

DRAFT
PROGRAMMATIC AGREEMENT
BETWEEN
THE FEDERAL TRANSIT ADMINISTRATION
AND
THE MINNESOTA STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE METRO GOLD LINE BUS RAPID TRANSIT PROJECT,
RAMSEY AND WASHINGTON COUNTIES, MINNESOTA

WHEREAS, the Metropolitan Council (MC) is proposing to construct the METRO Gold Line Bus Rapid Transit Project (PROJECT), an approximately 9 to 10-mile long bus rapid transit (BRT) line with, depending on the Build Alternative selected, 11 or 19 stations, and four anticipated park-and-ride facilities, one existing and three new, the route beginning in downtown Saint Paul, operating primarily in mixed traffic, and extending along an easterly alignment, operating primarily on a new dedicated guideway, paralleling Interstate 94 to just east of Interstate 694/494 and then along a southerly alignment to the Woodbury Village Shopping Center, connecting the cities of Saint Paul, Maplewood, Landfall Village, Oakdale, and Woodbury, Minnesota, as depicted in Attachment A;

WHEREAS, the PROJECT was originally initiated by Washington County, Minnesota and was known as the Gateway Corridor, and on July 27, 2017, PROJECT sponsorship was transferred to MC and the PROJECT was officially renamed the METRO Gold Line Bus Rapid Transit Project;

WHEREAS, the United States Department of Transportation, Federal Transit Administration (FTA), may fund the PROJECT and has determined it is an undertaking subject to the requirements of 36 Code of Federal Regulations [CFR] Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 United States Code [USC] § 306108);

WHEREAS, the United States Army Corps of Engineers (USACE) may issue permits authorizing the discharge of dredged or fill material in conjunction with PROJECT construction pursuant to 33 USC § 11 and Section 404 of the Clean Water Act (Section 404), 33 USC §§ 1251-1376, as amended, and has determined this permit is an undertaking subject to the requirements of Section 106 and 36 CFR Part 800 and, pursuant to 36 CFR § 800.2(a)(2), on July 9, 2018, designated FTA as the lead Federal agency for the PROJECT to fulfill their responsibilities under Section 106;

WHEREAS, the Federal Highway Administration (FHWA) may issue approval for an Interstate right-of-way use agreement between MC and the State of Minnesota, acting through the Minnesota Department of Transportation (MnDOT), for a portion of the PROJECT's preferred alternative pursuant to 23 CFR Part 810, Subpart C and 23 CFR 710, Subpart D § 710.405, and has determined this approval is an undertaking subject to the requirements of Section 106 and 36 CFR Part 800, and pursuant to 36 CFR § 800.2(a)(2), on August 28, 2019, FHWA requested FTA to be the lead Federal agency for the PROJECT to fulfill their responsibilities under Section 106 and FTA agreed to be the lead Federal agency on September 16, 2019;

WHEREAS, FTA has determined that a phased process for compliance with Section 106, pursuant to 36 CFR § 800.4(b)(2), is appropriate for the undertaking due to the two-year statutory limitation required pursuant to 49 CFR § 5309(d)(1)(C) for FTA's Capital Investment Grant Program, which requires the environmental review process, including the Section 106 review, to be completed within this time period;

WHEREAS, in accordance with 36 CFR § 800.14(b) and § 800.6, FTA has notified the Advisory Council on Historic Preservation (ACHP) of its intent to use a programmatic agreement (AGREEMENT) to fulfill its Section 106 obligations for the PROJECT and has invited the ACHP to participate in the development of this AGREEMENT, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

WHEREAS, FTA initiated Section 106 consultation with the Minnesota State Historic Preservation Office (MnSHPO) in a letter dated November 5, 2013, and shall continue to consult with MnSHPO under the terms of this AGREEMENT;

WHEREAS, FTA invited USACE to be an Invited Signatory to this AGREEMENT in a letter dated November 30, 2018, and USACE accepted that invitation and has participated in consultation to develop this AGREEMENT;

WHEREAS, FHWA requested to become an Invited Signatory to this AGREEMENT in a letter dated August 28, 2019, and FTA has given FHWA Invited Signatory status and an opportunity to participate in development of this AGREEMENT;

WHEREAS, pursuant to 36 CFR § 800.2(a)(3) on July 31, 2014, FTA designated the MnDOT Cultural Resources Unit (CRU) to work directly with MnSHPO on FTA's behalf, with FTA remaining responsible for designating consulting parties and making all findings and determinations pursuant to 36 CFR Part 800, and in order to continue and more clearly define MnDOT CRU's designated role in this PROJECT, FTA has invited MnDOT to be an Invited Signatory to this AGREEMENT;

WHEREAS, MC is the potential recipient of federal financial assistance and the local sponsor for the PROJECT and is responsible for obtaining the necessary approvals and permits to undertake the PROJECT, for carrying out FTA's mitigation commitments that may result from the stipulations contained in this AGREEMENT, and for providing FTA with quarterly reports until the terms of this AGREEMENT are deemed completed by FTA and, therefore, FTA has invited MC to be an Invited Signatory to this AGREEMENT;

WHEREAS, FTA, MnDOT CRU, and MC have consulted with Ramsey and Washington Counties, the Cities of Landfall Village, Maplewood, Oakdale, Saint Paul, and Woodbury, and the Maplewood and Saint Paul Heritage Preservation Commissions (HPCs), and FTA has invited all of these entities to sign this AGREEMENT as Concurring Parties;

WHEREAS, pursuant to 36 CFR § 800.2(c)(2)(ii), upon initiation of the Section 106 consultation for the PROJECT, FTA notified the following federally recognized American Indian tribes (Tribes) and invited their participation in consultation for the PROJECT and, pursuant to 36 CFR § 800.14(b) and (f), invited these tribes to participate in the development of this AGREEMENT: Lower

Sioux Indian Community, Bois Forte Band (Nett Lake) of Chippewa Indians, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, Red Lake Band of Chippewa Indians, White Earth Band of Minnesota Chippewa, Prairie Island Indian Community, Shakopee Mdewakanton Sioux Community of Minnesota, Turtle Mountain Band of Chippewa Indians, Sisseton-Wahpeton Oyate, Santee Sioux Nation, Fort Peck Assiniboine and Sioux Tribes, and Northern Cheyenne Tribe, and no Tribes have requested to participate in the development of this AGREEMENT;

WHEREAS, FTA also notified and invited the participation of the Upper Sioux Community, a federally recognized American Indian tribe, and because the Tribe initially expressed interest in consultation and attended one PROJECT consultation meeting but has not participated since, FTA also invited the Upper Sioux Community to participate in the development of this AGREEMENT, and they have not requested to participate in the development of this AGREEMENT;

WHEREAS, although no Tribes have requested to participate in the development of this AGREEMENT, FTA shall re-initiate consultation with Tribes that may attach religious and/or cultural significance to historic properties that may be identified under the terms of this AGREEMENT, as appropriate;

WHEREAS, the Signatories, Invited Signatories, and Concurring Parties, are all considered Consulting Parties pursuant to 36 CFR § 800.2(c) and their roles described herein are consistent with those described in 36 CFR § 800.6(c)(1), (2), and (3), respectively;

WHEREAS, pursuant to 36 CFR § 800.4(a)(1), FTA and MnDOT CRU, in consultation with MnSHPO, have defined an Area of Potential Effects (APE) for the PROJECT as documented in Attachment B to this AGREEMENT, and FTA may need to revise the PROJECT APE as design and construction advances and, if needed, shall do so in consultation per the terms of this AGREEMENT;

WHEREAS, FTA, MnDOT CRU, and MC, in consultation with MnSHPO, have undertaken surveys of portions of the PROJECT APE to identify historic properties as defined by 36 CFR § 800.16(l) that are listed in, or eligible for, listing in the National Register of Historic Places (NRHP), the results of which are shown in Attachment C to this AGREEMENT, and MnSHPO has concurred with these determinations, and as the design and construction advances, FTA may need to conduct surveys of areas added to the APE to identify and evaluate historic properties that could be potentially affected by the PROJECT and, if needed, shall do so in consultation per the terms of this AGREEMENT;

WHEREAS, measures are included in this AGREEMENT to avoid and/or minimize effects to historic properties through a design development and review process and the implementation of protection measures for historic properties during PROJECT construction;

WHEREAS, this AGREEMENT was developed with appropriate public involvement pursuant to 36 CFR § 800.2(d) and § 800.6(a)(4), and the public involvement has been coordinated with the public review and comment conducted by FTA and MC to comply with the National Environmental Policy Act (NEPA), as amended, pursuant to 36 CFR § 800.8(a);

WHEREAS, there are provisions in this AGREEMENT for any subsequent public involvement in the Section 106 review process following the publication of the NEPA Environmental Assessment and these provisions shall be coordinated through public communication methods already established by MC in a way that is commensurate with the type and scale of public input being sought;

WHEREAS, MC shall administer the implementation of the PROJECT and, with the assistance of MnDOT CRU, shall complete the stipulations of this AGREEMENT, and FTA shall be responsible for ensuring that MC's implementation of the PROJECT meets the terms of this AGREEMENT.

NOW, THEREFORE, FTA and MnSHPO shall implement the PROJECT in accordance with the following stipulations in order to take into account the effects of the PROJECT on historic properties.

STIPULATIONS

FTA, with the assistance of MnDOT CRU and MC, shall ensure that the following measures are carried out:

I. APPLICABILITY

- A.** In the event that MC applies for additional federal funding or approvals for the PROJECT from a federal agency that is not party to this AGREEMENT, the agency may remain individually responsible for their undertaking under 36 CFR Part 800. Alternatively, if the undertaking as described herein remains unchanged, such funding or approving agency may request in writing to FTA and MnSHPO of their desire to designate FTA as lead federal agency for the undertaking pursuant to 36 CFR § 800.2(a)(2) and to become a Consulting Party to this AGREEMENT pursuant to Paragraph B of this Stipulation.
- B.** If during the implementation of this AGREEMENT, FTA identifies other agencies, tribes, individuals, and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the PROJECT or affected properties, or due to their concern with the PROJECT's effects on historic properties, FTA may offer such entities Consulting Party status pursuant to 36 CFR § 800.2(c) and/or invite them to become party to this AGREEMENT, with notification to the other Consulting Parties.
 - i.** If FTA invites an entity to become an Invited Signatory, the party may accept this status by agreeing in writing to the terms of this AGREEMENT and so notifying FTA. If the entity agrees to become an Invited Signatory and MnSHPO, USACE, FHWA, MnDOT CRU, and MC have no objections, FTA shall follow Stipulation XV, to amend this AGREEMENT.
 - ii.** If FTA invites an entity to become a Concurring Party, the entity may accept this status by agreeing in writing to the terms of this AGREEMENT and so notifying FTA. Because Concurring Parties have no responsibility for implementation of this AGREEMENT, FTA may add such parties to the consultation process without formal amendment of this AGREEMENT. FTA shall notify the Consulting Parties of any entities who agree to become a Concurring Party.

- C. The PROJECT is expected to have several construction contracts or bid packages that may be considered independently for the purposes of consultation pursuant to this AGREEMENT. In these instances, the PROJECT status (e.g., design stage or construction) may be considered specific to the contract or element without applying to the entire PROJECT.
- D. For the purposes of this AGREEMENT, construction under any given construction contract or bid package is defined as demolition activities, earthwork, staging, and construction of PROJECT infrastructure and related improvements.

II. STANDARDS

- A. All work carried out pursuant to this AGREEMENT shall meet the Secretary of the Interior's (SOI) *Standards for Archaeology and Historic Preservation* (48 FR 44716) and/or the *SOI's Standards for the Treatment of Historic Properties* (36 CFR Part 68), as applicable (individually or collectively, SOI Standards). Documentation for determinations of eligibility and findings of effect shall meet 36 CFR § 800.11, the SOI Standards, the National Park Service's Bulletins, and MnSHPO and MnDOT CRU survey and reporting guidance, as appropriate. Documentation of historic properties for the purposes of resolving Adverse Effects under Stipulation VIII, may follow the SOI Standards or another appropriate documentation standard that is agreed upon in writing by both FTA and MnSHPO.
- B. FTA shall ensure that all activities carried out pursuant to this AGREEMENT shall be done by, or under the direct supervision of, historic preservation professional(s) who meet the *SOI's Professional Qualification Standards* (48 FR 44738-44739) in the appropriate field(s) for the activity (SOI-Qualified Professionals). FTA and MC shall ensure that consultants retained for services pursuant to implementation of this AGREEMENT are SOI-Qualified Professionals, or in the instance of other allied professions not covered by the *SOI's Professional Qualification Standards*, they shall meet other nationally recognized standards or licensure/certification requirements for the profession, as applicable. Whenever possible, individuals in allied professions should have a minimum of five (5) years of experience working with historic properties.
- C. FTA acknowledges that Tribes possess special expertise in assessing the NRHP eligibility of properties with religious and cultural significance to their Tribe(s). If a Tribe requests, or if FTA otherwise offers and the Tribe accepts, Consulting Party status under this AGREEMENT, FTA shall seek input from the Tribe to determine whether a SOI-Qualified Professional is qualified to assess the potential religious or cultural significance to the Tribe under NRHP criteria.

III. DELIVERABLES AND REVIEW PROCEDURES

- A. The Consulting Parties shall have thirty (30) calendar days to review and provide comments on all findings, determinations, documents, and deliverables, unless otherwise specified.
- B. For all findings, determinations, documents, and deliverables submitted during PROJECT construction and directly related to construction activities, the Consulting Parties shall have fifteen (15) calendar days to review and provide comments, unless otherwise specified.

- C. If the deliverable is a draft document, any written comments provided within the review and comment period shall be considered in the preparation of the final document. If there are any comments that are not feasible to incorporate into the final document, FTA shall provide an explanation to the Consulting Parties as part of issuing the final document. If no comments on a draft document are provided within the specified review timeframe, FTA, at its discretion, may consider the draft document final with notification to Consulting Parties.
- D. Should FTA and MnSHPO be unable to reach agreement on eligibility determinations, findings of effect, or resolution of adverse effects, FTA shall consult with MnSHPO to resolve the disagreement in accordance with Stipulation XIV.
- E. All review timeframes may be extended by mutual consent between FTA and MnSHPO, with notification to the other Consulting Parties. Failure of any Consulting Party to respond within the specified timeframe shall not preclude FTA from proceeding to the next step of any process under this AGREEMENT.

IV. AREA OF POTENTIAL EFFECTS (APE)

- A. In accordance with 36 CFR § 800.4(a)(1) and in consultation with MnSHPO, FTA has defined and documented two APEs for the PROJECT, one for archaeological resources and one for architecture/history resources (Attachment B).
- B. Throughout the PROJECT design process, and as needed during PROJECT construction, FTA, with the assistance of MnDOT CRU, shall determine if revisions to either or both of the PROJECT's APEs are necessary.
 - i. If FTA determines the PROJECT's APE(s) require revision, it shall submit the draft and final APE(s), along with any supporting documentation, to MnSHPO for review and comment, and to other Consulting Parties, as appropriate, for review, pursuant to Stipulation III. FTA's determination on the revised APE(s) shall be final.
 - ii. Revisions to the APE(s) do not require a formal amendment to this AGREEMENT. If revised and documented by FTA pursuant to Stipulation IV.B.i, then the revised APE(s) shall be used throughout the remainder of the PROJECT unless further revisions to the APE(s) are necessary due to PROJECT modifications.
- C. If any new, previously unsurveyed, areas are added to the APE(s), the procedures in Stipulation V shall be followed to identify historic properties that may be affected by the PROJECT.

V. SURVEY AND EVALUATION

- A. MC, with the assistance of MnDOT CRU and in consultation with MnSHPO and other Consulting Parties, shall conduct surveys of the PROJECT's APE(s), including any areas added through revisions under Stipulation IV, in order to undertake and complete a reasonable and good faith effort to identify historic properties. MnDOT CRU shall advise FTA and MC if and when additional survey is necessary.

- i. In any instance where a property cannot be fully evaluated prior to the initiation of the PROJECT's civil construction or the resumption of PROJECT activities in the vicinity of the property when identified pursuant to Stipulation XI, the property may be treated as though it is eligible for inclusion in the NRHP for the purpose of the Section 106 review of the PROJECT only. In these instances, and in addition to providing a justification for not performing a full evaluation, FTA shall document the NRHP criterion or criteria, potential area(s) of significance, and boundaries used to assume the property's eligibility so that information can be used to assess effects of the PROJECT on the historic property pursuant to Stipulation VII.
 - ii. The survey and evaluation shall be performed by SOI-Qualified Professionals appropriate to the resource type(s) being identified and evaluated, and shall meet the requirements of Stipulation II.
- B.** MnDOT CRU shall review the survey results and make NRHP eligibility recommendations to FTA, which shall submit its NRHP eligibility determinations to the Consulting Parties for review and comment pursuant to Stipulation III. Subject to the confidentiality requirements in Section 304 of the National Historic Preservation Act (54 USC § 307103) and 36 CFR § 800.11(c), MC shall post the survey results on the PROJECT website, or other means as appropriate, in order to obtain public input and shall share any comments received from the public with the Consulting Parties.
- i. If MnSHPO does not respond during the applicable review period or if MnSHPO concurs, FTA's eligibility determinations shall become final and effects to any historic properties identified shall be assessed pursuant to Stipulation VII.
 - ii. If FTA and MnSHPO do not agree on the NRHP eligibility of a property, or if FTA and a Tribe that attaches religious and cultural significance to a property do not agree on NRHP eligibility, FTA shall resolve the disagreement pursuant to Stipulation XIV.

VI. PROJECT DESIGN DEVELOPMENT AND REVIEW

- A.** The PROJECT plans (drawings, specifications, special provisions, appendices, etc.), including plans for temporary construction-related work, shall effectively meet the PROJECT purpose and need, while avoiding, minimizing, and/or mitigating Adverse Effects to historic properties. Throughout the PROJECT design development process, MnDOT CRU shall advise MC in their efforts to meet this goal. The PROJECT plans shall also follow Stipulation IX, when applicable.
- B.** At its own discretion, including in response to the request of any Consulting Party, FTA, with the assistance of MnDOT CRU, may convene a meeting(s) or use other appropriate means to obtain Consulting Party input on PROJECT design development and effects of the PROJECT on historic properties. If a meeting is held, FTA or MnDOT CRU shall distribute meeting materials, as appropriate, in advance of the meeting. These meeting materials may include, but are not limited to, agendas, PROJECT plans, and effects assessments. The Consulting Parties may provide input in writing following the receipt of materials during the specified review time, during the meeting

if one is held, or both. FTA and MC, with the assistance of MnDOT CRU, shall record and consider all Consulting Party input received pursuant to this stipulation as PROJECT plans are further developed.

- C.** MnDOT CRU shall review all PROJECT plans at the 30, 60, 90, and 100 percent (%), or equivalent, design stages. MnDOT CRU shall also review any modifications made to the 100% Plans (construction documents), whether those changes are made prior to, or during, PROJECT construction. If a modification of the 100% Plans is for an area within or in the vicinity of a historic property, including any design limits established for a historic property in accordance with Stipulation IX.B, MC shall not allow any destructive activities related to the PROJECT modification to begin until MnDOT CRU and FTA, if required, have completed their reviews under this Stipulation and Stipulation VII. Any submittals to the Consulting Parties shall follow the review times outlined in Stipulation III. To facilitate review, submittals may be limited to the portions of the PROJECT plans that illustrate the manner in which the PROJECT may effect historic properties previously identified (Attachment C) or identified under Stipulation V.
- i.** At each stage of the review, MnDOT CRU shall recommend to FTA whether revisions are necessary to the PROJECT's APE(s) pursuant to Stipulation IV.
 - ii.** Upon completion of the 30% Plans and in addition to the APE review pursuant to Paragraph C.i of this Stipulation, MnDOT CRU shall prepare an assessment of effects pursuant to Stipulation VII, for submittal along with the 30% Plans to the Consulting Parties.
 - iii.** Upon completion of the 60%, 90%, and 100% Plans, and if modifications are made to the 100% Plans, MnDOT CRU shall review the PROJECT plans. In addition to the APE review pursuant to Paragraph C.i of this Stipulation, MnDOT CRU shall assess whether any PROJECT design changes would result in a change to FTA's finding of effect prepared pursuant to Stipulation VII, whether the design-related requirements of Stipulation IX, have been met, when appropriate, and whether the plans incorporate previous commitments made to the Consulting Parties, including those made as part of any Mitigation Plan(s) prepared under Stipulation VIII.
 - a.** If the previously made finding of effect remains valid, design-related requirements have been met, and all commitments reached during consultation have been incorporated into PROJECT design, MnDOT CRU shall notify FTA, who shall notify the Consulting Parties of its findings.
 - 1. The 60% Plans shall be submitted to Consulting Parties for review and comment pursuant to Stipulation III along with the notification. Based on the nature and scale of the PROJECT changes since the 30% Plans, FTA, at its discretion, may hold a consultation meeting during the comment period to review the changes with Consulting Parties and seek their input.
 - 2. The 90% Plans, 100% Plans, and modifications to the 100% Plans do not need to be submitted to the Consulting Parties unless, following review by MnDOT CRU, FTA

is requesting additional feedback on the design of specific PROJECT elements, or if a Consulting Party so requests. Notification for modifications to the 100% Plans may be done through the reporting process outlined in Stipulation XIII.

- b. If the previously made finding of effect no longer remains valid, if design-related requirements have not been met, or if commitments reached during consultation are not incorporated into the PROJECT plans, FTA shall make a new finding of effect with the assistance of MnDOT CRU pursuant to Stipulation VII, and proceed to Stipulation VIII, if necessary.

VII. ASSESSMENT OF EFFECTS ON HISTORIC PROPERTIES

- A. FTA, with the assistance of MnDOT CRU, shall make a finding of effect for historic properties in the APE(s) based on the PROJECT's 30% Plans, or as necessary after the 30% Plans have been reviewed, to account for any subsequent changes in the PROJECT design that may result in newly identified historic properties or changes in the finding of effect for a historic property. MnDOT CRU shall assess effects of the PROJECT on historic properties in accordance with the Criteria of Adverse Effect as described in 36 CFR § 800.5(a)(1) and make a recommendation to FTA. MnDOT CRU shall also recommend to FTA potential measures for avoiding, minimizing, and/or mitigating any Adverse Effect(s), including any applicable Standard Mitigation Measures (Appendix D) and any measures to be included in a Construction Protection Plan for Historic Properties (CPPHP, as described in Stipulation X).
 - i. As part of the assessment of effects, MnDOT CRU may recommend, and FTA may impose, conditions on the PROJECT to ensure an Adverse Effect to a historic property is avoided and/or minimized.
 - a. Conditions to design the PROJECT according to SOI Standards to the extent feasible shall be considered efforts to avoid and/or minimize potential Adverse Effects and follow Stipulation IX.
 - b. Conditions to protect a historic property during PROJECT construction shall be considered efforts to avoid and/or minimize potential Adverse Effects and follow Stipulation X.
 - ii. When effects are assessed following unanticipated effects (e.g., damage) to a known or newly identified historic property during PROJECT construction (see Stipulations XI and XII), MnDOT CRU shall use the following guidance in addition to the Criteria of Adverse Effect when making a recommendation to FTA:
 - a. If the damage does not meet the threshold of an Adverse Effect, No Adverse Effect shall be recommended.
 - b. If the damage meets the threshold of an Adverse Effect, is repairable, and the property owner agrees to repairing the damage in accordance with the SOI Standards, an Adverse Effect shall be recommended along with Standard Mitigation Measure 1: Repair

Unanticipated Damage to Historic Properties in Accordance with SOI Standards (Appendix D), when appropriate, to resolve the Adverse Effect.

- c. If any of the following are true, an Adverse Effect requiring resolution under Stipulation VIII shall be recommended:
- The damage involves a National Historic Landmark;
 - The damage cannot be repaired;
 - The historic property must be demolished in whole or in part;
 - The property owner does not consent to repairing the damage in accordance with the SOI Standards;
 - Either the PROJECT Construction Contractor or Contractor's insurer resolves the damage claim by monetary payment to the property owner in lieu of a repair; or
 - The repairs have the potential to cause additional Adverse Effects.
- B. FTA shall review MnDOT CRU's assessment of effects and recommendations, and if acceptable, submit a finding of effect to the Consulting Parties for review in accordance with the timeframes outlined in Stipulation III. FTA shall clearly state any condition(s) imposed on the PROJECT as part of the finding. Subject to the confidentiality requirements in 54 USC § 307103 and 36 CFR § 800.11(c), MC shall post the finding of effect on the PROJECT website, or other means as appropriate, in order to obtain public input and shall share any comments received from the public with the Consulting Parties within the review timeframe.
- i. If FTA makes a finding of No Adverse Effect and MnSHPO and other Consulting Parties agree, no further consultation is required pending implementation of any conditions upon which the finding is based. Implementation of conditions shall be tracked as part of quarterly reporting outlined in Stipulation XIII.
- ii. If FTA makes a finding of Adverse Effect, FTA shall notify and invite the ACHP to participate in the consultation to resolve the Adverse Effect at the same time FTA submits the finding of effect to the Consulting Parties for review. FTA shall also notify and invite the SOI to participate in the consultation pursuant to 36 CFR § 800.10 and 54 USC § 306107 if the PROJECT is anticipated to have an Adverse Effect on a National Historic Landmark.
- iii. FTA, at its discretion and based on the nature and scale of the Adverse Effect, may propose the implementation of one or more Standard Mitigation Measure(s) included in Appendix D: Standard Mitigation Measures, to resolve the Adverse Effect. The proposed use of Standard Mitigation Measures shall be submitted as part of FTA's finding of effect to all Consulting Parties. When applicable, deliverables required as part of a Standard Mitigation Measure shall be prepared in accordance with the requirements of Stipulation II, and be submitted and

reviewed pursuant to the timeline(s) and process outlined in Stipulation III, or as otherwise specified in the Standard Mitigation Measure.

- a. If MnSHPO and other Consulting Parties agree to the use of the Standard Mitigation Measure(s), FTA and MC shall ensure the Standard Mitigation Measure(s) are carried out in order to resolve the Adverse Effect(s). Implementation of Standard Mitigation Measures shall be tracked as part of quarterly reporting outlined in Stipulation XIII.
- b. If FTA determines that the use of a Standard Mitigation Measure(s) is not appropriate, or if MnSHPO (or the ACHP, if it chooses to participate in the consultation) objects to FTA's recommended use of a Standard Mitigation Measure(s) to resolve an Adverse Effect(s), or if other Consulting Parties request consideration of other measures to resolve an Adverse Effect(s), FTA shall consult with all Consulting Parties to consider alternative measures to avoid, minimize, and/or mitigate the Adverse Effect pursuant to Stipulation VIII.
- iv. If MnSHPO objects to FTA's finding of effect or if other Consulting Parties do not agree with the finding, they shall provide comments to FTA specifying the reasons for their disagreement. FTA shall consult with MnSHPO and other Consulting Parties to resolve the disagreement in accordance with Stipulation XIV.

VIII. CONSULTATION TO RESOLVE ADVERSE EFFECTS

- A. If FTA makes a finding of Adverse Effect and it cannot be resolved through Standard Mitigation Measure(s) outlined in Appendix D, FTA shall consult with the Consulting Parties and the owner of the historic property to seek and consider other measures to avoid, minimize, and/or mitigate the Adverse Effect. Consultation may take whatever form is appropriate based on the significance, character, and use of the historic property and the nature and scale of the undertaking and the Adverse Effect. The consultation must include an opportunity for the public to express their views in resolving the Adverse Effect(s). FTA, at its discretion, may determine that public participation under this stipulation is met via public review and comment conducted under the National Environmental Policy Act, as amended, and its implementing regulations.
 - i. If consultation identifies a way to avoid the Adverse Effect(s) entirely through redesign of a PROJECT element or other means, and MC and FTA agree, MC shall revise the PROJECT plans and FTA (with the assistance of MnDOT CRU) shall reassess effects and modify the finding of effect in accordance with Stipulation VII.
 - ii. If through consultation it is determined the Adverse Effect(s) cannot be avoided entirely, a Mitigation Plan shall be prepared under Paragraph B of this Stipulation.
- B. FTA, with the assistance of MnDOT CRU and MC, shall develop a Mitigation Plan(s) to document the measures identified through consultation under Paragraph A of this Stipulation to resolve the Adverse Effect(s). Mitigation Plan(s) may be prepared for the PROJECT as a whole, for individual construction bid packages, and/or for individual or groups of historic properties, as needed.

- i. A Mitigation Plan shall outline measures to avoid, minimize, and/or mitigate Adverse Effects to the historic property. Measures may include, but are not limited to, additional design review pursuant to Stipulation IX, protecting historic properties during PROJECT construction pursuant to Stipulation X, and the Standard Mitigation Measures found in Appendix D. When applicable, deliverables required by a Mitigation Plan shall be prepared in accordance with the requirements of Stipulation II, and be submitted and reviewed pursuant to the timeline(s) and process outlined in Stipulation III, or as otherwise specified in the Mitigation Plan.
 - ii. Upon completion of consultation, FTA shall submit a draft and final Mitigation Plan to the Consulting Parties and the property owner pursuant to Stipulation III. The Mitigation Plan shall be considered final following agreement in writing by both FTA and MnSHPO. FTA shall ensure that the final Mitigation Plan is added to the FTA Administrative Record and carried out by MC in order to resolve the Adverse Effect(s). Implementation of the Mitigation Plan shall be tracked as part of quarterly reporting outlined in Stipulation XIII.
- C. If FTA and MnSHPO fail to agree on how to resolve the Adverse Effect, FTA shall consult with MnSHPO to resolve the disagreement in accordance with Stipulation XIV.
- D. If required by a Mitigation Plan, construction activities may not begin or resume in the vicinity of the historic property until after the completion of the associated field work or implementation of protection measures outlined in the Mitigation Plan.

IX. DESIGN REQUIREMENTS

- A. When required as a condition of a finding of No Adverse Effect for a specific historic property under Stipulation VII, or as a component of a Mitigation Plan developed under Stipulation VIII, MC, shall design the PROJECT in accordance with the SOI Standards to the extent feasible within and in the vicinity of the historic property while still meeting the PROJECT purpose and need. MC shall develop the PROJECT design in these areas with the assistance of MnDOT CRU and in consultation with MnSHPO, other Consulting Parties, and the property owner, when appropriate. If a City has officially designated a historic property for heritage preservation, the design shall also take into consideration, as feasible, any design guidelines adopted by the City's HPC for the historic property.
- B. The portion of the PROJECT corridor that shall be designed in accordance with the SOI Standards shall be documented in writing and delineated with appropriate documentation (e.g., maps) as part of any conditions to a finding of No Adverse Effect or as part of a Mitigation Plan. These design limits shall be determined by FTA, with the assistance of MnDOT CRU, other Consulting Parties, and the property owner, when applicable. If design limits must be modified due to changes in the PROJECT scope or expected effects, FTA shall seek Consulting Party input on the proposed modifications and the revised limits shall be agreed upon in writing by both FTA and MnSHPO.

- C. Depending on the significance, character, and use of the historic property and the nature and scale of the effect, FTA and MnDOT CRU shall identify the method and appropriate points at which to gain input from MnSHPO, other Consulting Parties, and the property owner, when applicable, for determining the best approach(es) for meeting these design requirements. FTA shall propose the methods for consultation in the conditions for the finding of No Adverse Effect, or shall outline the agreed-upon methods in the final Mitigation Plan.

X. CONSTRUCTION PROTECTION PLAN FOR HISTORIC PROPERTIES (CPPHP)

- A. When required as a condition of a finding of No Adverse Effect for a specific historic property or a Standard Mitigation Measure proposed under Stipulation VII or as a component of a Mitigation Plan developed under Stipulation VIII, prior to the initiation of PROJECT construction as defined in Stipulation I.D, MC, with the assistance of MnDOT CRU and in consultation with FTA, Consulting Parties, and the property owner, when applicable, shall develop a CPPHP detailing the measures to be implemented prior to and during PROJECT construction to avoid or minimize effects to historic properties. The CPPHP shall also identify the entity(ies) responsible for carrying out the measures included in the CPPHP.
 - i. The CPPHP may be prepared for the PROJECT as a whole, for individual construction bid packages, and/or for individual or groups of historic properties, as needed.
 - ii. MC shall submit the draft and final CPPHP(s) to FTA for review and approval. Once FTA's comments are incorporated, FTA shall submit the draft and final CPPHP(s) to Consulting Parties pursuant to Stipulation III. If the CPPHP includes any property-specific protection measures, FTA shall also submit the draft and final CPPHPs to the owner of the historic property pursuant to Stipulation III. The CPPHP shall be considered final upon acceptance by FTA and shall be distributed to Consulting Parties and the property owner, when applicable. When necessary, amendments to the CPPHP shall follow the same process as its original development.
- B. MC shall include the agreed-upon CPPHP in contract packages to inform PROJECT Construction Contractors of their responsibilities relative to historic properties. The CPPHP may be a separate document or combined with other PROJECT construction monitoring plans, as appropriate. MC shall incorporate the property-specific protection measures into the PROJECT plans when appropriate, and shall ensure the terms of the CPPHP(s) are implemented.
- C. Depending on the type of historic property, the expected effects, and the conditions or Mitigation Plan(s) as written, MC may include the following measures in the CPPHP:
 - i. Construction Protection Measures (CPMs) that detail the specific protection measures and procedures to be implemented during PROJECT construction to protect historic properties.
 - ii. Historic Property Inspections (pre-, during, and post-construction) that provide a baseline of existing structural and physical conditions to facilitate identification and documentation of any structural and/or cosmetic damage caused by PROJECT construction. Inspections shall include, but are not limited to, building/structure foundations, exterior and interior elements,

topography, landscaping, and any other historically significant or character defining features of the property to document any pre-existing defects or other damage. Inspection documentation shall include photographs and narrative to document the observed conditions before and after PROJECT construction, and as needed during PROJECT construction. Depending on the type and nature of the historic property and anticipated effects to it, photographic documentation should include, but is not limited to: ceilings, roofs, exterior and interior walls, windows, masonry, foundations, all sides of the exterior of the building, structure and bridge wingwalls, beams, substructures and superstructures, plumbing, equipment, fences and landscape walls, topography, vegetation, driveways and sidewalks, and any historically significant or character-defining features of the property. Photographs shall be razor sharp in focus, properly composed, and with adequate lighting to clearly show existing conditions such as deterioration and cracking that may be subject to dispute after initiation of PROJECT construction.

- iii. Vibration Management and Remediation Measures (VMRMs) to address ground-borne vibration caused by PROJECT construction when it is projected to have a moderate to severe impact under NEPA that may result in an Adverse Effect on a historic property.
 - iv. Other types of potential measures may include, but are not limited to, maintenance of access measures and noise minimization and mitigation measures when noise caused by PROJECT construction is anticipated to have an Adverse Effect on a historic property.
- D.** To ensure adequate administration, MC shall include the following management controls in any CPPHPs developed:
- i. Unexpected discoveries of historic properties, developed in accordance with Stipulation XI.
 - ii. Unanticipated effects to historic properties, developed in accordance with Stipulation XII.
 - iii. As appropriate, Consulting Party and property owner review of any documentation prepared under the CPPHP(s) adhering to the timelines outlined in Stipulation III, unless otherwise specified.
- E.** Prior to commencing construction activities, MC shall prepare PROJECT-specific Historic Property Awareness and Sensitivity Training and shall require PROJECT Construction Contractor(s), including Site Supervision (Superintendents and Foremen) and their direct supervisors to complete the PROJECT-specific Historic Property Awareness and Sensitivity Training prior to the commencement of construction activities. The Historic Property Awareness and Sensitivity Training shall provide information on historic properties subject to the CPPHP, review requirements and processes for avoiding and minimizing effects to known historic properties, and include guidance on the procedures and protocols if unexpected discoveries are made.
- F.** If, for any reason, the CPPHP requirements set forth in this Stipulation are not appropriate to a specific historic property or an anticipated effect, the consultation process and the format of the

CPPHP, as outlined in Paragraphs A through E of this Stipulation, may be revised upon agreement by FTA and MnSHPO without amending this AGREEMENT.

- G. MC shall ensure that all measures identified in the CPPHP are implemented during PROJECT construction and shall provide a record of monitoring activities in a quarterly report to FTA and in quarterly reports prepared pursuant to Stipulation XIII.

XI. UNEXPECTED DISCOVERIES

- A. If suspected historic properties, including sites that contain human remains, unidentified animal bone, or mortuary objects, are discovered during PROJECT construction, all activities shall cease within one hundred (100) feet of the discovery to avoid and/or minimize harm to the property. MC shall include in PROJECT construction contracts a requirement for the PROJECT Construction Contractor(s) to immediately notify MC of the discovery and implement interim measures to protect the discovery from damage, looting, and vandalism. Measures may include, but are not limited to, protective fencing, covering of the discovery with appropriate materials, and/or posting of security personnel. MC shall immediately notify FTA and MnDOT CRU. FTA shall then notify MnSHPO, other Consulting Parties, and the property owner. When appropriate, FTA shall notify any Tribes that may attach religious and cultural significance to the property. The Contractor shall provide access to Consulting Parties and law enforcement to the site and shall not resume work within the area until notified by MC.
- B. If any suspected human remains are encountered, MC shall also follow the requirements of Minnesota Statutes (MS) § 307.08 and immediately notify local law enforcement and the Office of the State Archaeologist (OSA), the lead state agency for authentication of burial sites on non-federal lands. In accordance with MS § 307.08, the OSA has the final authority in determining if the remains are human and to ensure appropriate procedures are carried out in accordance with the statutes. Avoidance and preservation in place is the preferred option for the treatment of human remains. In accordance MS § 307.08(3), OSA is required to coordinate with the Minnesota Indian Advisory Council (MIAC) if the remains or associated burial items are thought to be American Indian. MC, with the assistance of MnDOT CRU, shall work with OSA and MIAC to develop and implement a reburial plan, if that is the approach preferred as determined in accordance with MS § 307.08.
- C. MC, with the assistance of MnDOT CRU, shall contract with a SOI-Qualified Professional to evaluate the newly discovered property for eligibility for listing in the NRHP. For properties with suspected human remains, the consulting archaeologist must coordinate their evaluation with the OSA's authentication of the burial. In lieu of a consultant's recommendation, FTA may assume a property is eligible for listing in the NRHP following consultation with, or based on input from, Consulting Parties pursuant to Stipulation V.A.i. If an evaluation is performed, MnDOT CRU shall provide an eligibility recommendation to FTA within seventy-two (72) hours of receipt of MC's consultant's report. FTA shall make a determination of eligibility pursuant to Stipulation V within seventy-two (72) hours of receiving the recommendation from MnDOT CRU. When applicable, FTA shall also follow Stipulation II.C in relation to any properties that may have religious or cultural significance to a Tribe(s).

- i. If FTA determines that the property does not meet NRHP criteria, and MnSHPO concurs, construction activities can resume upon receipt of MnSHPO written concurrence with the eligibility determination and completion of activities required under Paragraph B of this Stipulation, if applicable.
- ii. For all properties determined eligible for the NRHP, FTA shall make a finding of effect pursuant to Stipulation VII, and resolve any Adverse Effects pursuant to Stipulation VIII. In addition to the requirements in those stipulations, construction activities may resume after completion of activities required under Paragraph B of this Stipulation, if applicable.

XII. UNANTICIPATED EFFECTS TO HISTORIC PROPERTIES

- A. If previously known historic properties are affected in an unanticipated adverse manner during PROJECT construction, all activities shall cease within one hundred (100) feet of the discovery to avoid and/or minimize harm to the property. MC shall include in PROJECT construction contracts a requirement for the PROJECT Construction Contractor to immediately notify MC of the effect and implement interim measures to protect the property from damage, looting, and vandalism. Measures may include, but are not limited to, protective fencing, covering of the property with appropriate materials, and/or posting of security personnel. The Construction Contractor shall not resume work until notified by MC. MC shall immediately notify FTA and MnDOT CRU. FTA shall then notify MnSHPO, other Consulting Parties, and the property owner. MC shall ensure a historic property inspection as described in Stipulation X.C.ii is prepared as soon as practicable to document damage to the historic property.
- B. If reasonably convenient and appropriate, MC, MnDOT CRU, other Consulting Parties, and the property owner, when applicable, shall confer at the site within seventy-two (72) hours of notice of discovery to assess the property, determine the likely PROJECT effects to the property, and to determine the most appropriate Course of Action to repair any damage, if feasible.
 - i. The Course of Action shall specify the type of repair, the review process for the scope of work, and the responsibilities for ensuring repairs are made appropriately, including preparation of a post-construction historic property inspection as described in Stipulation X.C.ii. The Course of Action shall also outline where and when it may be safe to resume construction activities within and/or in the vicinity of the historic property. Whenever possible, measures to repair historic properties shall be developed so that they meet the SOI Standards and are carried out under the direct supervision of personnel that meet the requirements described in Stipulation II.
 - ii. Within seventy-two (72) hours of the meeting, MC shall prepare draft meeting notes documenting the results of the onsite meeting and a draft of the proposed Course of Action and provide them, and the historic property inspection prepared under paragraph A of this Stipulation, to meeting attendees for review. Attendees of the meeting have seventy-two (72) hours to provide comments. MC shall finalize the meeting notes and Course of Action within twenty-four (24) hours after receiving comments and provide them to meeting attendees.

- C. Once a Course of Action to repair the damage and further protect the property has been developed and consented to by the PROJECT Construction Contractor and the property owner, FTA with the assistance of MnDOT CRU shall assess effects pursuant to Stipulation VII and resolve any Adverse Effects pursuant to Stipulation VIII, if necessary.

XIII. REVIEWING AND REPORTING OF AGREEMENT IMPLEMENTATION

- A. Every three (3) months following the execution of this AGREEMENT and until it expires or is terminated, MC, with the assistance of MnDOT CRU, shall provide FTA and all the Consulting Parties a summary report detailing work undertaken pursuant to its terms. Subject to the confidentiality requirements in 54 USC § 307103 and 36 CFR § 800.11(c), each report shall include an itemized listing of all measures required to implement the terms of this AGREEMENT, including but not limited to reviews required under Stipulation VI; implementation of any conditions required for a finding of No Adverse Effect or Standard Mitigation Measures proposed under Stipulation VII; implementation of any Mitigation Plans(s) prepared under Stipulation VIII; design review within and in the vicinity of historic properties required under Stipulation IX; and implementation of any CPPHPs prepared under Stipulation X. For each action, the report shall identify what steps MC has taken during the reporting period to implement those actions and identify any problems or unexpected issues encountered, any scheduling changes proposed, any disputes and objections submitted or resolved, and any changes recommended in implementation of this AGREEMENT and/or any Mitigation Plan(s) prepared under Stipulation VIII. Each report shall also include a timetable of activities proposed for implementation within the following reporting period and, as applicable, notices of the initiation of construction for individual construction bid packages.
- B. The Consulting Parties shall review the reports pursuant to the timelines established in Stipulation III. MC shall notify the public via the PROJECT website about the publication of the quarterly reports and that the reports are available for inspection and review upon request. MC shall share any comments received from the public with the Consulting Parties.
- C. At its own discretion, or at the request of any Signatory, FTA shall convene a meeting to facilitate review and comment on the reports, and to resolve any questions about their content and/or to resolve objections or concerns.

XIV. DISPUTE RESOLUTION

- A. Should any Consulting Party object at any time to any actions proposed or the manner in which the terms of this AGREEMENT are implemented, FTA shall consult with such party to resolve the objection for a period not to exceed fifteen (15) calendar days. This resolution timeframe may be extended by mutual consent between FTA and the Consulting Party, with notification to the other Consulting Parties.
- B. If FTA and MnSHPO do not agree on the NRHP eligibility of a property, or if FTA and a Tribe that attaches religious and cultural significance to a historic property do not agree on a property's NRHP eligibility, FTA shall submit documentation to the Keeper of the NRHP and request a

formal determination of eligibility pursuant to 36 CFR Part 63 and 36 CFR § 800.4(c)(2). The Keeper's eligibility determination shall be considered final.

- C. If FTA and Consulting Parties do not agree on findings of effect or resolutions of Adverse Effects, FTA shall forward all documentation relevant to the dispute, including FTA's proposed resolution, to all Consulting Parties and the ACHP.
 - i. The ACHP shall provide FTA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. 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 and the Consulting Parties, and provide them with a copy of this written response. FTA shall then proceed according to its final decision.
 - ii. If the ACHP does not provide its advice regarding the dispute within the thirty (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 Consulting Parties, and provide them and the ACHP with a copy of such written response.
- D. FTA's responsibility to carry out all other actions subject to the terms of this AGREEMENT that are not the subject of the dispute remain unchanged.
- E. If a member of the public raises an objection in writing pertaining to implementation of this AGREEMENT, the Consulting Party receiving the objection shall notify FTA. FTA shall notify all parties to this AGREEMENT in writing of the objection. Unless otherwise agreed upon, Consulting Parties have fifteen (15) calendar days to review and provide written comments on the objection to all Consulting Parties. FTA shall consider the objection and take all comments from all parties into consideration in reaching its decision on the objection. Within fifteen (15) calendar days following closure of the comment period, FTA shall render a decision regarding the objection, respond to the objecting party, and proceed according to its decision. FTA's decision regarding resolution of the objection shall be final.

XV. AMENDMENTS

Any Consulting Party may request an amendment to this AGREEMENT. This AGREEMENT may be amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment shall be effective on the date of the final signature by the Signatories and Invited Signatories. Copies of any amendments shall be provided to all the Consulting Parties and the ACHP.

XVI. DURATION

- A. This AGREEMENT shall remain in effect from the date of execution for a period not to exceed ten (10) years. If FTA anticipates that the terms of this AGREEMENT shall not be completed within this timeframe, it shall notify the Consulting Parties in writing at least sixty (60) calendar

days prior to this AGREEMENT'S expiration date. This AGREEMENT may be extended by the written concurrence of the Signatories and Invited Signatories.

- B.** FTA shall ensure the AGREEMENT is extended if all the Stipulations have not been completed. If this AGREEMENT expires and FTA elects to continue with the undertaking, FTA shall reinitiate Section 106 consultation in accordance with 36 CFR Part 800.
- C.** If, prior to the expiration date, FTA determines all the activities subject to this AGREEMENT are completed, including but not limited to implementation of any conditions required for a finding of No Adverse Effect or Standard Mitigation Measures specified under Stipulation VII; implementation of any CPPHP(s) prepared under Stipulation X; and implementation of any Mitigation Plan(s) prepared under Stipulation VIII, then FTA may terminate this AGREEMENT pursuant to Stipulation XVII.

XVII. TERMINATION

- A.** If all terms of this AGREEMENT have been completed prior to the expiration date, FTA may terminate the AGREEMENT with notification to Signatories, Invited Signatories, and Concurring Parties that the terms of the AGREEMENT have been completed. If a Consulting Party feels AGREEMENT termination is premature, or that the terms of the AGREEMENT have not been met, they shall respond within the timeframes outlined in Stipulation III.
- B.** Any Signatory or Invited Signatory may terminate this AGREEMENT by providing at least thirty (30) calendar days notice to all Consulting Parties. FTA shall consult with the Signatories and Invited Signatories during the thirty (30) calendar day notice period in an attempt to seek agreement on amendments or other actions that would avoid termination. In the event of termination, FTA, USACE, FHWA, and any other federal agencies invited to be a Consulting Party under Stipulation I shall comply with 36 CFR §§ 800.3-800.13 with regard to the undertaking covered by this AGREEMENT.

XVIII. EXECUTION

- A.** This AGREEMENT may be executed in counterparts, with a separate page for each Consulting Party. This AGREEMENT shall become effective on the date of the final signature by the Signatories and Invited Signatories. The refusal of any party invited to concur with this AGREEMENT does not invalidate this AGREEMENT. FTA shall ensure each Consulting Party is provided with a fully executed copy of this AGREEMENT and that the final AGREEMENT, updates to appendices, and any amendments are filed with the ACHP.
- B.** Execution of this AGREEMENT by FTA and MnSHPO, and implementation of its terms is evidence that FTA has taken into account the effects of its undertaking on historic properties and has afforded the ACHP opportunity to comment pursuant to Section 106 of the National Historic Preservation Act.

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SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
BETWEEN
THE FEDERAL TRANSIT ADMINISTRATION
AND
THE MINNESOTA STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE METRO GOLD LINE BUS RAPID TRANSIT PROJECT,
RAMSEY AND WASHINGTON COUNTIES, MINNESOTA**

SIGNATORIES

FEDERAL TRANSIT ADMINISTRATION

MINNESOTA STATE HISTORIC PRESERVATION OFFICE

INVITED SIGNATORIES

UNITED STATES ARMY CORPS OF ENGINEERS

FEDERAL HIGHWAY ADMINISTRATION

METROPOLITAN COUNCIL

MINNESOTA DEPARTMENT OF TRANSPORTATION

CONCURRING PARTIES

WASHINGTON COUNTY

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

CITY OF LANDFALL VILLAGE

CITY OF MAPLEWOOD

CITY OF OAKDALE

CITY OF SAINT PAUL

CITY OF WOODBURY

MAPLEWOOD HERITAGE PRESERVATION COMMISSION

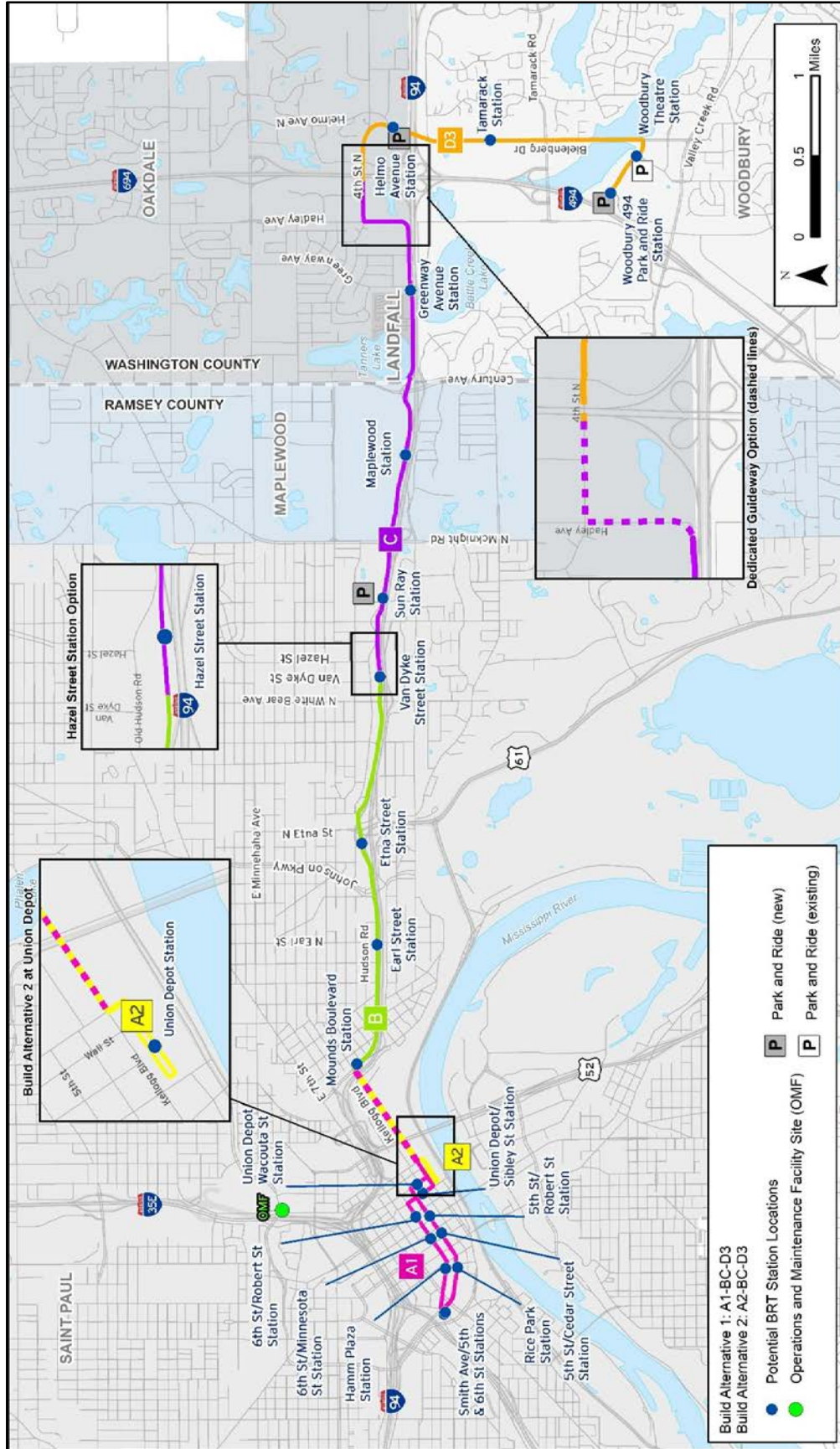
SAINT PAUL HERITAGE PRESERVATION COMMISSION

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ATTACHMENT A

Project Location Map

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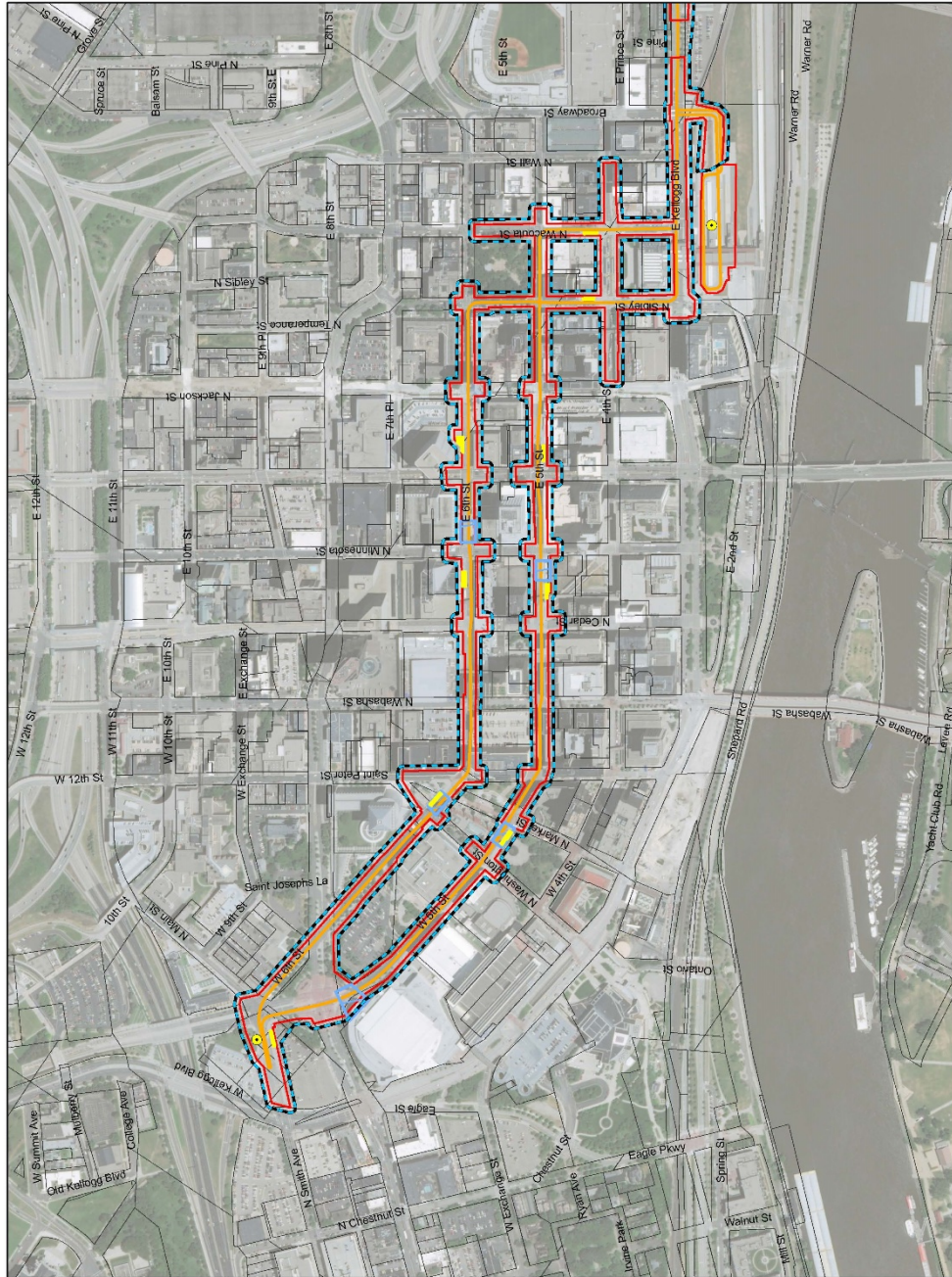
ATTACHMENT B

Area of Potential Effects

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**Gold Line BRT
Archaeology APE**
11/11/2018












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-  Previous Survey Area
-  Limits of Disturbance (10-2-2018)
-  Alignment (8-27-2018)
-  Station Platforms (8-29-2018)
-  Gold Line Stops
-  Structures (8-29-2018)
-  Proposed Retaining Walls (8-29-2018)
-  Proposed Noisewalls (8-29-2018)
-  Pedestrian Connections (8-29-2018)
-  Park and Rides (8-29-2018)
-  Stormwater (9-4-2018)

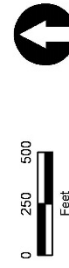


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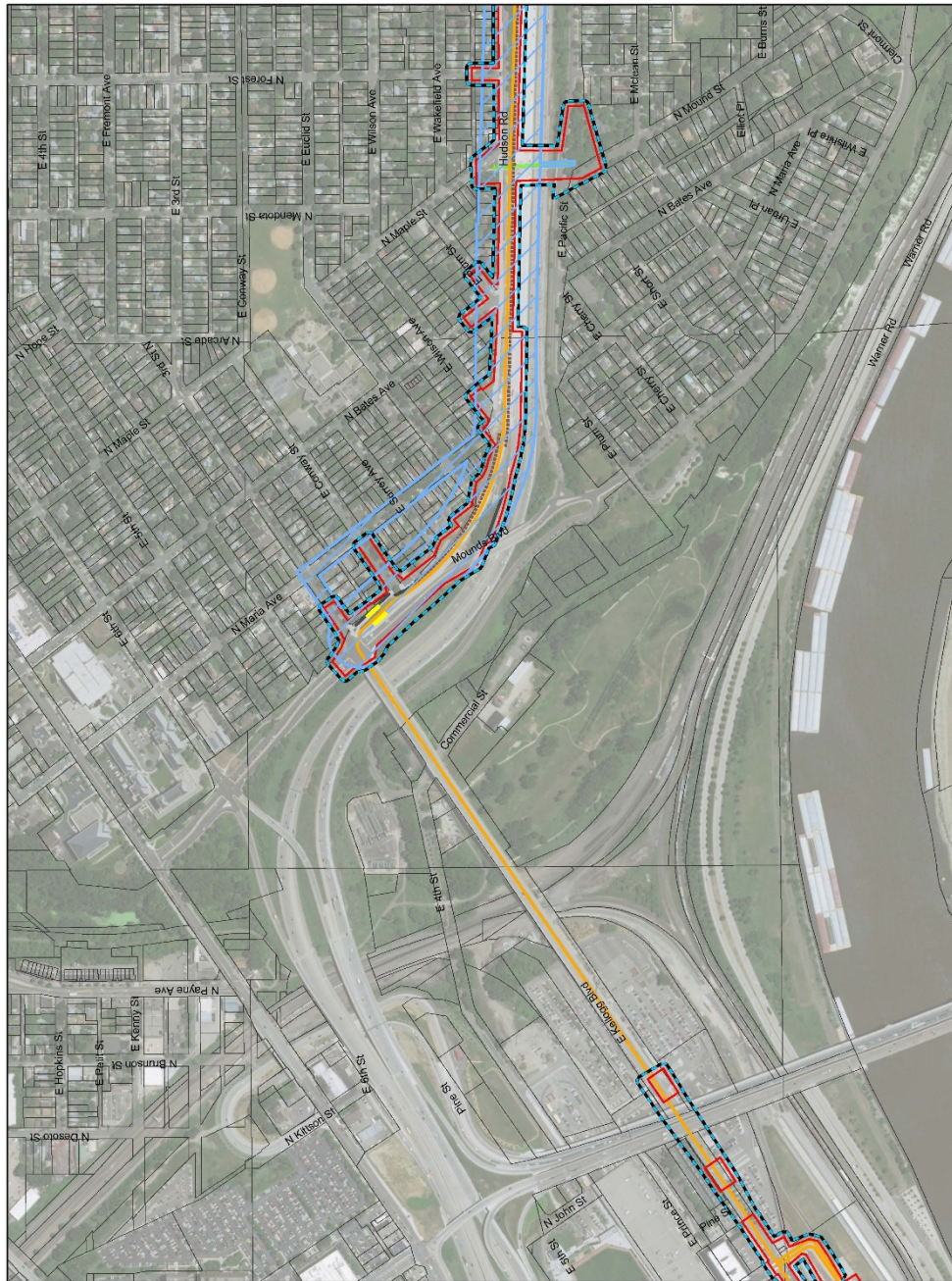
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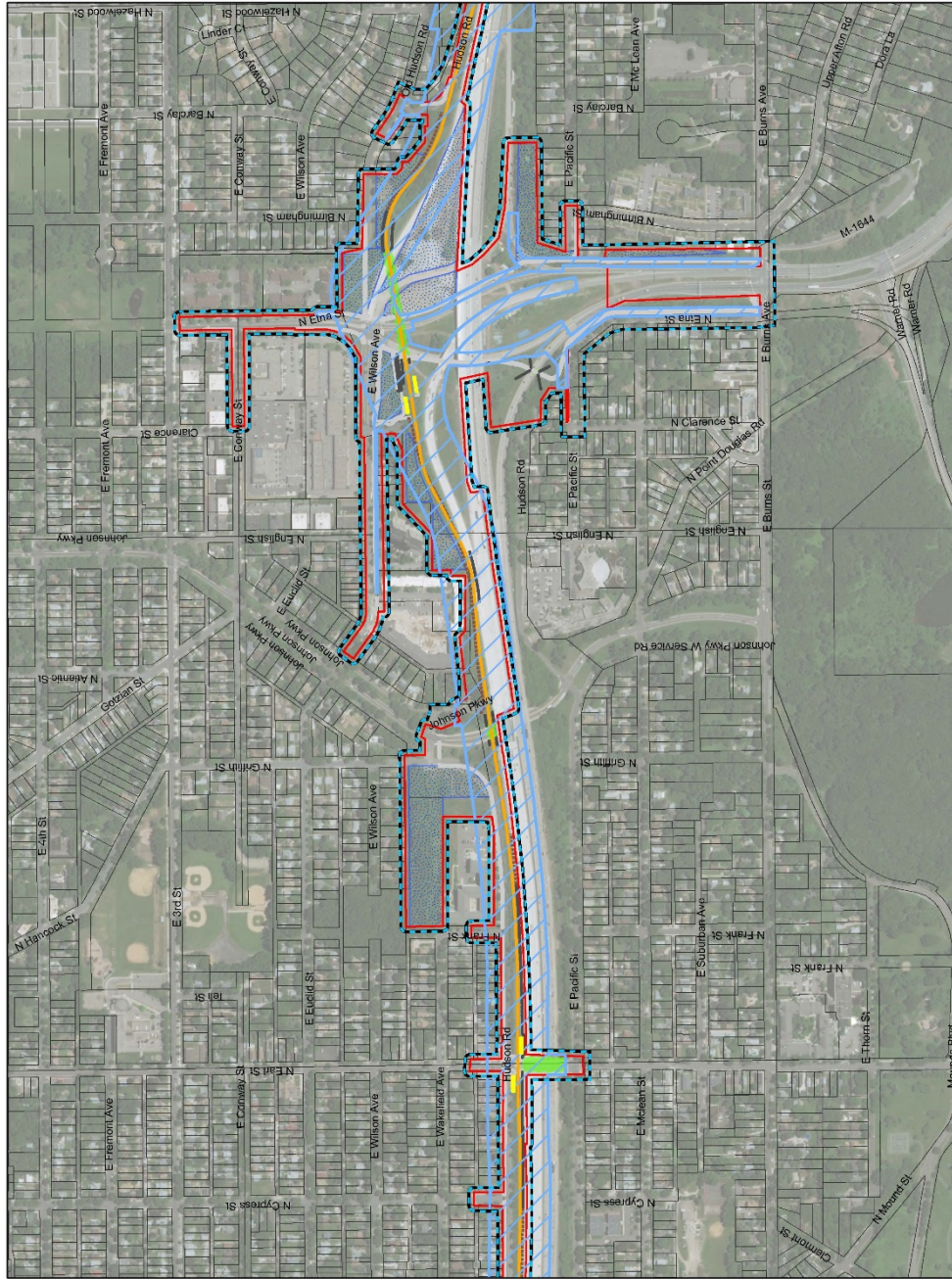
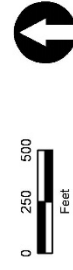
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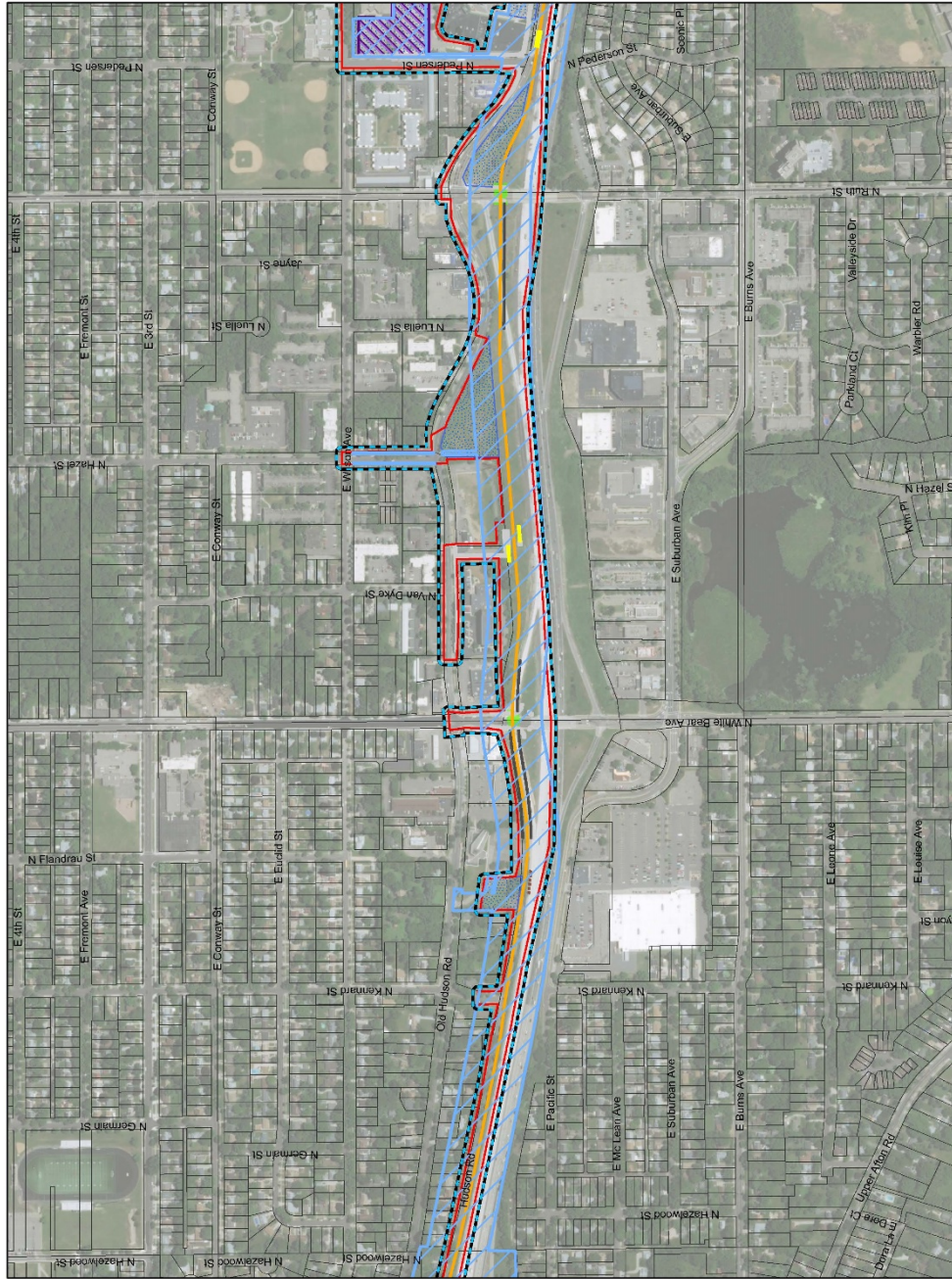
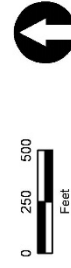
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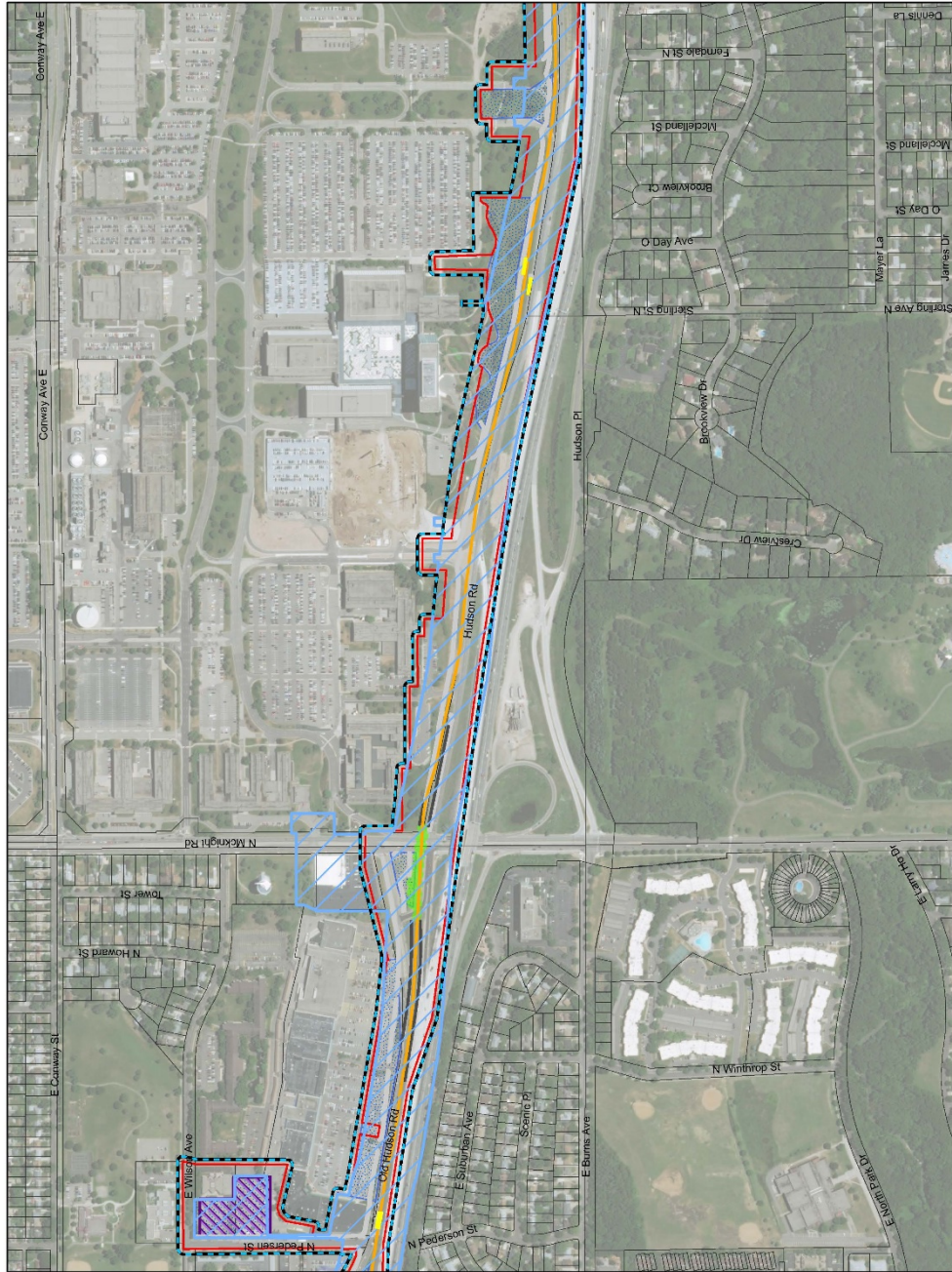
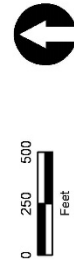
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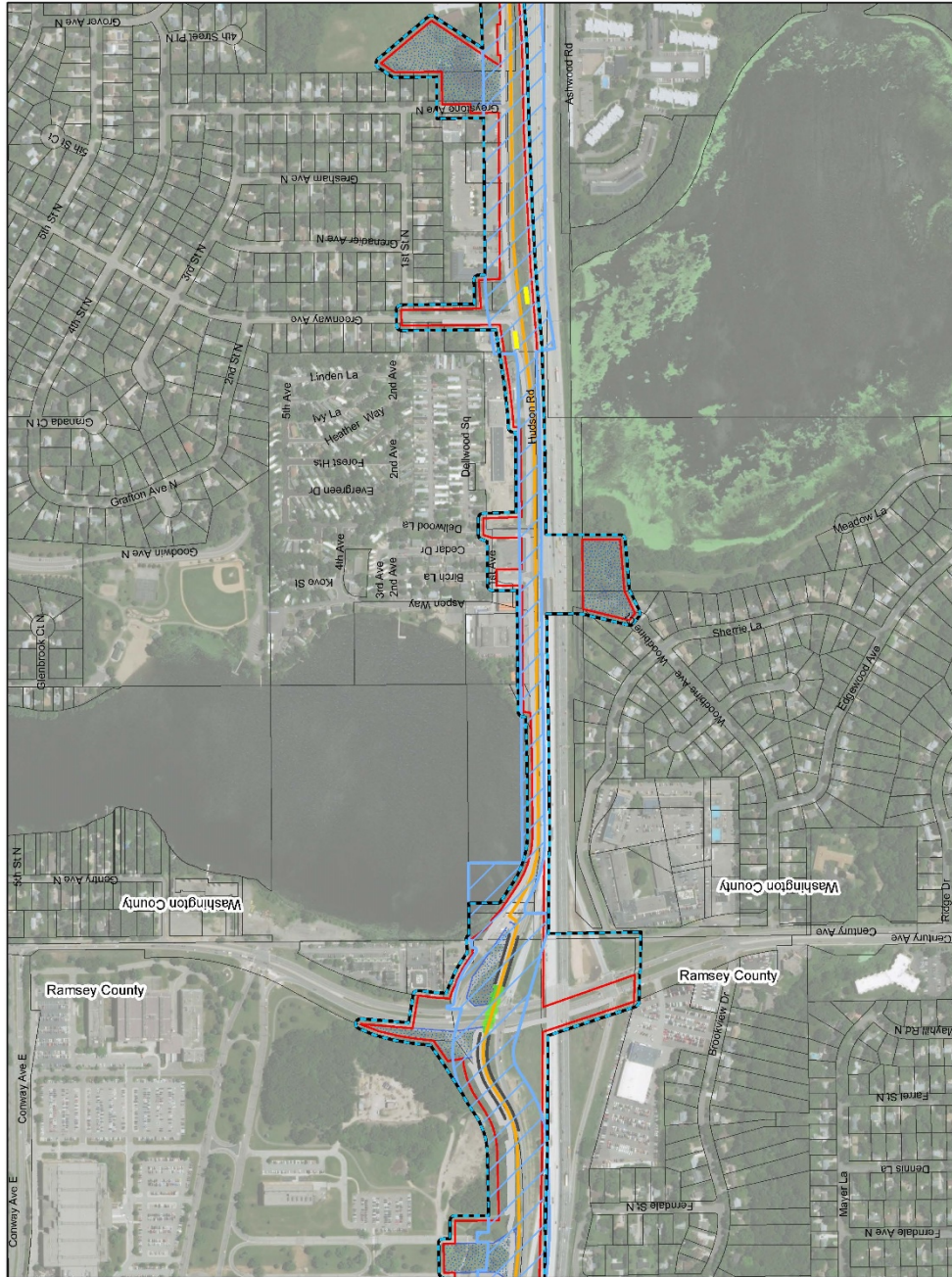
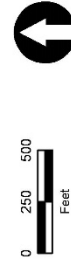
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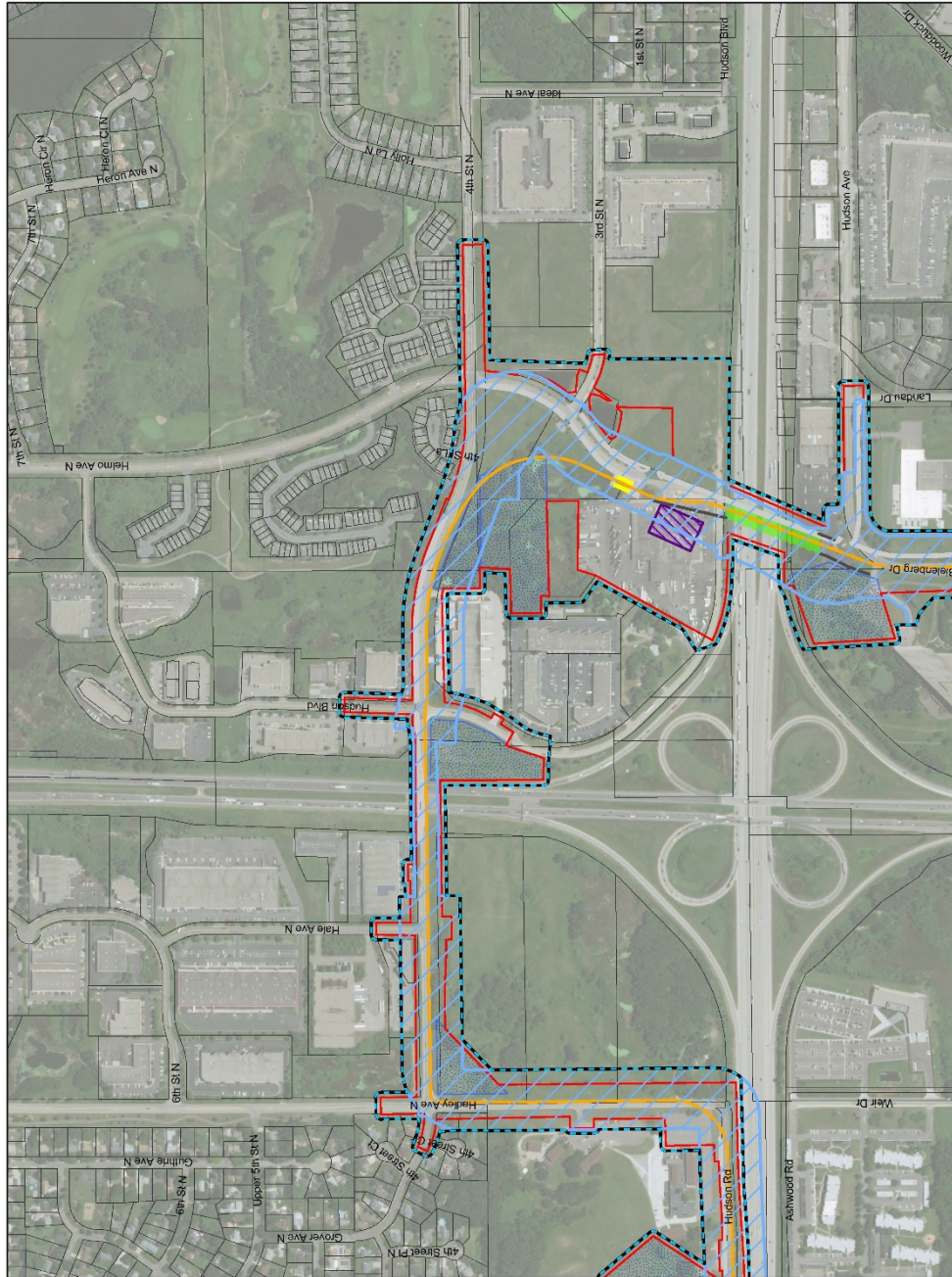
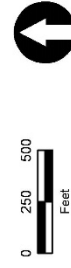
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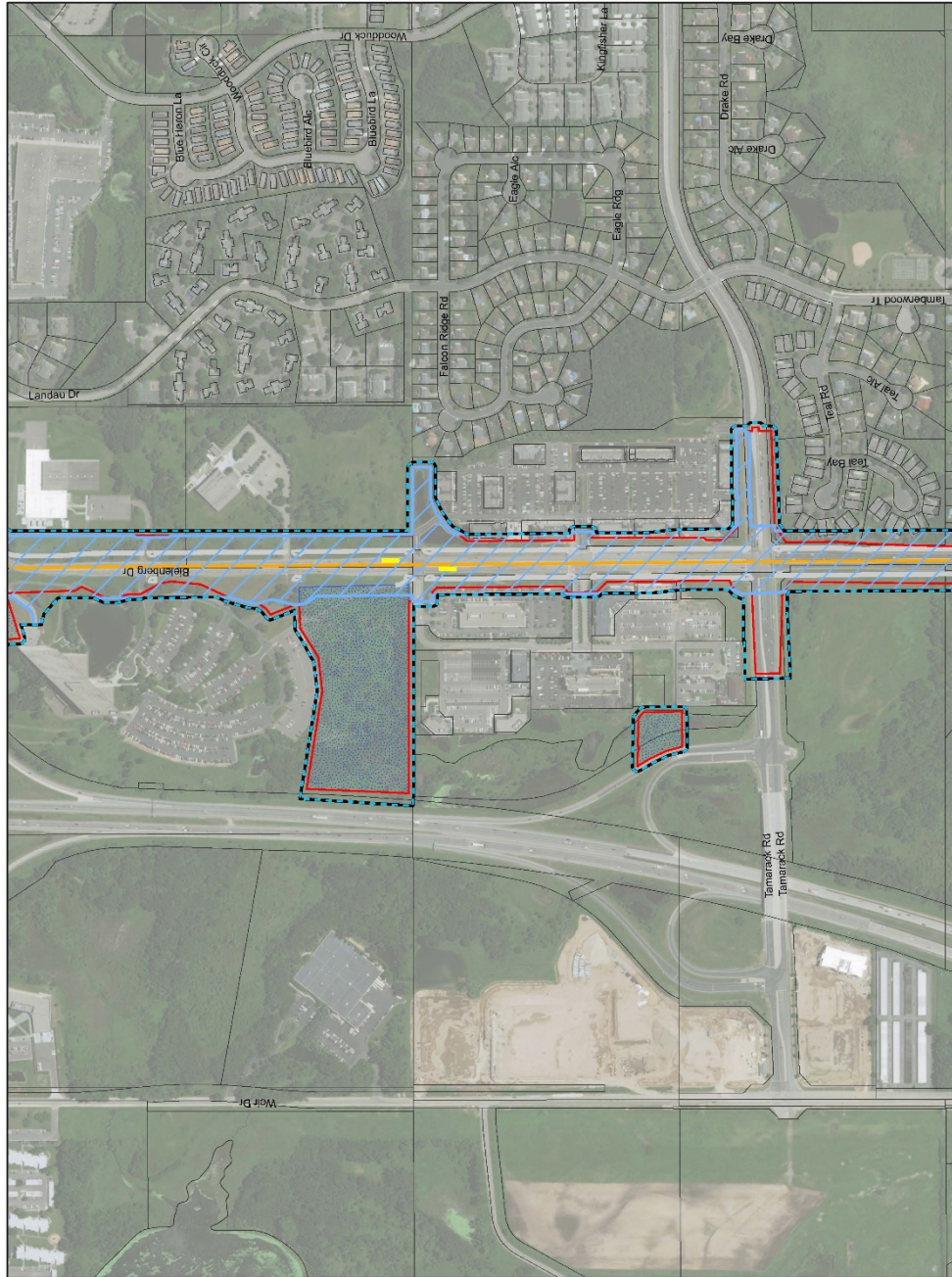
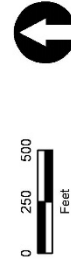
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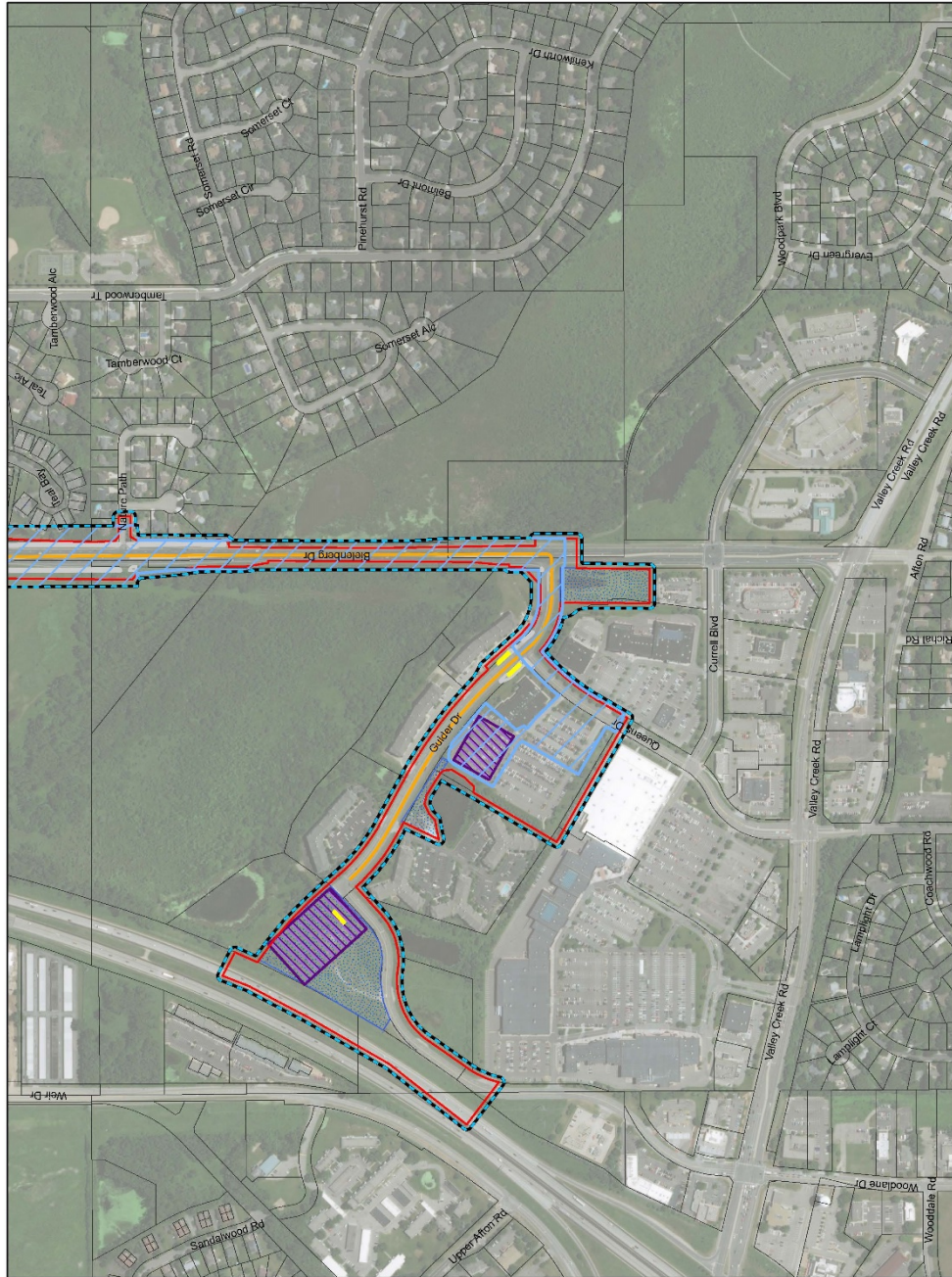
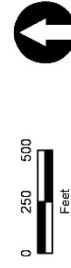
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-  Structures (6-29-2018)
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-  Proposed Noisewalls (8-29-2018)
-  Pedestrian Connections (8-29-2018)
-  Park and Rides (8-29-2018)
-  Stormwater (9-4-2018)



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











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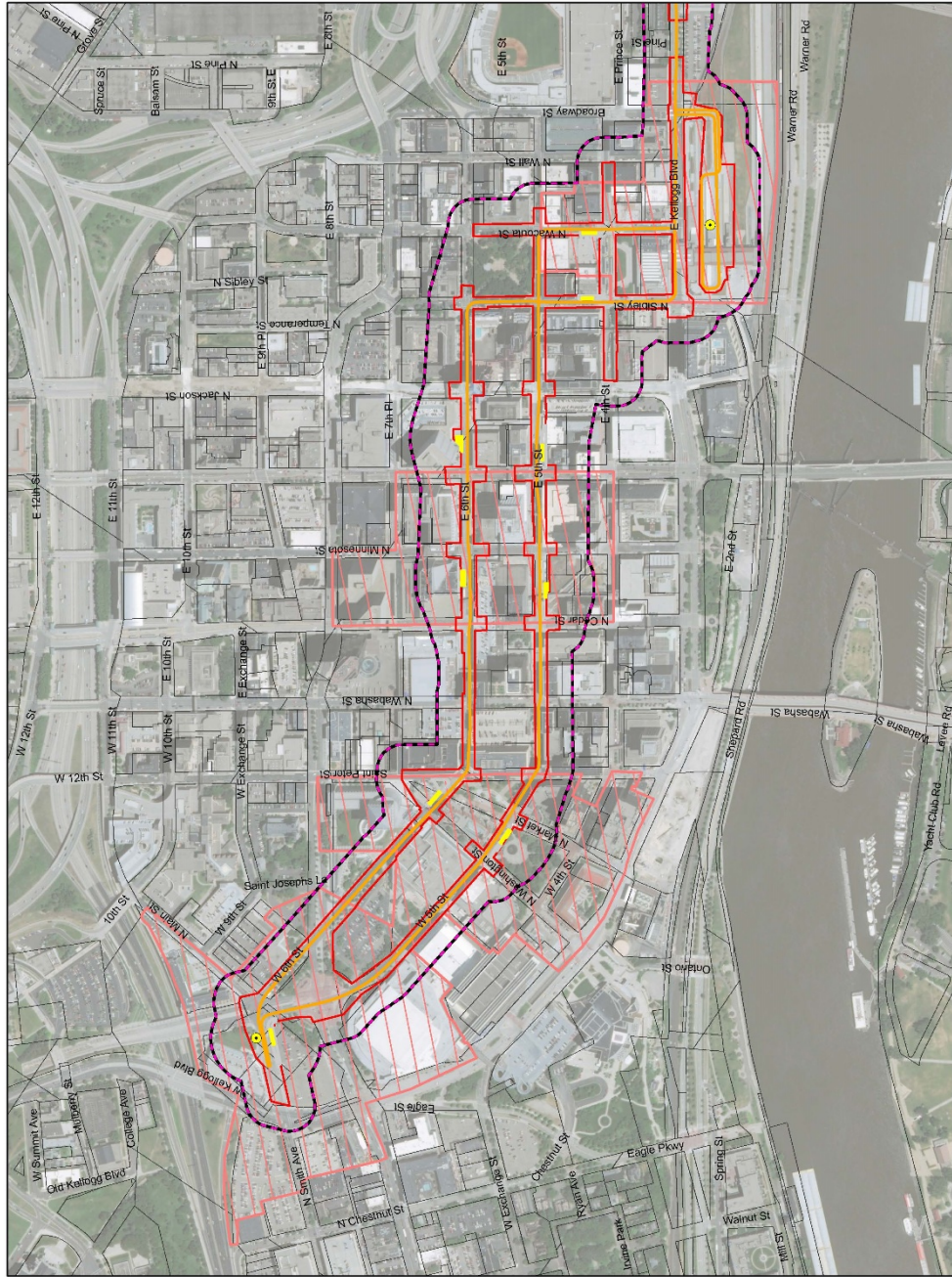
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







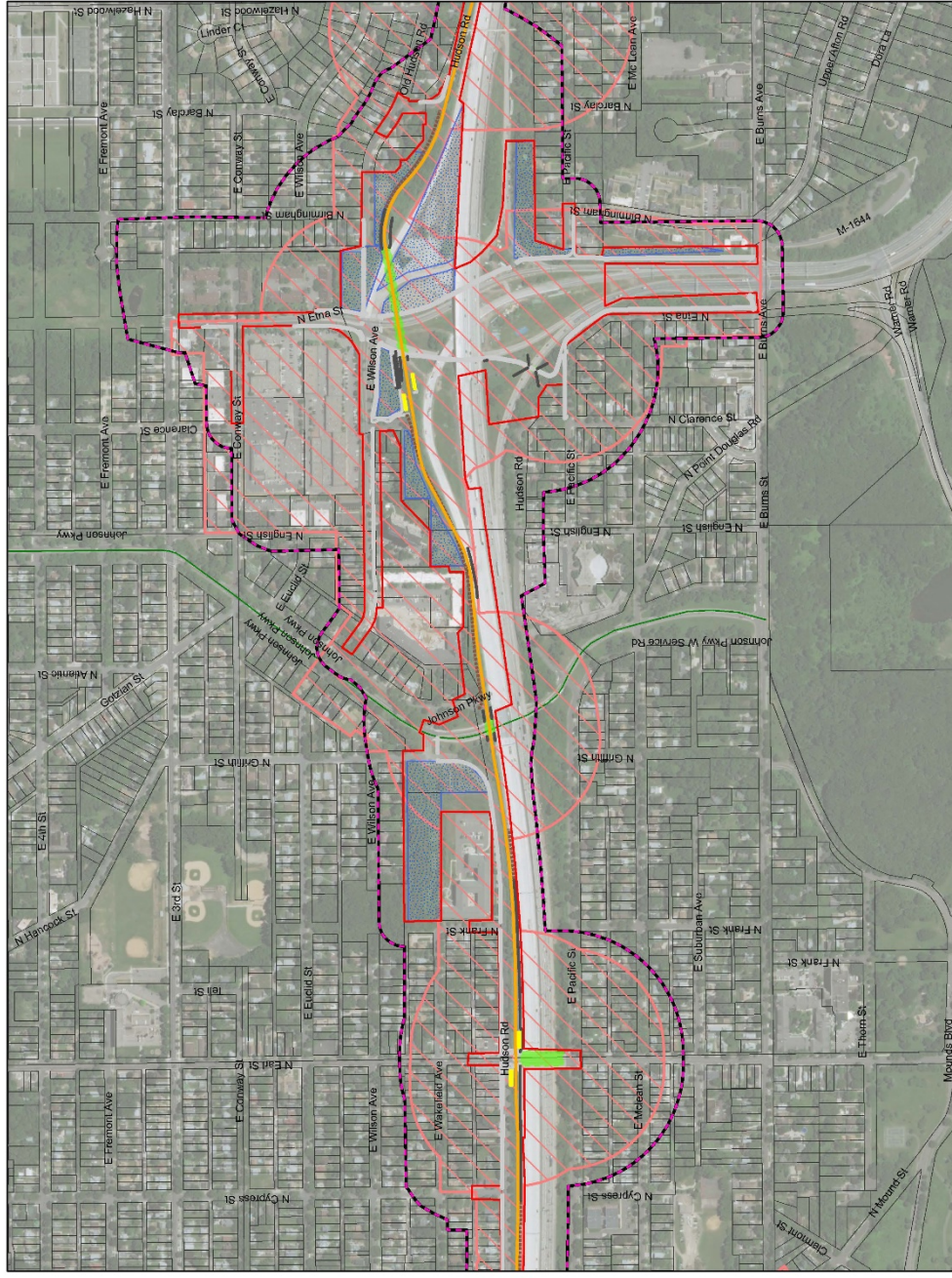
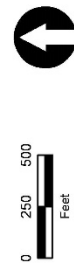
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











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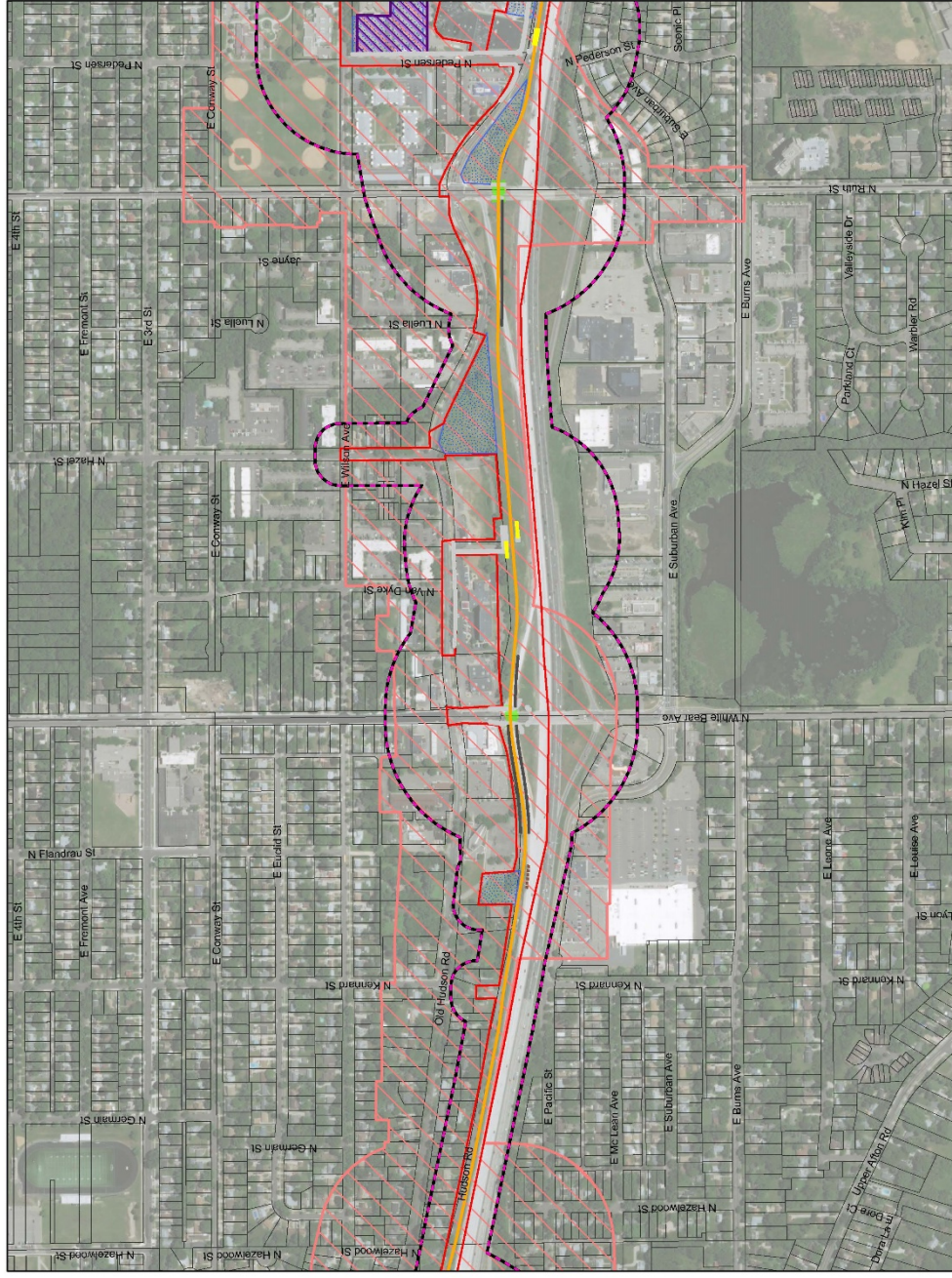
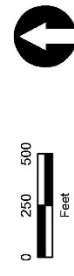
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











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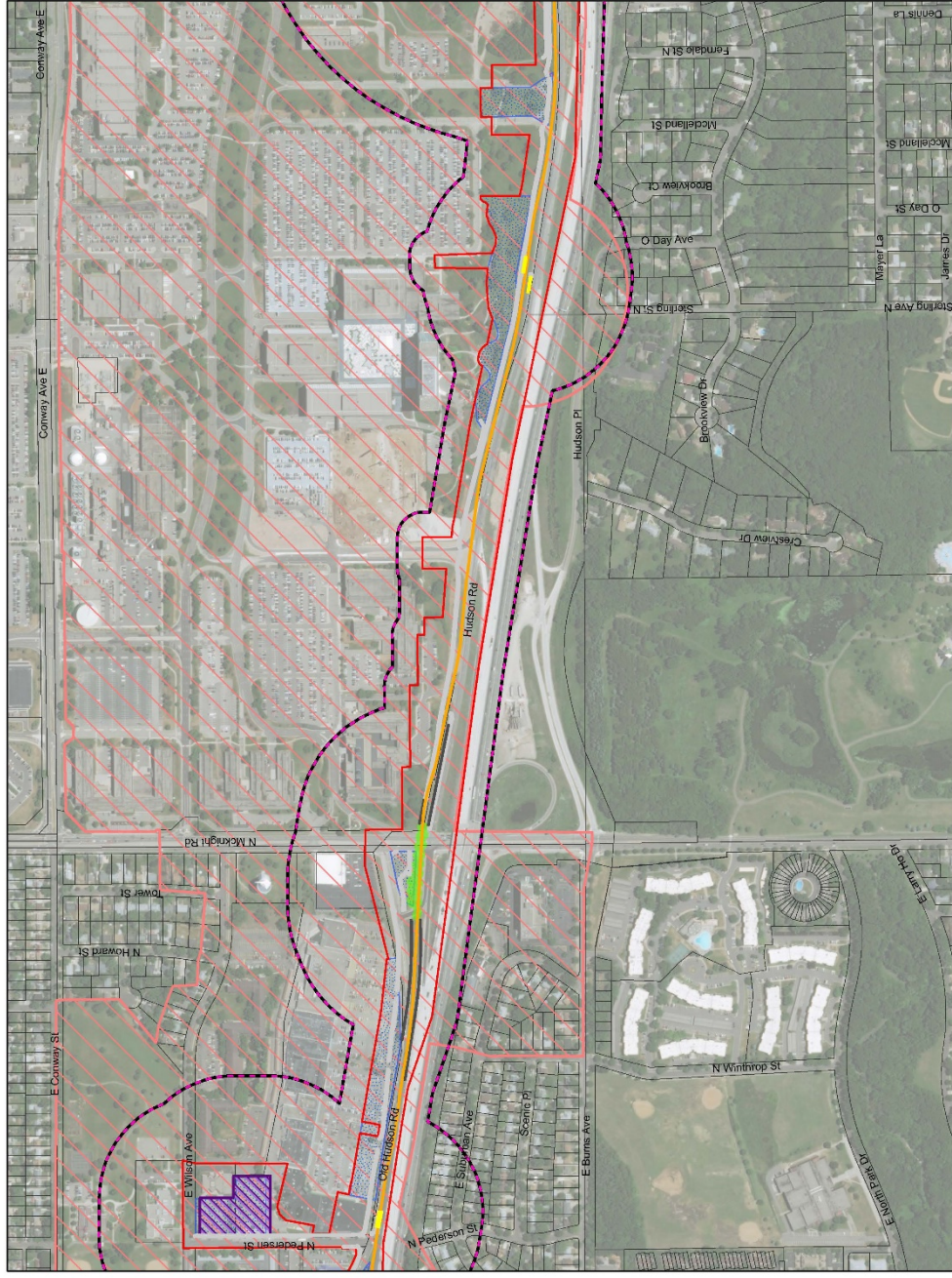
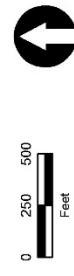
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





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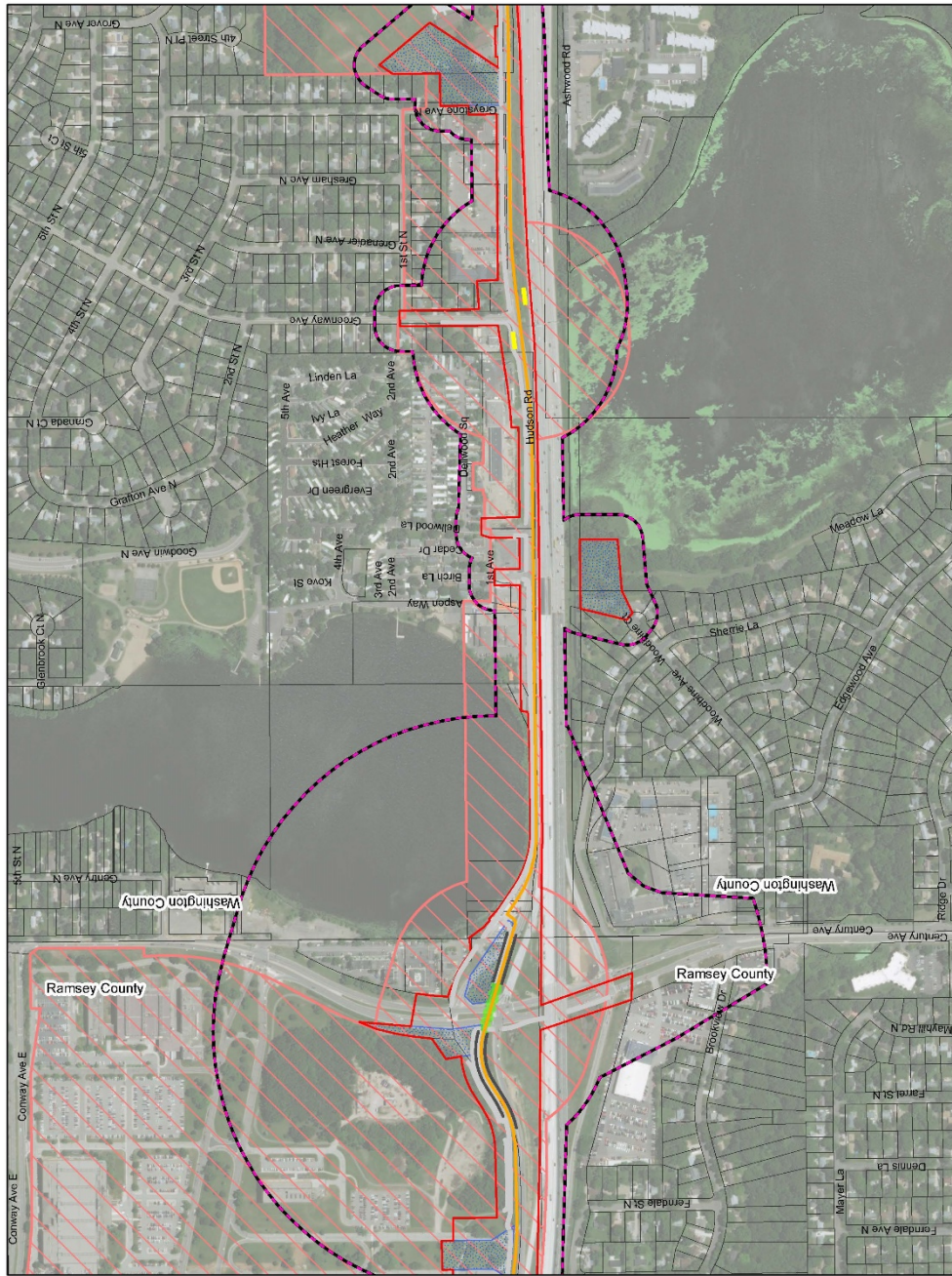
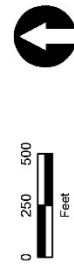
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











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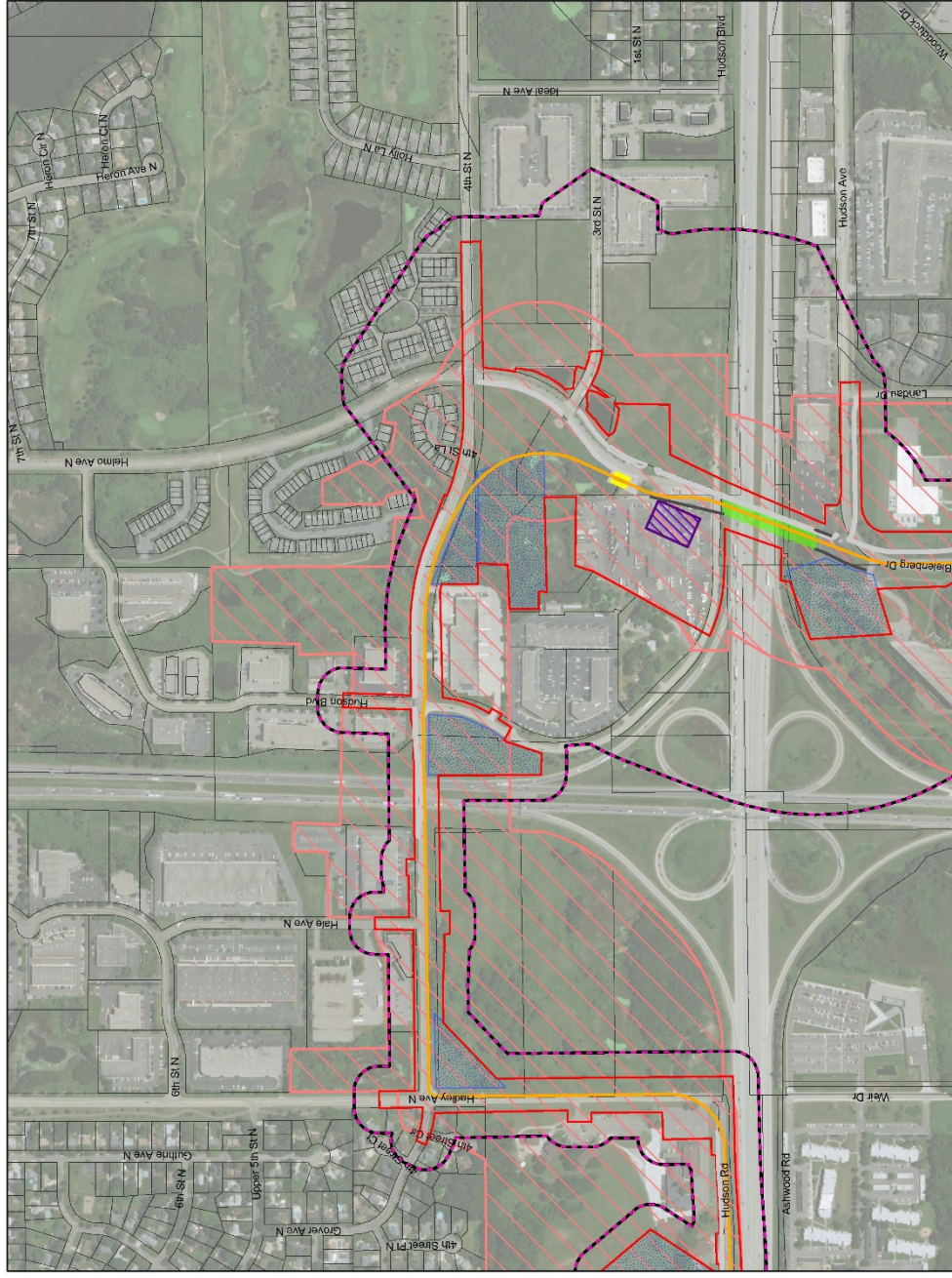
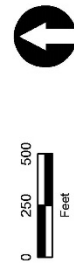
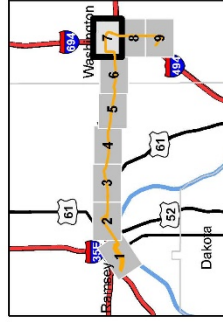
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











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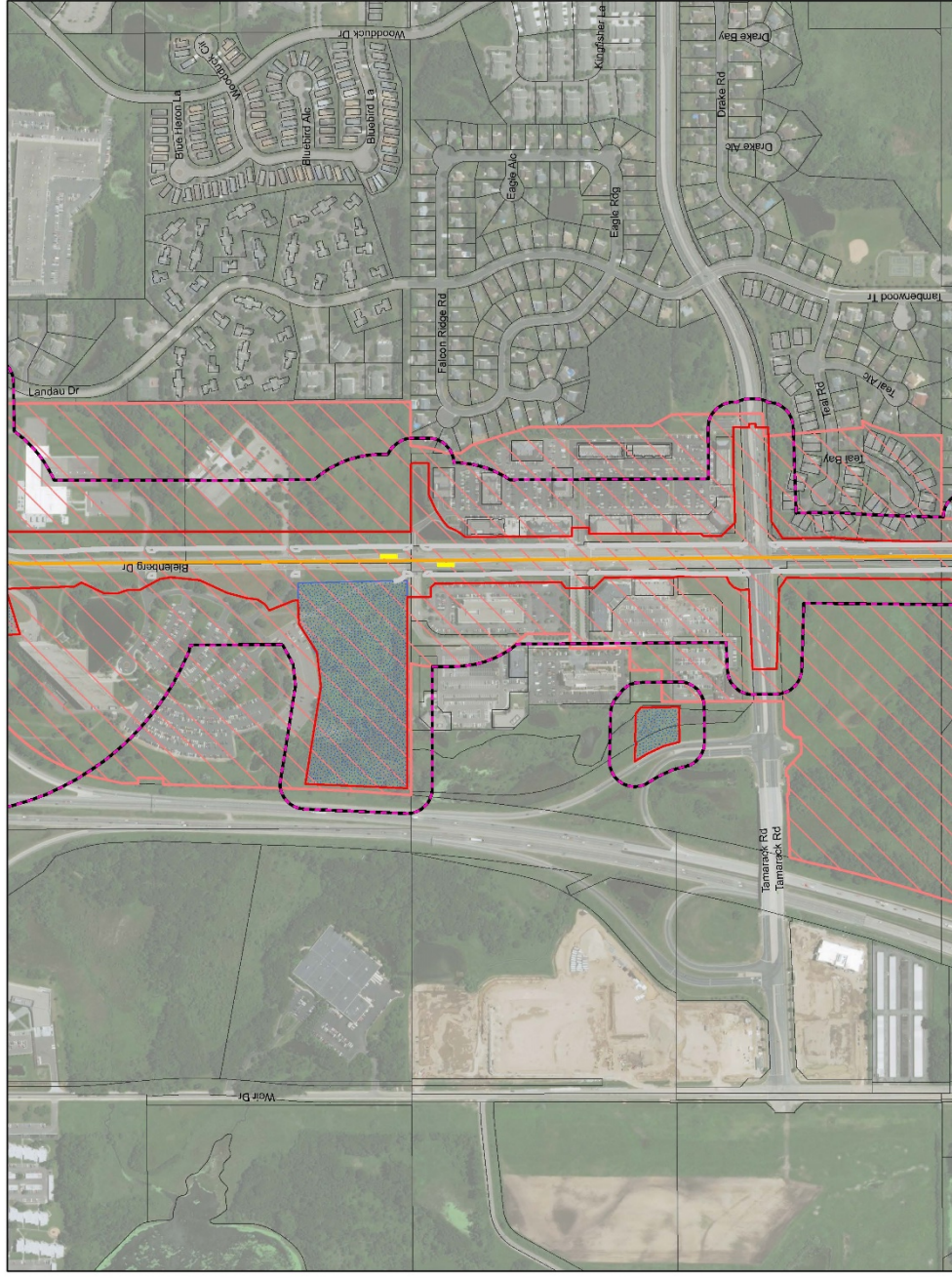
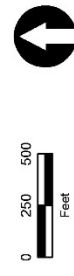
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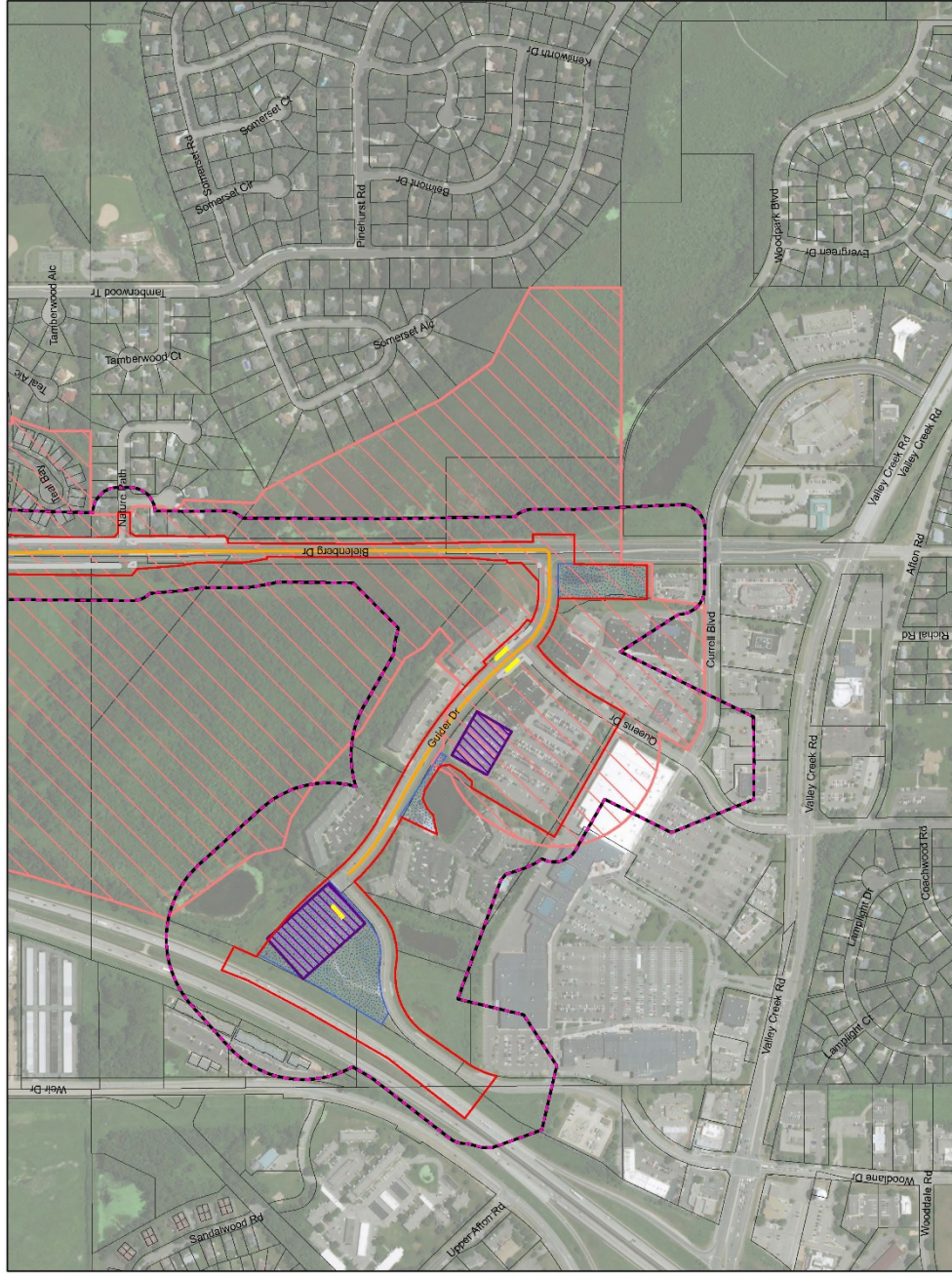
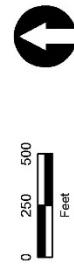
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ATTACHMENT C

Known Properties Listed in and Determined Eligible for Listing
in the National Register of Historic Places

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**PROPERTIES LISTED IN AND DETERMINED ELIGIBLE FOR LISTING IN THE
NATIONAL REGISTER OF HISTORIC PLACES**

Inventory No.	Property Name	Address	City	NRHP Status	
				Indiv.	Hist. Dist. ¹
	<i>Historic Districts</i>				
RA-MWC-0010	3M Center	2301 McKnight Rd.	Maplewood		Eligible
RA-SPC-8497	Johnson Parkway	N/A Johnson Pkwy.	Saint Paul		Treating as Eligible
RA-SPC-4580	Lowertown Historic District (LHD)	Roughly bounded by Shepard Rd. and Kellogg Blvd., and Broadway, 7 th , and Sibley Sts.	Saint Paul	—	Listed
RA-SPC-8364	Saint Paul Urban Renewal Historic District (URHD)	Roughly bounded by Kellogg Blvd. and Wabasha, 6 th , and Jackson Sts.	Saint Paul	—	Eligible
RA-SPC-4580	Rice Park Historic District (RPHD)	Roughly bounded by W. 6 th , St. Peter, and Washington Sts., and W. Kellogg Blvd.	Saint Paul	—	Eligible
	<i>Individual Resources</i>				
RA-SPC-8465	Grace Lutheran Church	1730 Old Hudson Road, Saint Paul	Saint Paul	Eligible	—
RA-SPC-4693	Giesen-Hauser House/Peter & Mary Giesen House	827 Mound St.	Saint Paul	Listed	—
RA-SPC-2284	Texas Company Service Station	847 Hudson Rd.	Saint Paul	Eligible	—
RA-SPC-2481, RA-SPC-5204	Bell-Weber House	661 E. 3 rd St.	Saint Paul	Eligible	—
RA-SPC-2491, RA-SPC-5208	Frederick Reinecker House #1	702 E. 3 rd St.	Saint Paul	Treating as Eligible	—
RA-SPC-2490, RA-SPC-5207	Frederick Reinecker House #2	700 E. 3 rd St.	Saint Paul	Treating as Eligible	—
RA-SPC-2040	Peter Bott House and Garage	326 Maria Ave.	Saint Paul	Treating as Eligible	—
RA-SPC-2619, RA-SPC-5232	Tandy Row	668–674 E. 4 th St.	Saint Paul	Eligible	—
RA-SPC-5462	Finch, VanSlyck and McConville Dry Goods Company Building	366 Wacouta St.	Saint Paul	Listed	Listed LHD: c

¹ Within the *Individual Resources* section, “c” means the property is contributing to the identified historic district.

Inventory No.	Property Name	Address	City	NRHP Status	
				Indiv.	Hist. Dist. ¹
RA-SPC-5225, RA-SPC-6907	Saint Paul Union Depot	214 E. 4th St. (roughly bounded by Shepard Rd., and Wacouta, 4 th , and Sibley Sts.	Saint Paul	Listed	Listed LHD: c
RA-SPC-4518	United States Post Office and Custom House	180 E. Kellogg Blvd.	Saint Paul	Listed	—
RA-SPC-1979	Merchants National Bank Building	366–368 Jackson St.	Saint Paul	Listed	—
RA-SPC-3167, RA-SPC-5223, RA-SPC-6903	Pioneer Press and Endicott Buildings	332 N. Robert St. and 142 E. 5 th St.	Saint Paul	Listed	—
RA-SPC-3170	Manhattan Building	360 N. Robert St.	Saint Paul	Listed	—
RA-SPC-8907	Mutual Life Insurance Company Building	345 Cedar St.	Saint Paul	Listed	Eligible URHD: c
RA-SPC-5446, RA-SPC-8096	Osborn Building	370 N. Wabasha St.	Saint Paul	Listed	Eligible URHD: c
RA-SPC-3168, RA-SPC-4645	First Farmers and Merchants Bank/First National Bank Building	332 Minnesota St.	Saint Paul	Eligible	Eligible URHD: c
RA-SPC-0050	Saint Paul Athletic Club	340 Cedar St.	Saint Paul	Eligible	Eligible URHD: c
RA-SPC-5444	Germania Bank	6 W. 5 th St.	Saint Paul	Listed	—
RA-SPC-5245	Saint Paul Public Library / James J. Hill Reference Library	80–90 W. 4 th St.	Saint Paul	Listed	Eligible RPHD: c
RA-SPC-5266	United States Post Office, Courthouse, and Customs House (Landmark Center)	75 W. 5 th St.	Saint Paul	Listed	Eligible RPHD: c
RA-SPC-3493	Saint Paul Hotel	350 N. Market St.	Saint Paul	Eligible	Eligible RPHD: c
RA-SPC-3495	Hamm Building	408 Saint Peter St.	Saint Paul	Listed	—
RA-SPC-5360	New Palace Theatre / St. Francis Hotel	1–33 W. 7 th Pl. and 435–437 N. Wabasha St.	Saint Paul	Eligible	—

ATTACHMENT D

Standard Mitigation Measures

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STANDARD MITIGATION MEASURES

INTRODUCTION

This appendix of the Gold Line Bus Rapid Transit Project (PROJECT) Programmatic Agreement (AGREEMENT) includes standard mitigation measures that may be implemented under the terms of the AGREEMENT to resolve, or resolve in part, Adverse Effects on historic properties.

MEASURE 1: REPAIR UNANTICIPATED DAMAGE TO HISTORIC PROPERTIES IN ACCORDANCE WITH SOI STANDARDS

APPLICABILITY

This measure may be implemented either during or after the completion of PROJECT construction to resolve, or resolve in part, an Adverse Effect identified under AGREEMENT Stipulation XII.

In addition to meeting the Secretary of the Interior's (SOI) *Standards for the Treatment of Historic Properties* (36 CFR § 68), as applicable (SOI Standards), repairs to the historic property shall also follow the guidance provided within National Park Service's Preservation Briefs (<https://www.nps.gov/tps/how-to-preserve/briefs.htm>) to the greatest extent possible.

The Metropolitan Council (MC) is responsible for ensuring that the deliverables outlined below are submitted and reviewed as described.

DELIVERABLES, SUBMITTED AND REVIEWED AS DOCUMENTED IN THE COURSE OF ACTION PREPARED IN ACCORDANCE WITH STIPULATION XII AND AS SPECIFIED DURING CONSULTATION:

- Scope of Work, including plans, specifications, and/or other documentation necessary to ensure work is carried out pursuant to the SOI Standards.
- If applicable, a description of new construction protection measures (CPMs) required to avoid additional effects on the historic property
- Historic property inspections as described in AGREEMENT Stipulation X.C.ii. As noted in AGREEMENT Stipulation XII, one inspection is required to document the damage to the historic property immediately following discovery of the damage. A post construction historic property inspection is also required to document that the repairs were carried out as planned and that no additional harm was done to the historic property.

Unless otherwise specified during consultation, and agreed to in writing, all repairs and deliverables shall be completed no later than one (1) year following the date the PROJECT initiates revenue service operations.

MEASURE 2: PHASE III DATA RECOVERY OF ARCHAEOLOGICAL SITES

APPLICABILITY

Phase III data recovery of archaeological sites may be implemented either before or during PROJECT construction to resolve, or resolve in part, an Adverse Effect to an archaeological site(s) determined eligible for inclusion in the National Register of Historic Places (NRHP) under AGREEMENT Stipulation V. In most cases, this measure resolves, or resolves in part, an Adverse Effect resulting from the substantial alteration or destruction of the site, or any part thereof.

In addition to meeting the SOI's Guidelines for Archaeological Documentation, the Phase III fieldwork and documentation shall be completed in accordance with the guidelines of the Minnesota Office of the State Archeologist (OSA), the Minnesota State Historic Preservation Office (MnSHPO), and the Minnesota Department of Transportation (MnDOT) Cultural Resources Unit (CRU).

The cost of curation, when necessary, shall be borne by the PROJECT. MC shall work with MnSHPO and MnDOT CRU to identify a repository for curation that shall meet Federal repository standards established under 36 CFR § 79.9 and ensure the curation meets the standards of the chosen repository.

MC shall ensure that information gained through the Phase III Data Recovery is shared with the public in a meaningful way to the extent possible, taking into consideration the need to safeguard sensitive archaeological information.

DELIVERABLES, SUBMITTED AND REVIEWED PURSUANT TO STIPULATION III:

- Draft and Final Research Design/Data Recovery Plan, including information about proposed public education efforts
- Draft and Final Phase III Data Recovery Report, including all required text, maps, photographs, and illustrations
- Report on how the information gained through the Data Recovery has been shared with the public to the extent possible. This report shall be integrated into the PROJECT reports required under Stipulation XIII.

Unless otherwise specified during consultation, and agreed to in writing, all deliverables shall be completed no later than one (1) year following the date the PROJECT initiates revenue service operations.

MEASURE 3: DOCUMENTATION OF ARCHITECTURE/HISTORY PROPERTIES

APPLICABILITY

Documentation of architecture/history properties may be implemented either before or during PROJECT construction to resolve, or resolve in part, an Adverse Effect to an architecture/history property determined eligible for inclusion in the NRHP under AGREEMENT Stipulation V. In most cases, this measure resolves, or resolves in part, an Adverse Effect resulting from the substantial alteration or destruction of the historic property, or any part thereof.

Documentation may include either of the following, which FTA shall specify as part of its recommendation to use this standard mitigation measure:

- A.** Minnesota Historic Property Record (MHPR): MHPR documentation is typically appropriate for properties with local or state significance. Depending on the historic property and the nature and scale of the effect, documentation shall be specified to be done at Level I as defined in Minnesota Historic Property Record Guidelines, published by the Minnesota Department of Transportation and Minnesota Historical Society and updated on June 2009.
- B.** Historic American Building Survey (HABS)/Historic American Engineering Record (HAER)/Historic American Landscape Survey (HALS): HABS/HAER/HALS documentation is typically appropriate for National Historic Landmarks, other historic properties with national significance, and select properties with state or local significance. Depending on the historic property and the nature and scale of the effect, documentation shall be specified to be done at Level I, II, or III, as defined in 68 FR 43159, published on July 21, 2003.

In addition to meeting the SOI's Standards for Historical Documentation and/or the SOI's Standards for Architectural and Engineering Documentation, as appropriate, all fieldwork and documentation for MHPRs shall be completed in accordance with the guidelines of MnSHPO and MnDOT CRU, and all fieldwork and documentation for HABS/HAER/HALS records shall be completed in accordance with the National Park Service's current guidance for the specified program.

MC shall ensure that information gained through the preparation of the documentation, either MHPR or HABS/HAER/HALS, is shared with the public in a meaningful way.

DELIVERABLES:

- Draft and Final documentation, including all required text, maps, and photographs, submitted and reviewed pursuant to Stipulation III for MHPR or as required by the NPS for integration into the HABS/HAER/HALS collections at the Library of Congress. Information about proposed public education efforts shall also be submitted and reviewed pursuant to Stipulation III.
- Report on how the information gained through the documentation has been shared with the public. This report shall be integrated into the PROJECT reports required under Stipulation XIII.

Unless otherwise specified during consultation, and agreed to in writing, all deliverables shall be completed no later than one (1) year following the date the PROJECT initiates revenue service operations.

MEASURE 4: NATIONAL REGISTER OF HISTORIC PLACES NOMINATION

APPLICABILITY

A National Register nomination may be prepared to resolve, or resolve in part, an Adverse Effect to a historic property determined eligible for inclusion in the NRHP under AGREEMENT Stipulation V. In most cases, this measure resolves, or resolves in part, an Adverse Effect resulting from indirect effects on the historic property, such as known audible or visual effects, or reasonably foreseeable effects, such as a development catalyzed by the PROJECT.

Actual nomination of the historic property shall be at the discretion of MnSHPO and shall follow the established procedures of the National Park Service as outlined in 36 CFR § 60. In accordance with 36 CFR § 60.6(g), the property owners shall be given the opportunity to object to listing their property in the NRHP.

MC, with the assistance of MnDOT CRU, shall ensure that information gained through the NRHP nomination is shared with the public in a meaningful way.

DELIVERABLES:

- Draft NRHP nomination, prepared by the SOI-Qualified Professional in consultation with MnDOT CRU and submitted to MnSHPO pursuant to 36 CFR § 60. Multiple drafts may be required, with each subsequent draft incorporating recommendations made by MnSHPO. At the same time as this submittal, information about proposed public education efforts shall be submitted and reviewed pursuant to Stipulation III. In instances where the review process results in a determination that the property is not eligible for inclusion in the NRHP, MnSHPO shall document that determination in writing and the preparation of a final draft NRHP nomination and public education shall not be required.
- Final draft NRHP nomination meeting the requirements for scheduling the nomination on a State Review Board agenda. MC must receive a written determination from MnSHPO that the nomination form meets the requirements for scheduling the nomination on a State Review Board agenda; however, MnSHPO is not obligated to schedule the nomination. After MnSHPO notifies MC of its acceptance of the final draft NRHP nomination, any changes to the nomination required by MnSHPO or the State Review Board shall be the responsibility of MnSHPO.
- Report on how the information gained through the preparation of the NRHP nomination has been shared with the public. This report shall be integrated into the PROJECT reports required by Stipulation XIII.

Unless otherwise specified during consultation, and agreed to in writing, all deliverables shall be completed no later than one (1) year following the date the PROJECT initiates revenue service operations.