in this Agreement pursuant to 36 C.F.R. 800.6(c)(3); and

**WHEREAS**, the public has been afforded the opportunity to comment on the Project at Citizen Information Meetings held in July and December 2015 and at the two (2) aforementioned Location Public Hearings; and

**WHEREAS**, this Agreement contains Stipulations to ensure that all commitments on consultation and avoidance, minimization, or mitigation of Project effects contained herein are implemented if the VDOT engages a Design/Build Contractor or Public Private Transportation Act (PPTA) Concessionaire to design or construct the Project;

**NOW, THEREFORE**, the FHWA, the SHPO, and the VDOT (herein referred to collectively as “Signatories”) agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

## **STIPULATIONS**

The FHWA shall ensure that the following stipulations are implemented:

### **I. Consideration of Historic Properties in Project Design**

#### **A. Design Commitments for Avoidance of Adverse Effects to the Hampton Institute Historic District (HIHD) (DHR Inventory No. 114-0006) and Hampton Institute National Historic Landmark (HINHL) (DHR Inventory No. 114-0006)**

1. In the area of the Project where the boundary of the HIHD runs along the southwest side of I-64, VDOT shall construct all permanent Project improvements along that side of the interstate within the highway right of way owned by VDOT as of November 12, 1969 (the date the HIHD was listed on the NRHP) in order to avoid encroaching on the NRHP HIHD boundaries (Attachment 6).



2. As directed by the CTB in their December 7, 2016 resolution, by June 30, 2017, VDOT shall execute a mutually agreeable memorandum with Hampton University outlining the terms should VDOT require temporary access onto Hampton University property. On Hampton University's academic campus, no access shall be provided for in that memorandum that would violate the prohibitions on access in the vicinity of the Emancipation Oak described in Stipulation I.A.3, below. If Hampton University finds it appropriate, the memorandum shall also include terms for the re-establishment on Hampton University property of vegetation to serve as a visual buffer between the HIHD and I-64 if Project construction within VDOT's existing right of way or in areas covered under the temporary access memorandum requires the removal of existing vegetation currently serving that function. Prior to its execution, VDOT shall provide the access memorandum to the SHPO for its concurrence that the terms of access will not result in a diminishment of the historic integrity of the HIHD and HINHL.
3. In addition to the requirements of Stipulation A.1, above, in the vicinity of the Emancipation Oak, VDOT shall construct Project improvements and conduct construction activities so that there is no encroachment into the Tree Limit of Disturbance depicted in Attachment 7. Along the I-64 eastbound entrance ramp at Exit 267 – US60/VA 143 Settlers Landing Road, the Tree Limit of Disturbance runs along an existing chain link fence just north of a row of loblolly pines. VDOT shall include in its construction contract for the Project a Special Provision requiring its Contractor or the PPTA Concessionaire to erect barrier fencing along the line of the chain link fence prior to initiation of Project construction and maintain the barrier fencing in good condition for the duration of Project construction. The Special Provision shall also prohibit any ancillary construction activities (including, but not limited to, clearing and grubbing, vehicle traffic, stockpiling, and staging) within the Tree Limit of Disturbance.
4. Prior to initiation of Project construction, VDOT, in consultation with the SHPO and Hampton University, shall develop a plan for conducting a baseline assessment of the condition of the Emancipation Oak and the row of loblolly pines that runs along the southwest side of the I-64 eastbound entrance ramp at Exit 267 – US60/VA 143 Settlers Landing Road. VDOT shall provide the SHPO and Hampton University a draft of the baseline assessment plan for their review and comment and shall either incorporate comments received into the final baseline assessment plan or respond in writing to the SHPO and Hampton University the reasons why their comments were not incorporated.

VDOT shall complete the baseline assessment and provide the SHPO and Hampton University an opportunity to review and comment on a draft baseline assessment report. VDOT shall incorporate comments received into the final baseline assessment report, or respond in writing to the SHPO and

Hampton University the reasons why their comments were not incorporated. VDOT shall provide the SHPO and Hampton University the final baseline assessment report before beginning Project construction within the stretch of I-64 adjacent to the NRHP HIHD boundaries.

5. Prior to beginning Project construction, VDOT, in consultation with the SHPO and Hampton University, shall develop a plan for monitoring the condition of the Emancipation Oak and the row of loblolly pines that runs along the southwest side of the I-64 eastbound entrance ramp at Exit 267 – US60/VA 143 Settlers Landing Road during Project construction and for a period of one (1) year following completion of construction. VDOT shall provide the SHPO and Hampton University a draft of the monitoring plan for review and comment. VDOT shall incorporate comments received from the SHPO and/or Hampton University into the final monitoring plan, or respond to the SHPO and Hampton University in writing the reason(s) why comments received were not incorporated into the document. VDOT shall ensure that the monitoring plan is implemented.
  6. The design noise analysis VDOT will conduct for the Project will follow VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual* (July 2015, or any revisions or replacements thereto) and shall be in conformance with the federal highway traffic noise impact analysis and abatement regulations, procedures, and guidance mandated by FHWA (23 C.F.R. 772). VDOT shall provide the SHPO and Hampton University the draft final design noise report for the Project for review and comment after FHWA has concurred with the draft. If the final design noise study indicates that noise abatement measures are warranted for the eastbound lane of I-64 at the HIHD, and installation of a noise barrier is found to meet the criteria established in VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual*, VDOT shall consult with the SHPO and Hampton University on the aesthetic treatments of the barrier (e.g., color, surface treatment) and provide the final design to the SHPO for concurrence, and Hampton University for review and comment, that the barrier is compatible with the historic character of the HIHD and HINHL and will not result in a diminishment of the integrity of their historic setting or feeling.
- B. Design Commitments for Avoidance of Adverse Effects to the Pasture Point Historic District (DHR Inventory No. 114-0118)**

The design noise analysis VDOT will conduct for the Project will follow VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual* (July 2015, or any revisions or replacements thereto) and shall be in conformance with the federal highway traffic noise impact analysis and abatement regulations, procedures, and guidance mandated by FHWA (23 C.F.R. 772). VDOT shall provide the SHPO, the City of Hampton, and the Pasture Point Neighborhood Association (PPNA) the draft final design noise report for the Project for review and comment after

FHWA has concurred with the draft. If the final design noise study indicates that noise abatement measures are warranted for the eastbound lane of I-64 in the vicinity of the Pasture Point Historic District, and installation of a noise barrier is found to meet the criteria established in VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual*, VDOT shall consult with the SHPO, the City of Hampton, and the PPNA on the aesthetic treatments of the barrier (e.g., color, surface treatment) and provide the final design to the SHPO for concurrence, and the City of Hampton and PPNA for review and comment, that the barrier is compatible with the historic and architectural character of Pasture Point Historic District and will not result in a diminishment of the integrity of its historic setting or feeling.

**C. Design Commitments for Avoidance of Adverse Effects to the Hampton National Cemetery (DHR Inventory No. 114-0148)**

1. The design noise analysis VDOT will conduct for the Project will follow VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual* (July 2015, or any revisions or replacements thereto) and shall be in conformance with the federal highway traffic noise impact analysis and abatement regulations, procedures, and guidance mandated by FHWA (23 C.F.R. 772). VDOT shall provide the SHPO and the U.S. Department of Veterans Affairs, National Cemetery Administration (VA/NCA) the draft final design noise report for the Project for review and comment after FHWA has concurred with the draft.
2. If final design noise analysis indicates that a noise barrier should be considered for the westbound lane of I-64 in the vicinity of the Hampton National Cemetery, Phoebus Section, VDOT shall prepare a sun and shadow analysis that would predict the amount of shadowing/shading that the proposed noise barrier would cast onto cemetery property, turf, and gravesites during each season of the year. VDOT shall provide the sun and shadow analysis report to the VA/NCA for its purpose in determining whether a noise barrier would be desirable and to the SHPO and VA/NCA for review and comment in relation to the proposed barrier design.
3. If installation of a noise barrier is found to meet the criteria established in VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual*, VDOT shall consult with the SHPO and the VA/NCA on the aesthetic design treatments of the barrier (e.g., color, surface treatment). VDOT shall also consult with the SHPO and the VA/NCA regarding the potential installation of plantings that would screen or soften the view of the noise barrier from the cemetery. VDOT shall provide the final design of the noise barrier and plant screen to the SHPO for concurrence, and to the VA/NCA for review and comment, that the barrier and plant screen are compatible with the historic and architectural character of the Hampton National Cemetery and will not result in a diminishment of the integrity of its historic setting or feeling. If VDOT

cannot identify a design for a plant screen that the SHPO and VA/NCA consider appropriate and that also can be fit within VDOT right of way without accommodations that would compromise transportation safety on I-64 or prevent VDOT from fulfilling the other commitments stipulated in this Agreement, VDOT shall provide the SHPO and VA/NCA documentation of this finding in writing; otherwise, VDOT shall install the approved plant screen prior to the end of Project construction and shall maintain it in good condition for a one (1)-year establishment period.

4. If no noise barrier is installed on the westbound lane of I-64 in the vicinity of the Hampton National Cemetery, Phoebus Section, VDOT shall consult with the SHPO and the VA/NCA on the design of a landscape plan consisting of fencing and/or plants installed between I-64 and the cemetery for the purpose of preventing highway litter from entering the cemetery and screening or softening the view of the highway from the historic property. VDOT shall provide the final landscape plan to the SHPO for concurrence, and to the VA/NCA for review and comment, that the landscape plan is compatible with the historic and architectural character of the Hampton National Cemetery and will not result in a diminishment of the integrity of its historic setting or feeling. If VDOT cannot identify a design for a landscape plan that the SHPO and VA/NCA consider appropriate and that also can be fit within VDOT ROW without accommodations that would compromise transportation safety on I-64 or prevent VDOT from fulfilling the other commitments stipulated in this Agreement, VDOT shall provide the SHPO and VA/NCA documentation of this finding in writing; otherwise, VDOT shall install the approved landscape plan prior to the end of Project construction and shall maintain it in good condition for a one (1)-year establishment period.
5. If under the terms of Stipulation I.C.3 or I.C.4, VDOT determines that an appropriate landscape plan cannot be accommodated between I-64 and the cemetery, VDOT shall consult with the VA/NCA and the SHPO to examine alternatives for reducing the view of the interstate or noise barrier from the cemetery and/or preventing highway litter from entering the cemetery. If one or more appropriate alternatives are identified, the VDOT will execute a separate mutually agreeable memorandum with the VA/NCA, outlining terms for implementation. VDOT shall provide the memorandum to the SHPO for its concurrence that the terms will not result in a diminishment of the historic integrity of the Hampton National Cemetery.

**D. Design Commitments for Avoidance of Adverse Effects to the Phoebus–Mill Creek Terrace Neighborhood Historic District (DHR Inventory No. 114-5002)**

The design noise analysis VDOT will conduct for the Project will follow VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual* (July 2015, or any

revisions or replacements thereto) and shall be in conformance with the federal highway traffic noise impact analysis and abatement regulations, procedures, and guidance mandated by FHWA (23 C.F.R. 772). VDOT shall provide the SHPO, the City of Hampton, and the Partnership for a New Phoebus, Inc. the draft final design noise report for the Project for review and comment after FHWA has concurred with the draft. If final design noise analysis indicates that noise abatement measures are warranted for the westbound lane of I-64 in the vicinity of the Phoebus–Mill Creek Terrace Neighborhood Historic District and replacement of the existing noise barrier at this location is found to meet the criteria established in VDOT’s *Highway Traffic Noise Impact Analysis Guidance Manual*, VDOT shall consult with the SHPO, the City of Hampton, and the Partnership for a New Phoebus, Inc. on the aesthetic treatments of the barrier (e.g., color, surface treatment) and provide the final design to the SHPO for concurrence, and the City of Hampton and Partnership for a New Phoebus, Inc. for review and comment, that the barrier is compatible with the historic and architectural character of the Phoebus–Mill Creek Terrace Neighborhood Historic District and will not result in a diminishment of the integrity of its historic setting or feeling.

**E. Design Commitments for Avoidance of Adverse Effects to the Norfolk Naval Base Historic District (DHR Inventory No. 122-0410)**

The traffic noise analysis VDOT will conduct for the Project will follow VDOT’s *Highway Traffic Noise Impact Analysis Guidance Manual* (July 2015, or any revisions or replacements thereto) and shall be in conformance with the federal highway traffic noise impact analysis and abatement regulations, procedures, and guidance mandated by FHWA (23 C.F.R. 772). VDOT shall provide the SHPO, City of Norfolk, and Naval Station Norfolk (NAVSTA Norfolk) the draft final design noise report for the Project for review and comment after FHWA has concurred with the draft. If final design noise analysis indicates that noise abatement measures are warranted for the westbound lane of I-64 in the vicinity of the Norfolk Naval Base Historic District and the installation of a noise barrier(s) in this location is found to meet the criteria established in VDOT’s *Highway Traffic Noise Impact Analysis Guidance Manual*, VDOT shall consult with the SHPO, City of Norfolk, and NAVSTA Norfolk on the aesthetic treatments of the barrier (e.g., color, surface treatment) and provide the final design to the SHPO for concurrence, and the City of Norfolk and NAVSTA Norfolk for review and comment, that the barrier is compatible with the historic and architectural character of the Norfolk Naval Base Historic District and will not result in a diminishment of the integrity of its historic setting or feeling.

**F. Review of Design for Adding Capacity to the HRBT**

Once VDOT has developed an appropriate level of design plans for adding capacity to the HRBT, VDOT shall apply the criteria of adverse effect for the design to determine if the effect is consistent with the assessments for Phoebus–

Mill Creek Terrace Neighborhood Historic District (DHR Inventory No. 114-5002), Fort Monroe (DHR Inventory No. 114-0002), Chamberlain Hotel (DHR Inventory No. 114-0114), Old Point Comfort Lighthouse (DHR Inventory No. 114-0021), Fort Wool (DHR Inventory No. 114-0041), Battle of Hampton Roads (DHR Inventory No. 114-5471), Battle of Sewell's Point (DHR Inventory No. 122=5426), the Captain John Smith National Historic Trail, and the Washington-Rochambeau Revolutionary Route National Historic Trail that VDOT conveyed to the SHPO and Consulting Parties on November 22, 2016, and with which the SHPO concurred on December 29, 2016. VDOT shall coordinate its updated findings with the SHPO and the Consulting Parties in accordance with 36 C.F.R. 800.5 and shall consult with the SHPO and the Consulting Parties to resolve any adverse effects in accordance with 36 C.F.R. 800.6.

## **II. Terrestrial and Underwater Archaeological Sites**

### **A. Identification**

1. Prior to initiating Project construction, VDOT, in accordance with 36 C.F.R. 800.4(a)-(c), shall complete efforts to identify terrestrial and underwater archaeological sites listed in or eligible for listing in the NRHP located within the direct effects APE for the Project. VDOT shall conduct the necessary investigations in accordance with the guidance for Phase I and Phase II level studies provided in Chapter 6, Conducting Archaeological Investigations, in the DHR's *Guidelines for Conducting Historic Resources Survey in Virginia* (2011, or any revisions or replacements to that document), paying particular attention to the special guidance provided for investigations of underwater, battlefield, and other military sites.

a. VDOT shall conduct Phase I level investigations pursuant to the requirements of Stipulations IV, V, VI, and VII, below. Pursuant to Stipulations VI.B and VI.C, below, VDOT shall provide the SHPO the opportunity to review and concur, and the Consulting Parties the opportunity to review and comment, on all reports and on VDOT's findings and recommendations.

b. VDOT shall conduct any Phase II or further investigations necessary to evaluate the NRHP-eligibility of the archaeological sites identified as a result of the activities described in Stipulation II.A.1.a, above. These evaluations shall be conducted in accordance with 36 C.F.R. 800.4(c), and pursuant to the requirements of Stipulations IV, V, VI, and VII, below. Pursuant to Stipulations VI.B and VI.C, below, VDOT shall provide the SHPO the opportunity to review and concur, and the Consulting Parties the opportunity to review and comment, on all reports and VDOT's findings and recommendations.

## **B. Assessment of Effects**

If archaeological sites meeting the criteria for listing in the NRHP are identified as a result of the activities described in Stipulation II.A, above, VDOT shall assess the effects of the Project on these archaeological sites in a manner consistent with 36 C.F.R. 800.5, and submit its recommendations to the SHPO for its review and concurrence, and to the Consulting Parties for review and comment, pursuant to the requirements of Stipulation VI.B, below.

## **C. Treatment of Archaeological Sites Determined Eligible for Listing in the NRHP**

1. If VDOT, in consultation with the SHPO and the Consulting Parties, determines that an archaeological site(s) eligible for listing in the NRHP will be adversely affected by the Project, VDOT, in consultation with FHWA, shall determine whether avoidance or minimization of the adverse effects is practicable. If the adverse effects cannot practicably be avoided or the effect sufficiently minimized so that it is no longer adverse, VDOT, in consultation with the SHPO and the Consulting Parties, shall develop a treatment plan for the archaeological site(s). In a manner consistent with Stipulations VI.B and VI.C, below, VDOT shall provide the SHPO the opportunity to review and concur with, and the Consulting Parties the opportunity to review and comment, on the treatment plan.
2. Any treatment plan VDOT develops for an archaeological site(s) under the terms of this stipulation shall be consistent with the requirements of Stipulation VI.A, below, and shall include, at a minimum:
  - a. Information on the portion of the site(s) where data recovery or controlled site burial, as appropriate, is to be carried out, and the context in which the property is eligible for the NRHP;
  - b. The results of previous research relevant to the Project;
  - c. Research problems or questions to be addressed, with an explanation of their relevance and importance;
  - d. The field and laboratory analysis methods to be used, with a justification of their cost-effectiveness and how they apply to this particular site(s) and the research needs;
  - e. The methods to be used in artifact, data, and other records management;
  - f. Explicit provisions for disseminating in a timely manner the research findings to professional peers;

g. Arrangements for presenting to the public the research findings, focusing particularly on the community or communities that may have interests in the results;

h. The curation of recovered materials and records resulting from the data recovery in accordance with 36 C.F.R. 79; and

i. Procedures for evaluating and treating discoveries of unexpected remains during the course of the project, including necessary consultation with other parties.

3. VDOT shall ensure the treatment plan is implemented and that any agreed-upon data recovery field operations have been completed before ground-disturbing activities associated with the Project are initiated at or near the affected archaeological site(s). VDOT shall notify the SHPO and the Consulting Parties when the treatment plan is initiated and again once data recovery field operations have been completed so that site visits may be scheduled if the SHPO or Consulting Parties find visits appropriate. VDOT shall also provide the SHPO and Consulting Parties a brief summary of the findings of the field operations when providing notification of their completion.

4. Project construction may proceed following the notification that data recovery field operations have been completed while the technical report is in preparation. If the technical report is not complete within six (6) months of the completion of field operations, VDOT shall provide the SHPO and the Consulting Parties a written update on the progress of the investigation. Consistent with the requirements of Stipulation VI.B below, VDOT shall provide the SHPO and Consulting Parties a draft of the technical report for review and comment and, consistent with the requirements of Stipulation VI.C, below, VDOT shall provide the final report to the SHPO and Consulting Parties. VDOT shall also ensure that the archaeological site form on file in the SHPO's Virginia Cultural Resource Information System (V-CRIS) is updated to reflect the implementation of the treatment plan for each affected site.

### **III. Post Review Discoveries**

VDOT shall address post review discoveries of historic properties in accordance with the provisions of Stipulation V (*Attachment B: Post Review Discoveries*) in the 2016 Federal PA.

### **IV. Treatment of Human Remains**

VDOT shall address and treat human remains encountered on the Project in accordance with the provisions of Stipulation VII (*Attachment C: Human Remains*) of the 2016 Federal PA.



## **V. Professional Qualifications**

All archaeological and architectural studies or treatment actions carried out pursuant to this Agreement shall be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the Secretary of the Interior's *Professional Qualifications Standards* (48 FR 44738-44739, September 29, 1983) in the appropriate discipline.

## **VI. Preparation and Review of Documents**

A. All archaeological studies, technical reports, and treatment plans prepared pursuant to this Agreement shall be consistent with the federal standards titled *Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716-44742, September 29, 1983), the SHPO's *Guidelines for Conducting Historic Resources Survey in Virginia* (October 2011), *Attachment A*, Paragraphs 3 and 4 of the *2016 Federal PA*, and the ACHP's *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites* (1999), or subsequent revisions or replacements to these documents.

B. The SHPO and Consulting Parties to this Agreement agree to provide comments to the VDOT on all technical materials, findings, and other documentation arising from this Agreement within thirty (30) calendar days of receipt unless otherwise specified. If no comments are received from the SHPO and Consulting Parties within the thirty (30)-calendar-day review period, VDOT may assume that the non-responsive party has no comment. The VDOT shall take into consideration all comments received in writing from the SHPO and Consulting Parties within the thirty (30)-calendar-day review period.

C. The VDOT shall provide the SHPO three (3) copies (two (2) hardcopies and one (1) in Adobe Acrobat format [PDF] on compact disk) of all final reports prepared pursuant to this Agreement. The VDOT shall also provide each Consulting Party a copy of any final report in Adobe Acrobat format, or in hardcopy if so requested by a party. Such requests must be received by the VDOT in writing prior to the completion of the Project.

## **VII. Curation Standards**

A. The VDOT shall ensure that all original archaeological records (research notes, field records, maps, drawings, and photographic records) and all archaeological collections recovered from VDOT highway right of way produced as a result of implementing the Stipulations of this Agreement are provided to the SHPO for permanent curation. In exchange for its standard collections management fee as published in the *Virginia Department of Historic Resources State Collections Management Standards* (June 26, 2009), or subsequent revisions or replacements to that document, the SHPO agrees to maintain such records and collections in

accordance with 36 C.F.R. 79, *Curation of Federally Owned and Administered Archaeological Collections*.

B. The VDOT shall return to individual property owners any artifact collections that the VDOT has recovered from their property, unless the VDOT and the private property owner have reached agreement on an alternative arrangement. If the private property owner donates the artifact collection to the SHPO by executing a donation agreement with the SHPO within ninety (90) days of receipt of written notification from VDOT of its intent to return the collection to the owner, the VDOT shall assume responsibility for payment of SHPO's standard collections curation fee for the donated artifact collection.

## **VIII. Dispute Resolution**

### **A. Objections by Signatories or Concurring Parties**

1. Should any Signatories or Consulting Parties to this Agreement object in writing to the FHWA regarding any plans provided for review pursuant to this Agreement, or should any Signatories or Consulting Parties object in writing to the FHWA regarding the manner in which measures stipulated in this Agreement are being implemented, the FHWA shall notify the other Signatories of the objection and consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved through such consultation, the FHWA shall then consult with the Signatories to resolve the objection. If the FHWA then determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection to the ACHP, including the FHWA's proposed response to the objection. Within thirty (30) calendar days after receipt of all pertinent documentation, the ACHP shall exercise one (1) of the following options:
  - a. Advise the FHWA that the ACHP concurs with the FHWA's proposed response to the objection, whereupon the FHWA shall respond to the objection accordingly; or
  - b. Provide the FHWA with recommendations, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
  - c. Notify the FHWA that the objection will be referred for comment pursuant to 36 C.F.R. 800.7(a)(4), and proceed to refer the objection and comment. The FHWA shall take the resulting comment into account in accordance with 36 C.F.R. 800.7(c)(4).

2. Should the ACHP not exercise one (1) of the above options within thirty (30) calendar days after receipt of all pertinent documentation, the FHWA may assume the ACHP's concurrence in its proposed response to the objection.
3. The FHWA shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

### **B. Objection from Public**

At any time during the implementation of the measures stipulated in this Agreement, should a member of the public object to the FHWA or the VDOT regarding the manner in which the measures stipulated in this Agreement are being implemented, the FHWA shall notify the Signatories and consult with the objector to solve the objection. The Signatories may request that the FHWA notify the Consulting Parties to this Agreement about the objection as well.

### **IX. Authorization of Design/Build Contractor or PPTA Concessionaire**

It is permissible for the VDOT to authorize a Design/Build Contractor or Public Private Transportation Act (PPTA) Concessionaire to act on the VDOT's behalf in fulfilling VDOT's obligations under Stipulations I, II, and III, above, including consultation and coordination with the FHWA, the SHPO, and the Consulting Parties, provided the VDOT so notifies the FHWA, the SHPO, and the Consulting Parties in advance. The VDOT shall include provisions in any Design/Build or PPTA contract to ensure that all commitments contained within this Agreement are implemented. The VDOT shall ensure that work conducted by the Design/Build Contractor or PPTA Concessionaire meets the requirements of Stipulations IV, V, VI, and VII, above. The responsibility to ensure that the stipulations of this Agreement are carried out remains that of the FHWA.

### **X. Amendments and Termination**

A. Any Signatory to this Agreement may propose to the FHWA that the Agreement be amended, whereupon the FHWA shall consult with the other Signatories to consider such an amendment. 36 C.F.R. 800.6(c)(7) shall govern the execution of any such amendment. Any Signatory may terminate this Agreement in accordance with the provisions of 36 C.F.R. 800.6(c)(8).

B. If the FHWA and the VDOT decide they will not proceed with the Project, they may so notify the Signatories and Consulting Parties to this Agreement and then this Agreement shall become null and void.

C. In the event that this Agreement is terminated or rendered null and void, the VDOT shall submit to the SHPO a technical report on the results of any archaeological investigations conducted prior to and including the date of

termination, and shall ensure that any associated collections and records recovered are curated in accordance with Stipulation VII, above.

D. In the event that this Agreement is terminated, the FHWA shall either execute a memorandum of agreement with the Signatories under 36 C.F.R. 800.6(c) or request the comments of the ACHP under 36 C.F.R. 800.7(a).

## **XI. Duration**

This Agreement shall continue in full force and effect until ten (10) years after the date of the last signature of a Signatory. At any time in the six (6)-month period prior to such date, the VDOT may request that the Signatories consider an extension of this Agreement. No extension shall be effective unless all Signatories have agreed with it in writing.

## **X. Signatures**

This Agreement may be executed in counterparts, with a separate page for each Signatory. Separate pages may also be provided for each Consulting Party. The FHWA shall ensure that each Signatory and Consulting Party is provided with a copy of the fully executed Agreement.

Execution of this Agreement by the FHWA, the SHPO, and the VDOT, and its submission to the ACHP in accordance with 36 C.F.R. 800.6(b)(1)(iv) shall, pursuant to 36 C.F.R. 800.6(c), be considered to be an agreement with the ACHP for the purposes of Section 110(1) of the National Historic Preservation Act (16 U.S.C. 470). Execution and submission of this Agreement, and implementation of its terms, evidence that the FHWA has afforded the ACHP an opportunity to comment on the proposed Project and its potential effects on historic properties, and that the FHWA has taken into account the potential effects of the undertaking on historic properties.

**SIGNATORY:**

**FEDERAL HIGHWAY ADMINISTRATION**

By: Edward Dundra  
for: Jessie Yung, Division Administrator, Virginia Division

Date: 4/10/17

**SIGNATORY:**

**VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

By: Stephanie B. Williams Date: 4.11.17  
for Julie V. Langan Director  
Department of Historic Resources

**SIGNATORY:**

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

By: Angel Deem  
Angel Deem  
Environmental Division Director

Date: 4/10/2017

**CONCUR:**

**City of Hampton**

By: \_\_\_\_\_

Mary Bunting  
City Manager

Date: \_\_\_\_\_



**CONCUR:**

**City of Suffolk**

By: \_\_\_\_\_

Patrick Roberts  
City Manager

Date: \_\_\_\_\_

**CONCUR:**

**City of Newport News**

By: \_\_\_\_\_

James M. Bourey  
City Manager

Date: \_\_\_\_\_

**CONCUR:**

**Hampton University**

By: \_\_\_\_\_  
Dr. William R. Harvey  
President

Date: \_\_\_\_\_

**CONCUR:**

**African American Historical Society of Portsmouth, Inc.**

By: \_\_\_\_\_  
Mae Breckenridge-Haywood  
President

Date: \_\_\_\_\_

**CONCUR:**

**U.S. Army Corps of Engineers**

By: \_\_\_\_\_

William T. Walker  
Chief, Regulatory Branch  
USACE, Norfolk District

Date: \_\_\_\_\_

**CONCUR:**

**Buckroe Historical Society**

By: \_\_\_\_\_  
Martha F. Morris  
President

Date: \_\_\_\_\_

**CONCUR:**

**Mr. J. Brewer Moore**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Mr. J. Brewer Moore  
308 Bobby Jones Drive  
Portsmouth, VA 23701

**CONCUR:**

**National Park Service Chesapeake Bay Office**

By: \_\_\_\_\_  
Chuck Hunt  
Superintendent

Date: \_\_\_\_\_



**CONCUR:**

**U. S. Coast Guard Base Portsmouth**

By: \_\_\_\_\_  
Brenda Kerr, Captain, U. S. Coast Guard  
Commanding Officer

Date: \_\_\_\_\_

**CONCUR:**

**U.S. Department of Veterans Affairs National Cemetery Administration**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Glenn Madderom

Chief, Cemetery Development & Improvement Service

National Cemetery Administration

**CONCUR:**

**American Battlefield Protection Program**

By: \_\_\_\_\_  
Paul Hawke  
Chief

Date: \_\_\_\_\_

**CONCUR:**

**Partnership for a New Phoebus, Inc.**

By: \_\_\_\_\_  
James R. Turner  
Executive Director

Date: \_\_\_\_\_

**CONCUR:**

**Norfolk Historical Society**

By: \_\_\_\_\_  
Peggy McPhillips  
President

Date: \_\_\_\_\_

**CONCUR:**

**Norfolk Preservation Alliance**

By: \_\_\_\_\_  
Carter B.S. Furr  
Vice President

Date: \_\_\_\_\_

**CONCUR:**

**Citizens for a Fort Monroe National Park**

By: \_\_\_\_\_  
Mark Perreault  
President

Date: \_\_\_\_\_

**CONCUR:**

**Pasture Point Neighborhood Association**

By: \_\_\_\_\_  
Warren Coleman, Jr.  
President

Date: \_\_\_\_\_



## **ATTACHMENT 1 HISTORY OF THE HAMPTON ROADS CROSSING STUDY**

The Hampton Roads Crossing Study (HRCS) covers the metropolitan region known as “Hampton Roads” in southeastern Virginia. The Study Area Corridors considered in the Draft Supplemental Environmental Impact Statement approved for public availability in August 2016 span several local jurisdictions including the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Suffolk.

The HRCS originated with Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) funding to study improvements to relieve congestion at the HRBT. The following presents a brief history of the origins of the current study and actions leading to the commencement of the HRCS SEIS:

1991: ISTEA allocated demonstration funds for, “... highway projects demonstrating innovative techniques of highway construction and finance.” The I-64 crossing of Hampton Roads was included as one of the innovative projects.

1992: The Virginia General Assembly passed Joint Resolution 132 directing VDOT to conduct a study of congestion at the HRBT. The study concluded that short-term measures would not solve congestion at the HRBT and that a long-term, large-scale solution would be required.

1997: The I-64 Crossing Major Investment Study was completed resulting in the following milestones: establishment of purpose and need, consideration of alternatives, selection of the locally preferred alternative by the Metropolitan Planning Organization (MPO), and endorsement of the locally preferred alternative by the Commonwealth Transportation Board (CTB).

1999: In October the HRCS Draft Environmental Impact Statement (DEIS) was issued.

2000: In July the CTB selected a location for the HRCS.

2001: The HRCS FEIS and ROD were issued. These documents identified Candidate Build Alternative (CBA) 9 as the preferred alternative. CBA-9 included improvements to the I-664/Monitor-Merrimac Memorial Bridge-Tunnel (MMMBT), the construction of a new east-west bridge-tunnel connecting the MMMBT with I-564 in Norfolk (locally referred to as “Patriots Crossing”), and a north-south bridge connecting “Patriots Crossing” to VA 164 (locally referred to as the “Craney Island Connector”).

2003: In November FHWA and VDOT completed a NEPA re-evaluation of the HRCS FEIS. The re-evaluation analyzed implementing a portion of the preferred alternative, based on an un-solicited public-private partnership proposal. The data included in the re-evaluation documented that there did not appear to be any changes to the project or the surrounding environment that resulted in significant environmental impacts not already evaluated in the FEIS.

2011: FHWA and VDOT completed an Environmental Assessment (EA)/re-evaluation of the HRCS FEIS covering the segments of the preferred alternative that make up “Patriots Crossing”.

2011: FHWA and VDOT initiated an EIS for the I-64 HRBT corridor.

2012: In December FHWA issued a DEIS for the I-64 HRBT corridor.

2013: In February VDOT followed up on its 2011 submittal of the EA/re-evaluation for the HRCS FEIS and submitted a revised document and a request for a Finding of No Significant Impact (FONSI). FHWA did not take action on VDOT’s request because the project was not properly funded for construction in the Hampton Roads Transportation Planning Organization’s (HRTPO) constrained long range plan (CLRP).

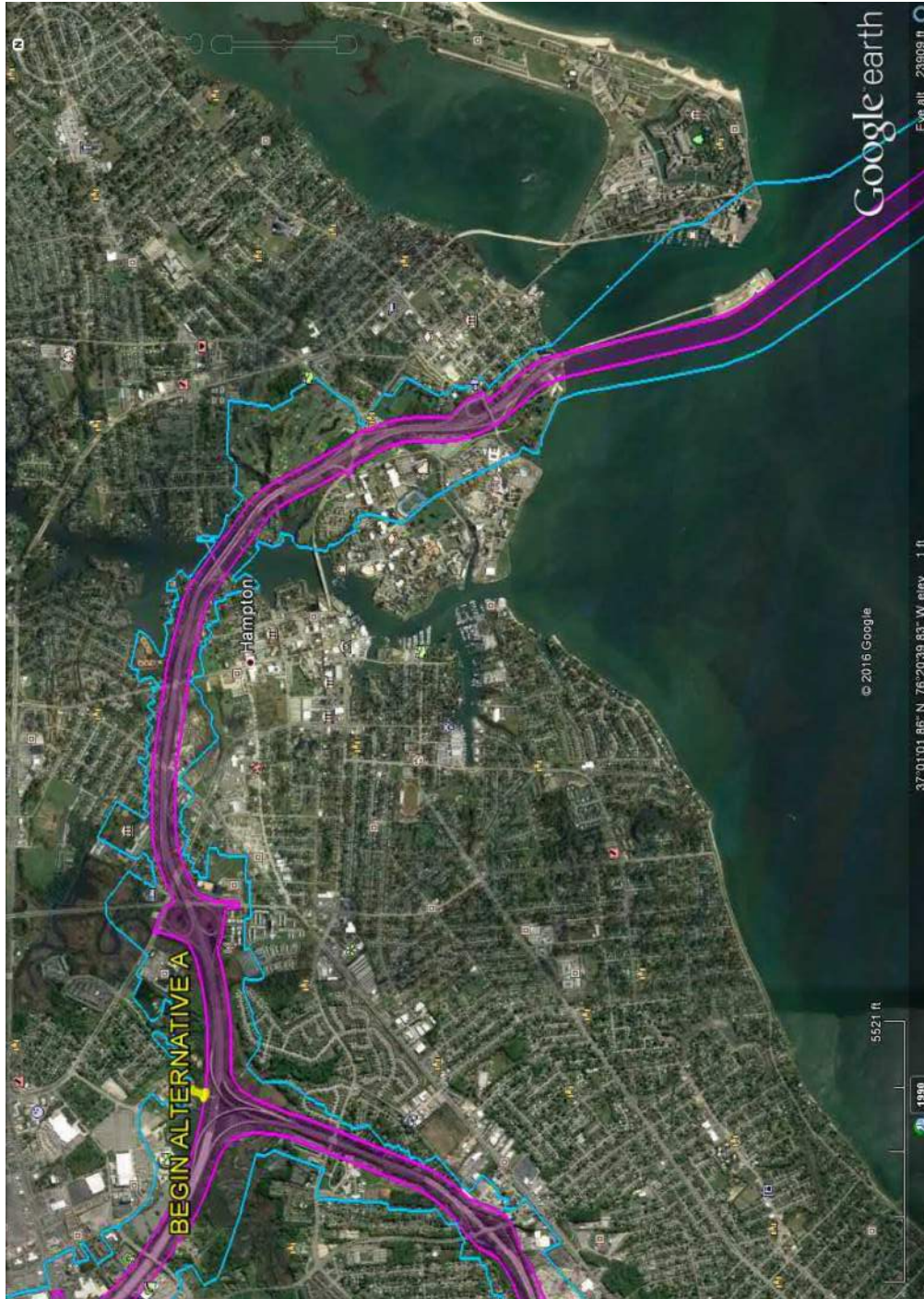
2015: In July FHWA and VDOT initiated the HRCS SEIS.

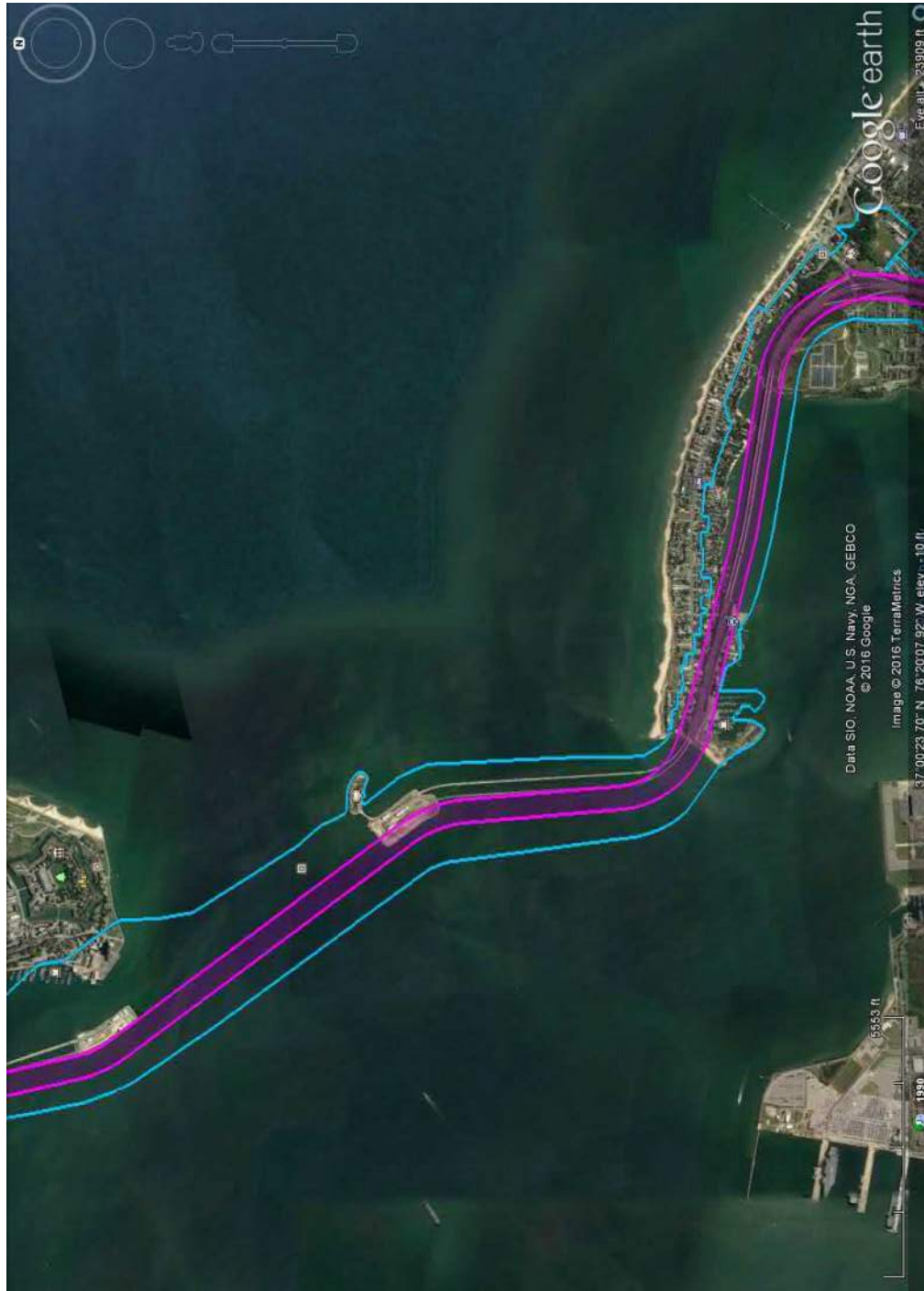
2015: In August FHWA rescinded its Notice of Intent (NOI) to prepare the HRBT EIS. Public and agency comments and concerns regarding the magnitude of potential environmental impacts from the Build Alternatives proposed in the DEIS led to FHWA’s decision to rescind the NOI. The Build Alternatives would have resulted in severe impacts to a variety of environmental resources, including communities and neighborhoods, historic properties, parks, and natural resources. A preferred alternative was not identified by the HRBT EIS study.

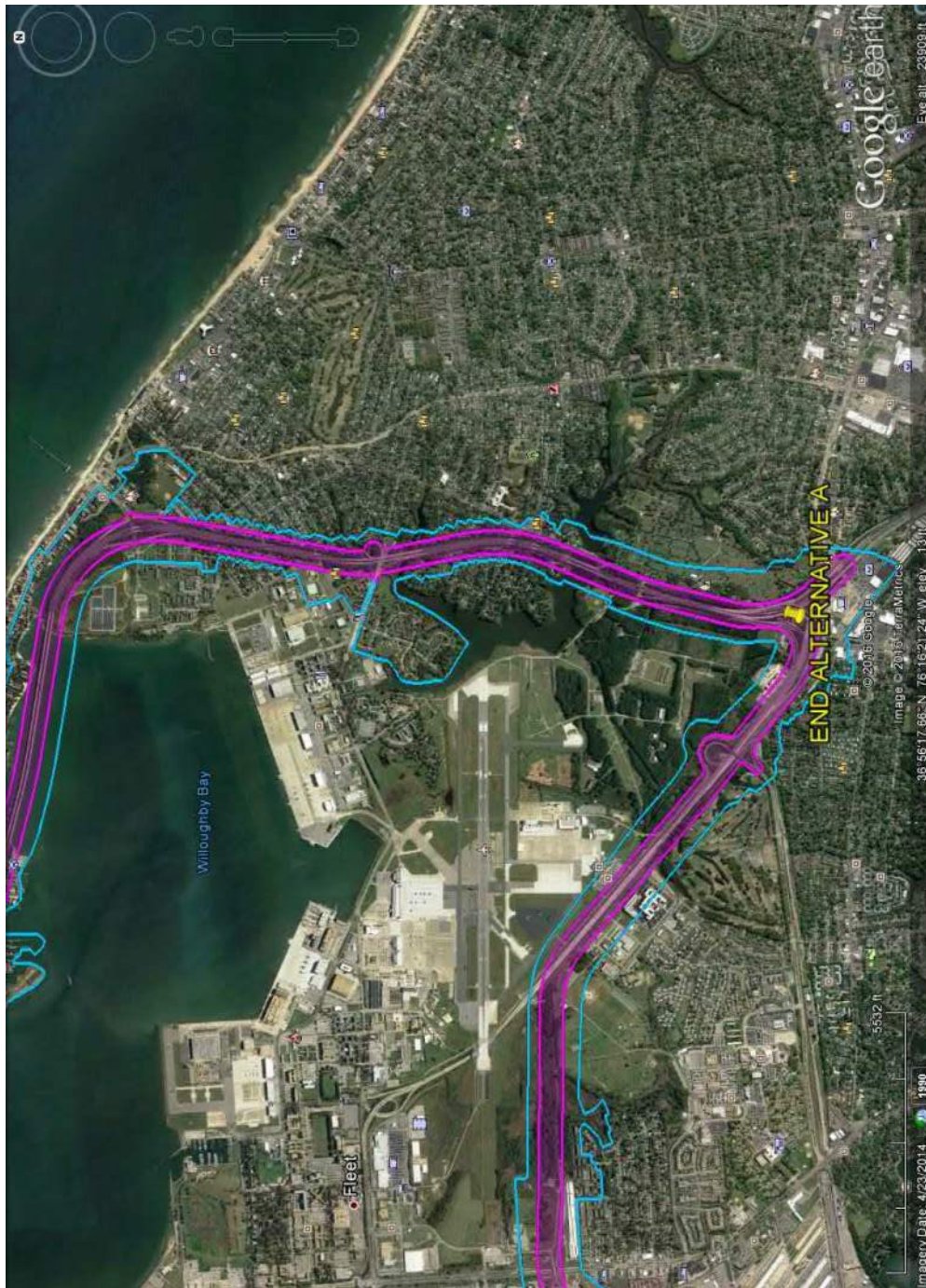
## ATTACHMENT 2 PROJECT LOCATION MAP – ALTERNATIVE A



**ATTACHMENT 3  
500-FOOT SURVEY CORRIDOR (PINK) AND INDIRECT EFFECTS APE  
(BLUE) FOR ALTERNATIVE A**







**ATTACHMENT 4  
 BUILDINGS, STRUCTURES, NON-ARCHAEOLOGICAL DISTRICTS, OR  
 OBJECTS LISTED OR CONSIDERED ELIGIBLE FOR LISTING ON THE  
 NRHP AND LOCATED WITHIN THE PROJECT'S APE**

<b>DHR Inventory No.</b>	<b>City</b>	<b>Resource Name</b>	<b>NRHP Status</b>	<b>Direct APE (LOD as of November 22, 2016)</b>	<b>Indirect APE</b>
114-5600	Hampton	Hampton Coliseum	Assumed NRHP-eligible	No	Yes
114-0155	Hampton	Elmerton Cemetery	Assumed NRHP-eligible	No	Yes
114-0118	Hampton	Pasture Point Historic District	NRHP-listed 2012	No	Yes
114-0006	Hampton	Hampton Institute Historic District	NRHP-listed 1969; NHL-1974	No	Yes
114-0148	Hampton	Hampton National Cemetery	NRHP-listed 1996	No	Yes
114-0101	Hampton	Hampton Veterans Affairs Medical Center Historic District	Federal Determination of eligibility 1981 by Keeper of NRHP	No	Yes
114-5002	Hampton	Phoebus-Mill Creek Terrace Neighborhood Historic District	NRHP-listed 2006	Yes	Yes
114-0002	Hampton	Fort Monroe	NHL 1960; NRHP-listed 1966	No	Yes
114-0114	Hampton	Chamberlain Hotel	NRHP-listed 2007	No	Yes
114-0021	Hampton	Old Point Comfort Lighthouse	NRHP-listed 1973	No	Yes
114-0041	Hampton	Fort Wool	NRHP-listed 1969	No	Yes
114-5471	Hampton	Battle of Hampton Roads	DHR NRHP-eligible 2007	Yes	Yes
122-5426	Norfolk	Battle of Sewell's Point	DHR NRHP-eligible 2007	Yes	Yes
None	Hampton, Newport News, Norfolk, Portsmouth, Suffolk	Captain John Smith Chesapeake National Historic Trail	Assumed NRHP-eligible	Yes	Yes
None	Hampton, Newport News, Norfolk, Portsmouth, Suffolk	Washington-Rochambeau Revolutionary Route National Historic Trail	Assumed NRHP-eligible	Yes	Yes
122-0410	Norfolk	Norfolk Naval Base Historic District	DHR NRHP-eligible 1997	No	Yes
122-5930	Norfolk	Willoughby Elementary School	Assumed NRHP-eligible	No	Yes
122-0954	Norfolk	Ocean View Elementary School	DHR NRHP-eligible 1998	No	Yes
122-5434	Norfolk	Merrimack Landing Apartment Complex/Merrimack Park Historic District	DHR NRHP-eligible 2012	No	Yes
122-0531	Norfolk	Forest Lawn Cemetery	DHR NRHP-eligible 2012	No	Yes

**ATTACHMENT 5**  
**POTENTIAL INTERESTED PARTIES TO WHOM FHWA EXTENDED**  
**INVITATIONS TO PARTICIPATE IN SECTION 106 CONSULTATION ON THE**  
**PROJECT**

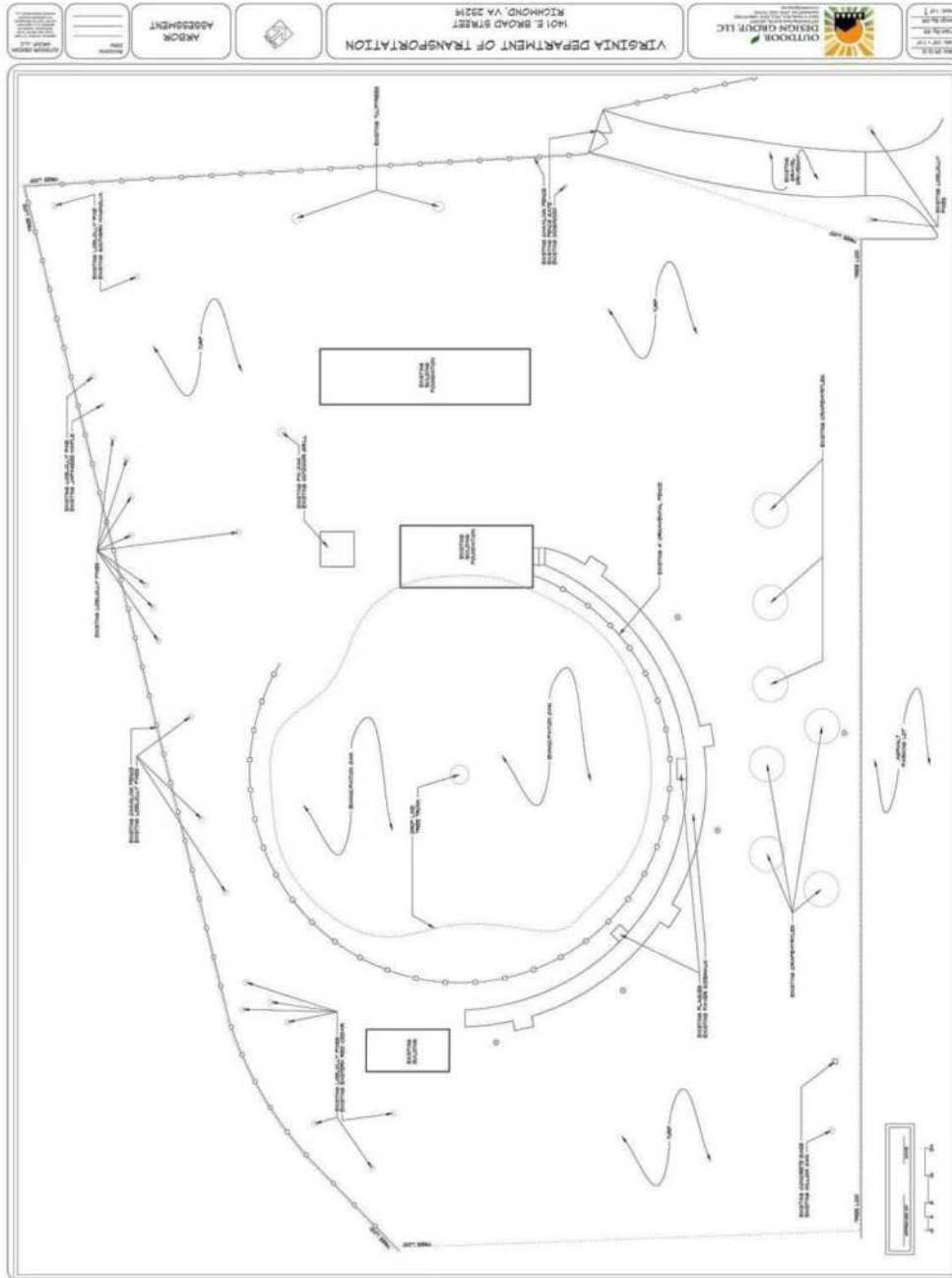
Citizens for a Fort Monroe National Park  
Fort Monroe Authority  
Hampton University  
Norfolk Preservation Alliance  
Norfolk Historical Society  
Partnership for a New Phoebus, Inc.  
Nansemond Indian Tribal Association  
The Contraband Historical Society  
American Battlefield Protection Program  
U.S. Department of Veterans Affairs  
U. S. Coast Guard Base Portsmouth  
National Park Service Chesapeake Bay Office  
Mr. J. Brewer Moore  
Buckroe Historical Society  
Afro-American Historical and Genealogical Society, Hampton Roads  
U.S. Army Corps of Engineers  
Naval Station Norfolk  
Fort Monroe National Monument  
African American Historical Society of Portsmouth, Inc.  
Hampton History Museum  
Afro-American Historical and Genealogical Society, Hampton Roads  
Portsmouth Historical Association  
Suffolk-Nansemond Historical Society  
Virginia Department of Conservation and Recreation  
Smith/Packett (owner of the Chamberlain)  
Norfolk County Historical Society of Chesapeake  
Army Caretaker, Fort Monroe  
Washington-Rochambeau National Historic Trail  
Society of the War of 1812 in Virginia  
Pasture Point Neighborhood Association



**ATTACHMENT 6  
HAMPTON INSTITUTE HISTORIC DISTRICT, NATIONAL REGISTER OF  
HISTORIC PLACES BOUNDARIES**

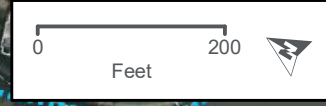
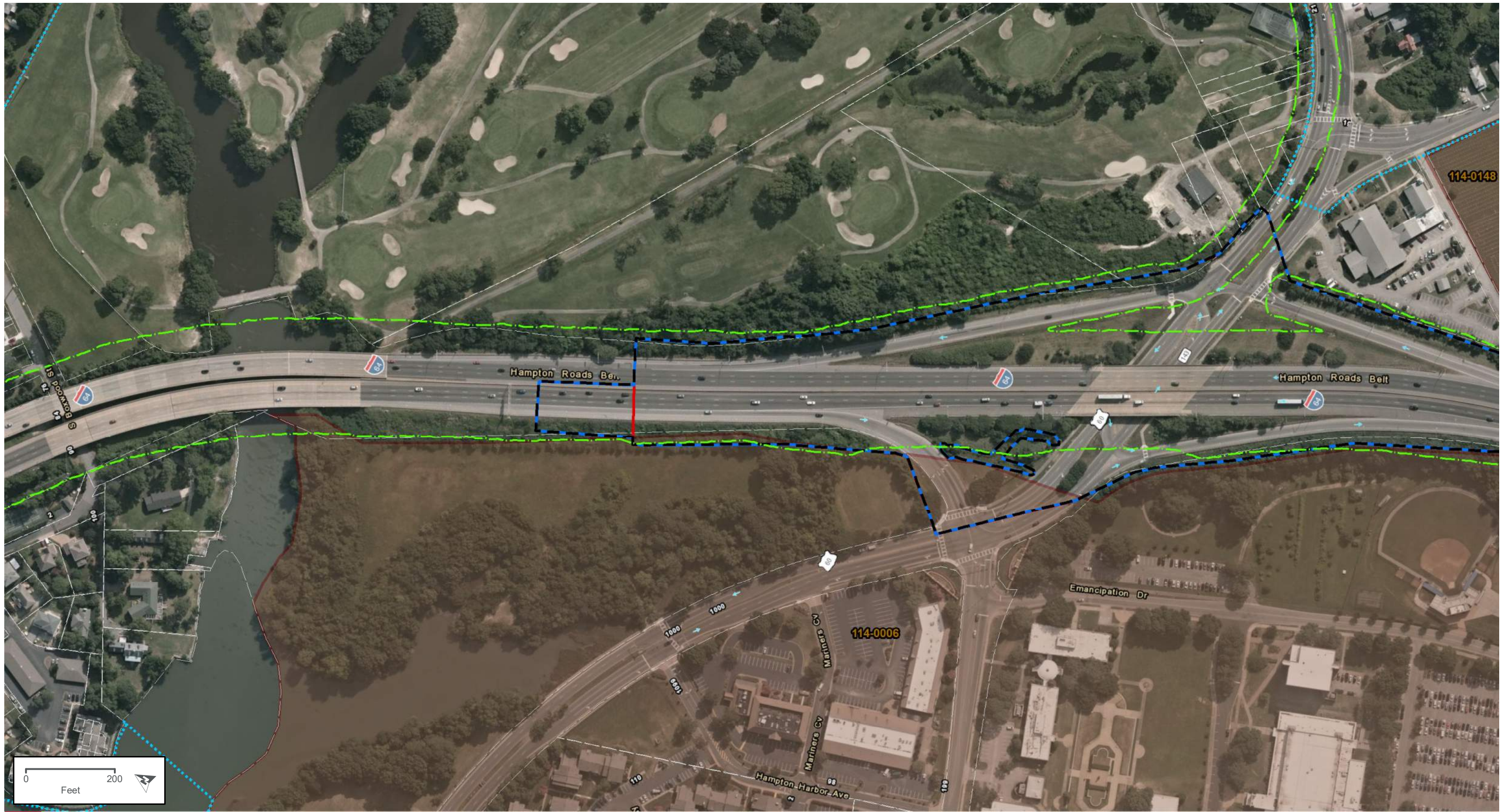


### ATTACHMENT 7 EMANCIPATION OAK, TREE LIMIT OF DISTURBANCE



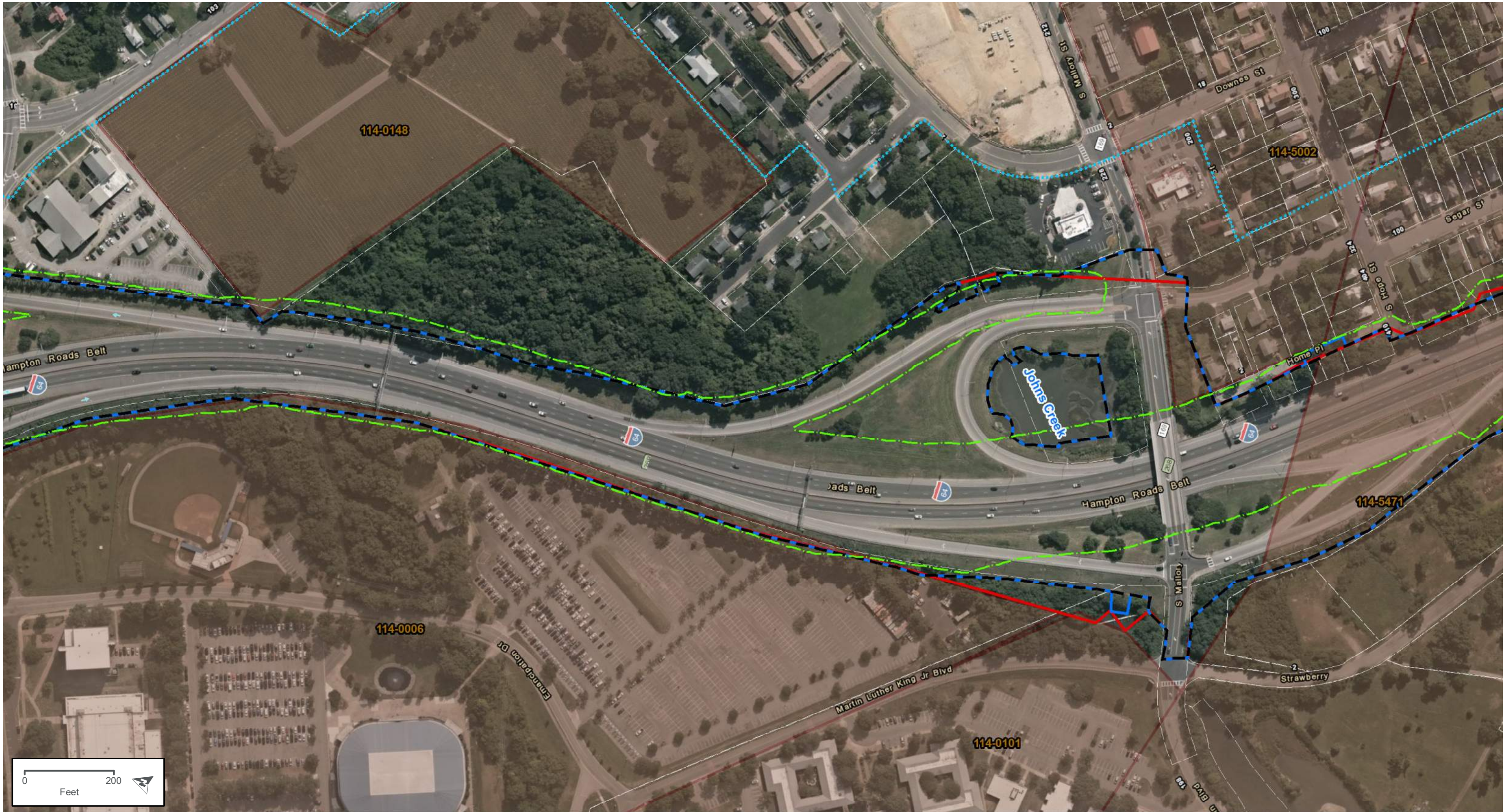
Source: *Attachment 1* in *Tree Report*, prepared for VDOT by Dick Ratcliff, certified arborist with Outdoor Design Group, LLC (November 26, 2012)

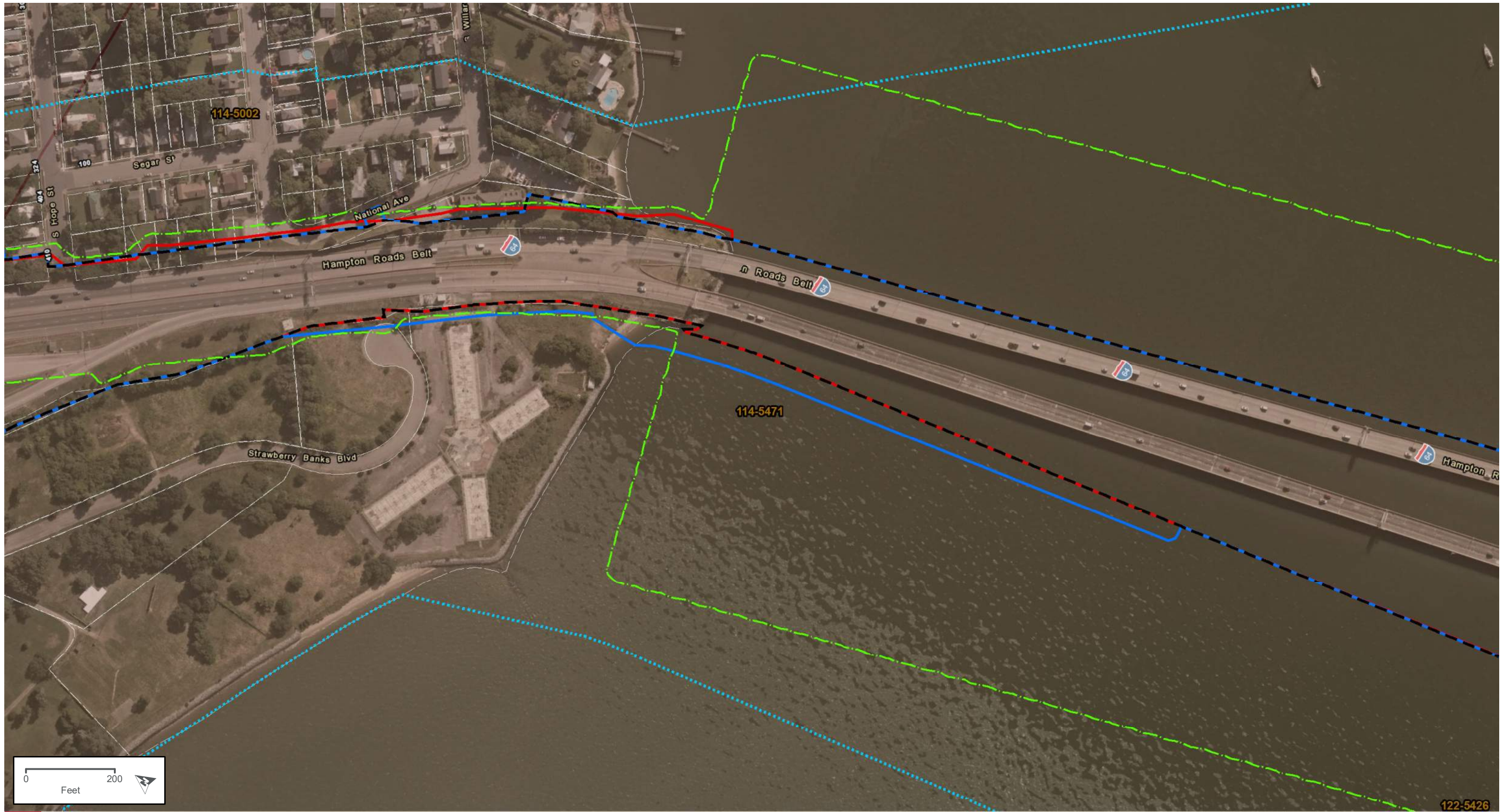
# **ATTACHMENT K-2: CULTURAL RESOURCES MAP**



- ▬ Construction Limits of Disturbance
- ▬ SEIS Limits of Disturbance
- NEPA Limits of Disturbance
- 2017 Archaeology Survey Area
- Indirect APE
- Parcel Boundary
- Historic Property





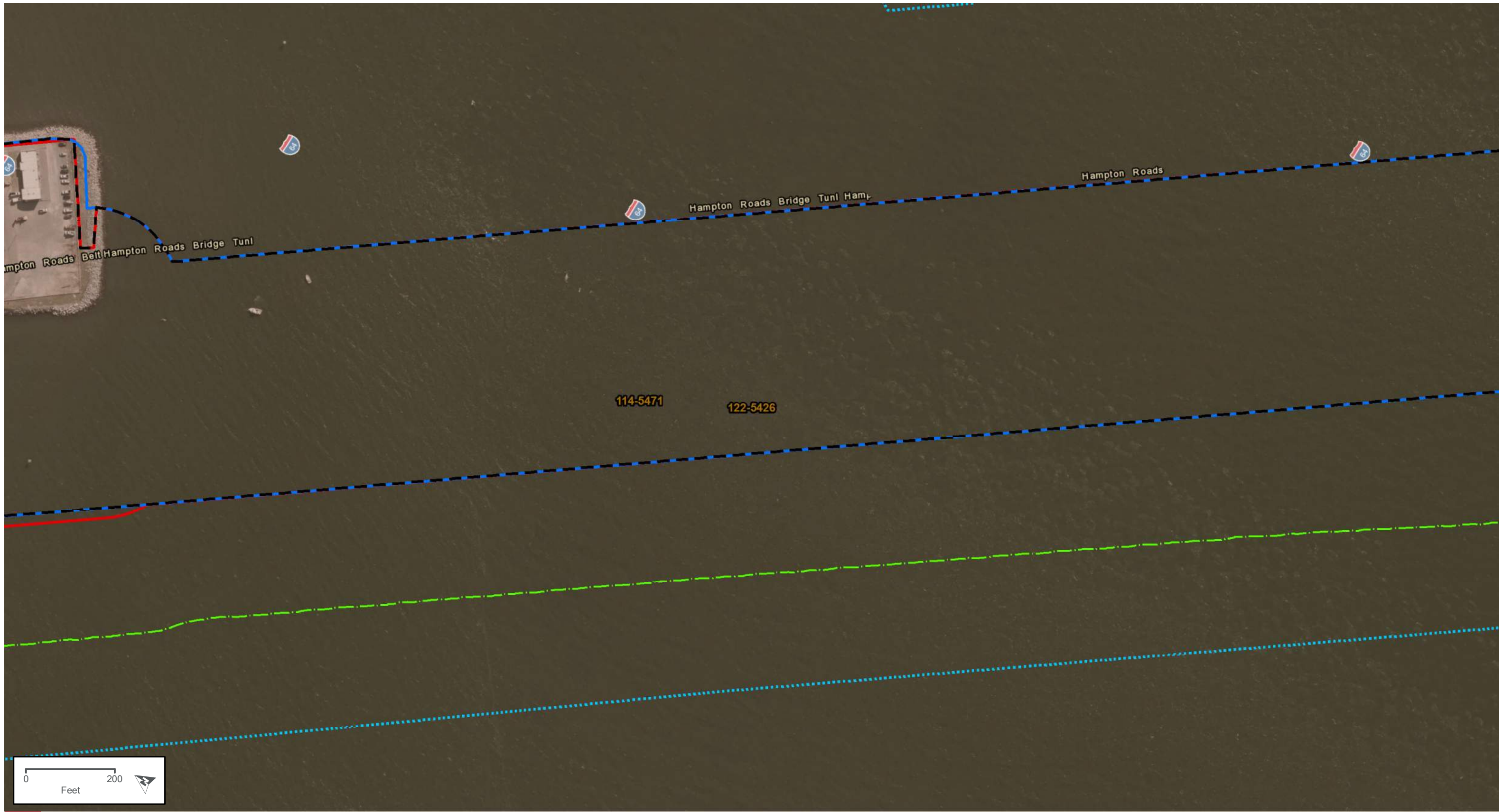




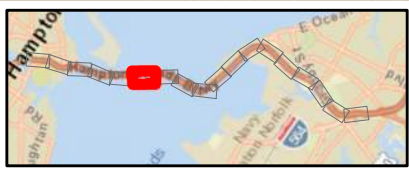
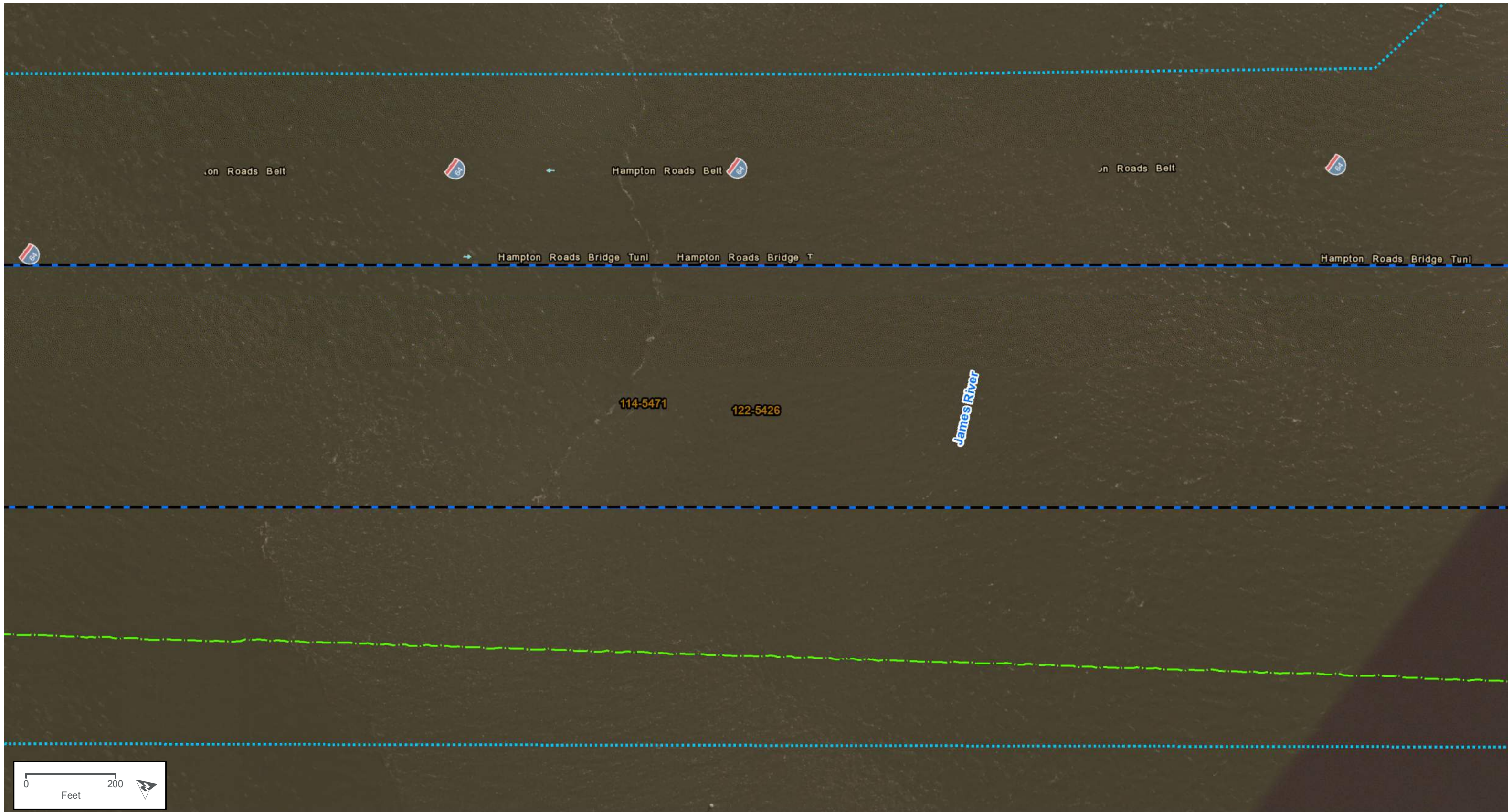
- ▭ Construction Limits of Disturbance
- ▭ SEIS Limits of Disturbance
- NEPA Limits of Disturbance
- ▭ 2017 Archaeology Survey Area
- Indirect APE
- Parcel Boundary
- Historic Property

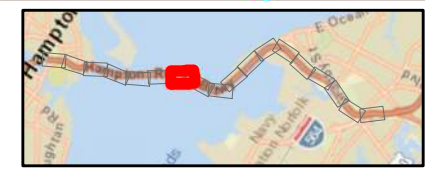


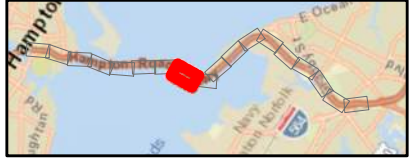
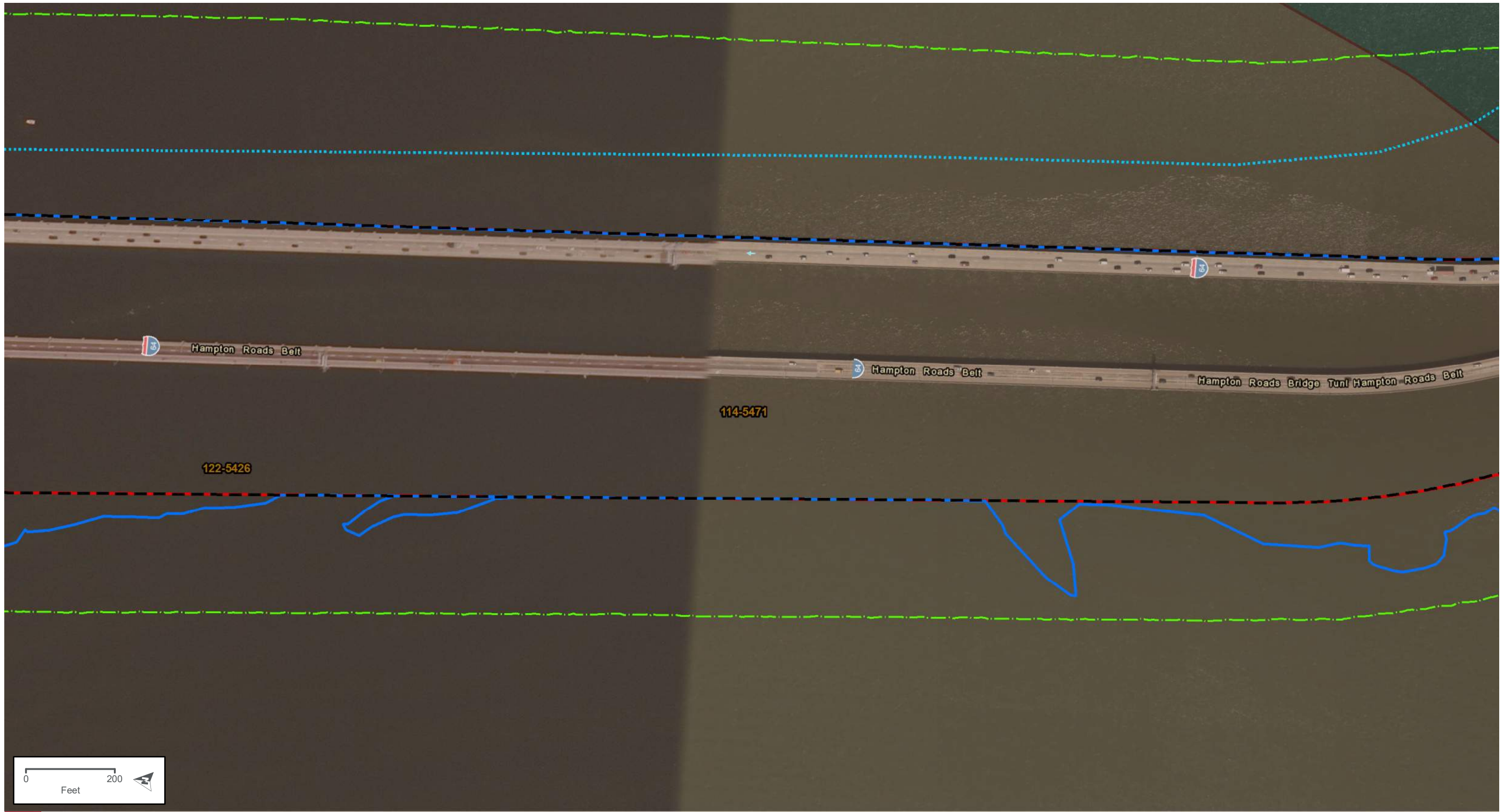
DATA SOURCE: CEDAR, Bing Imagery, ESRI World Transportation

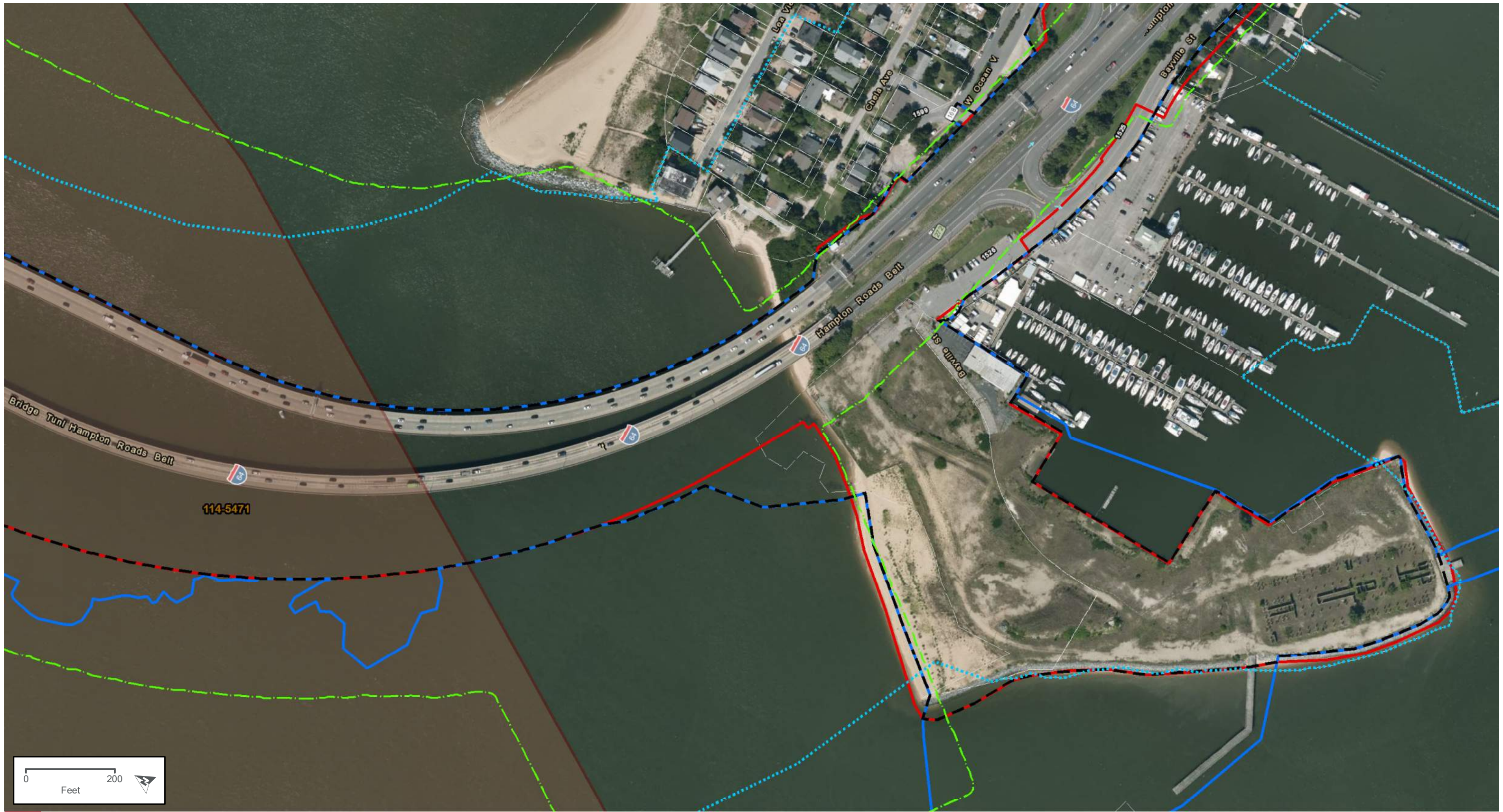




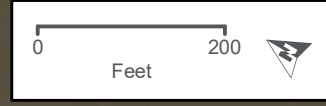




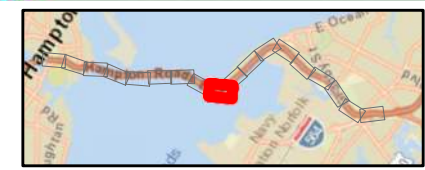




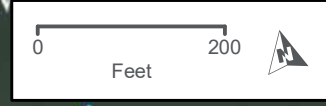
114-5471



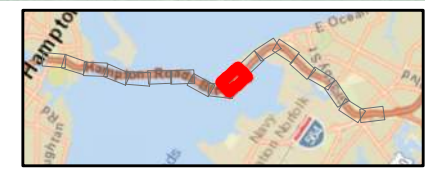
- ▬ Construction Limits of Disturbance
- ▬ SEIS Limits of Disturbance
- ▬ NEPA Limits of Disturbance
- ▬ 2017 Archaeology Survey Area
- ▬ Indirect APE
- ▬ Parcel Boundary
- Historic Property



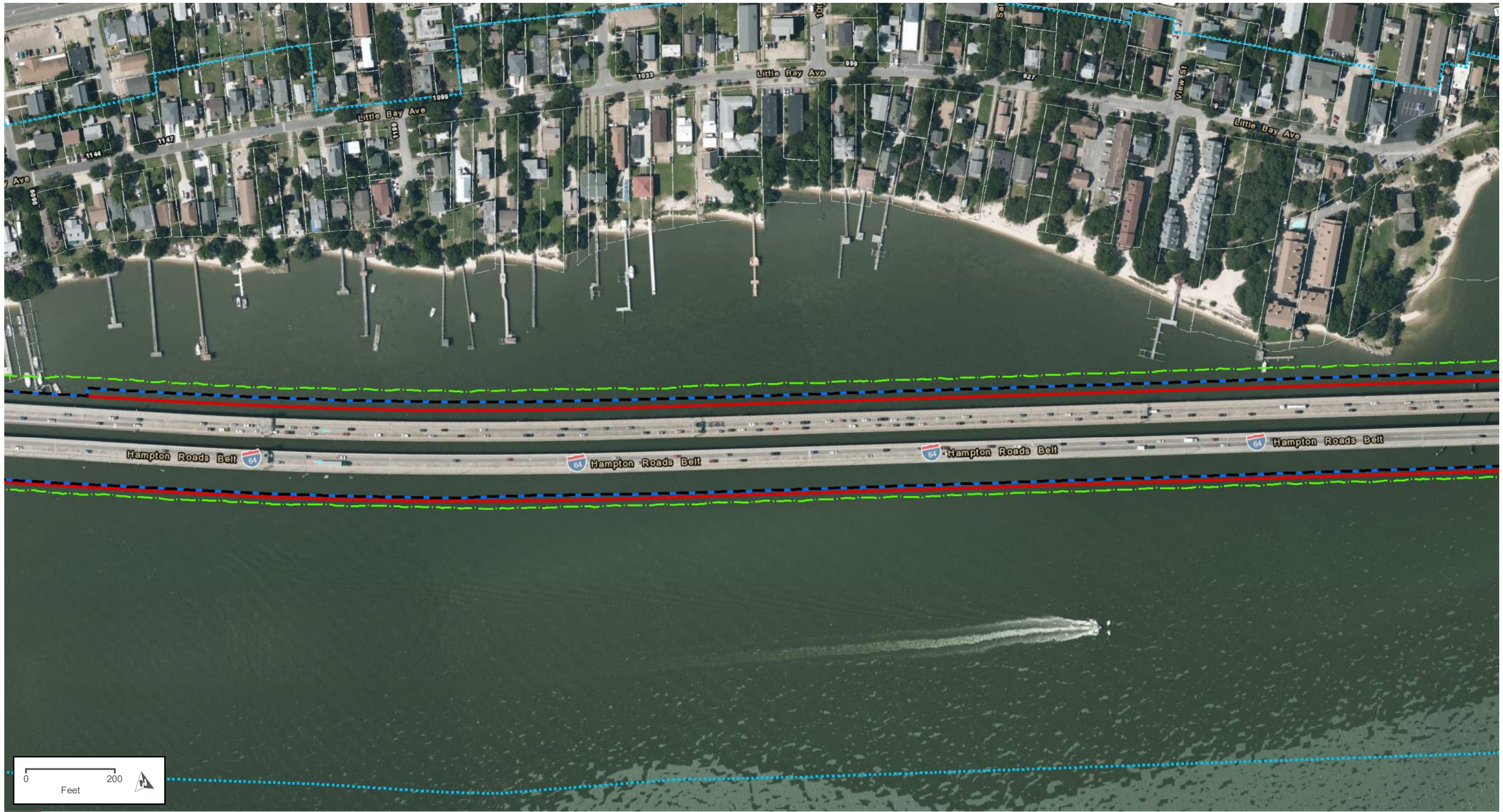
DATA SOURCE: CEDAR, Bing Imagery, ESRI World Transportation



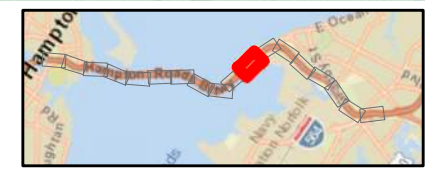
- ▬ Construction Limits of Disturbance
- ▬ SEIS Limits of Disturbance
- ▬ NEPA Limits of Disturbance
- ▬ 2017 Archaeology Survey Area
- ⋮ Indirect APE
- ▭ Parcel Boundary
- ▭ Historic Property



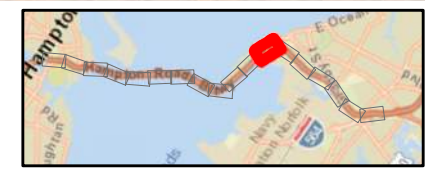
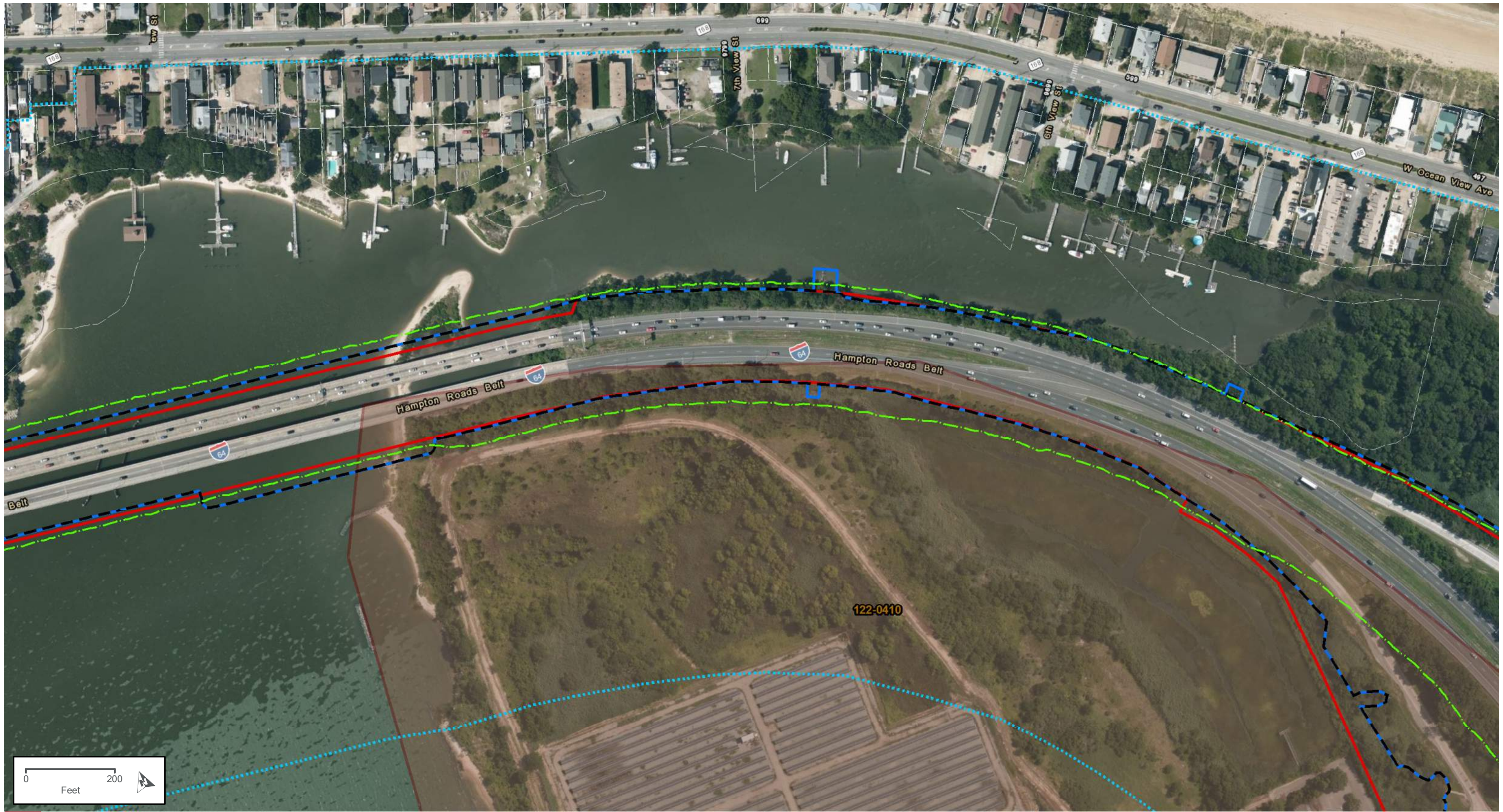
DATA SOURCE: CEDAR, Bing Imagery, ESRI World Transportation

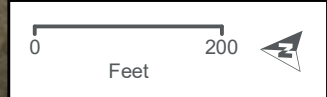
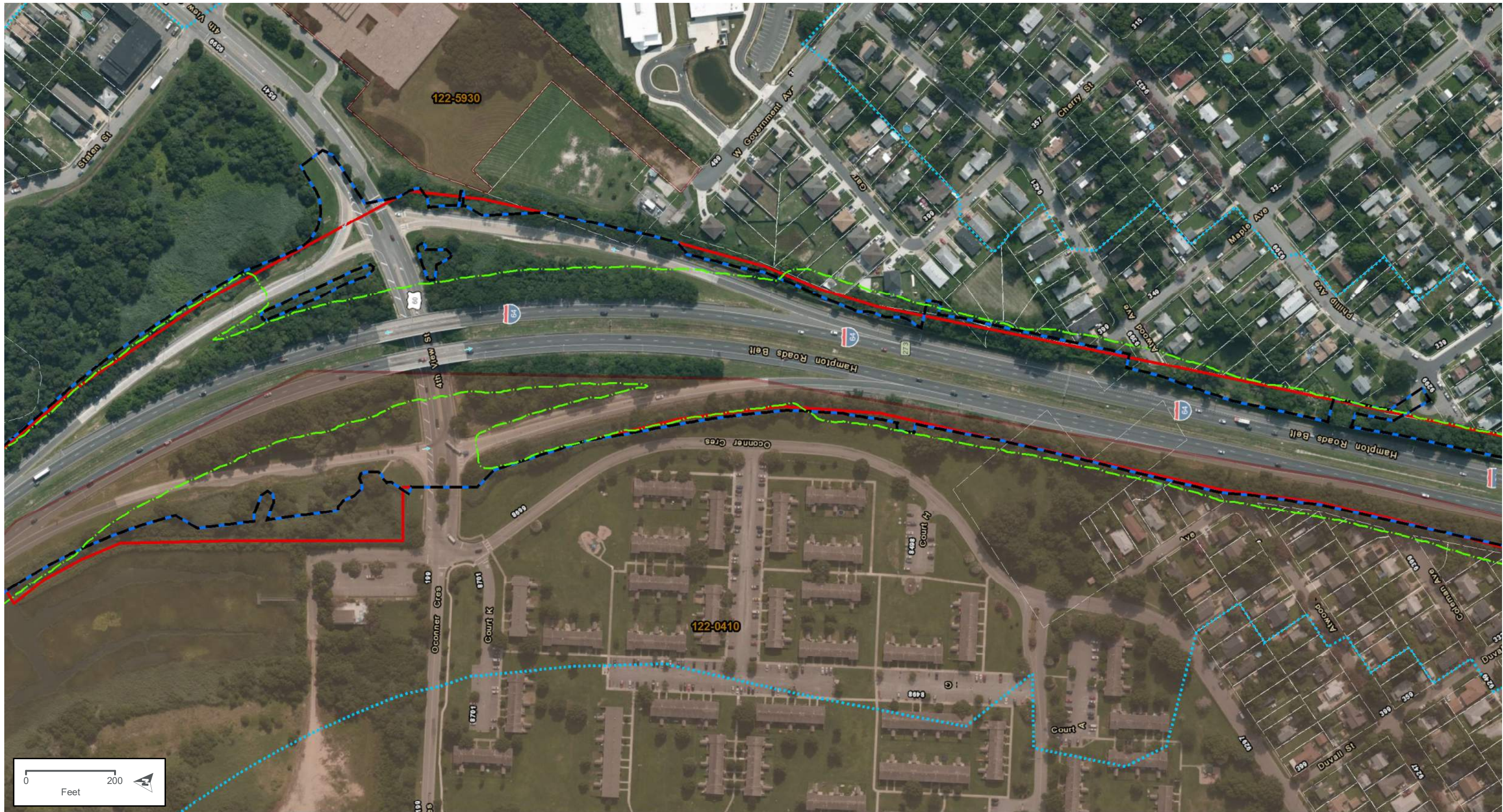


- ▭ Construction Limits of Disturbance
- ▭ SEIS Limits of Disturbance
- NEPA Limits of Disturbance
- 2017 Archaeology Survey Area
- Indirect APE
- Parcel Boundary
- Historic Property



DATA SOURCE: CEDAR, Bing Imagery, ESRI World Transportation





- ▬ Construction Limits of Disturbance
- ▬ SEIS Limits of Disturbance
- ▬ NEPA Limits of Disturbance
- ▬ 2017 Archaeology Survey Area
- ▬ Indirect APE
- Parcel Boundary
- Historic Property

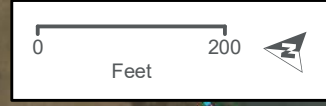








122-5434



- ▬ Construction Limits of Disturbance
- ▬ SEIS Limits of Disturbance
- ▬ NEPA Limits of Disturbance
- ▬ 2017 Archaeology Survey Area
- ▬ Indirect APE
- Parcel Boundary
- Historic Property



DATA SOURCE: CEDAR, Bing Imagery, ESRI World Transportation

