AI# 4229
TR# 202461017
WRL# 24-WRL-0022

July 1, 2024

Ms. Danielle Spendiff
Division Chief
Maryland Department of the Environment
Wetland and Waterways Protection Program
Regulatory and Customer Services Division
1800 Washington Boulevard
Baltimore, MD 21230

Dear Ms. Spendiff,

The Maryland Transportation Authority (MDTA) is submitting a Water Quality Certification Request for the I-695 Francis Scott Key Bridge Rebuild Project for your review.

A draft Joint Permit Application for impacts to nontidal wetlands, nontidal wetland buffers, and waterways is included in Appendix E of this package. MDTA anticipates a USACE Nationwide Permit will authorize the impacts associated with the project at the federal level. A draft USCG Bridge Permit application is included in Appendix G. Pre-Filing Meeting Request Forms were submitted on May 21, 2024. In compliance with current Section 401 of the Clean Water Act, a duplicate copy of the Water Quality Certification Request was provided to USACE and USCG, the federal permitting agencies.

MDTA anticipates the need for a public hearing on the project and is providing hearing details for inclusion in the Maryland Register Notice of this Water Quality Certification Request.

Location:	Community College of Baltimore County Dundalk Campus 7200 Sollers Point Rd, Baltimore, MD 21222
Date:	September 17, 2024
Time:	5:00 PM to 8:00 PM

If you need further assistance, please contact Mr. Justin Reel at 703-338-4139 or via email at jreel@rkk.com.

Sincerely,

Brian Wolfe

Brian Wolfe, P.E.
Director of Project Development, Maryland Transportation Authority

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WATER AND SCIENCE ADMIN.
REGULATORY SERVICES COORD.

CC: Joseph DaVia, Nicole Nasteff, Kathy Anderson, Robert Lewis - US Army Corps of Engineers
Jitesh Parikh, Alex Bienko, Melissa Toni - FHWA
Hal Pitts - USCG

Karen Greene, Brian Hopper, Jonathan Watson - NOAA Fisheries
Tammy Roberson, Matt Wallach – MDE Tidal Wetlands Division
Melissa Williams, Carl Chamberlin - MDTA
Eric Almquist, Rick Maddox, Justin Reel – RK&K
Scott Miller, Leyla Lange – JMT
Caryn Brookman, Stacy Hawver – Blackwater

WATER QUALITY CERTIFICATION REQUEST
Francis Scott Key Bridge Rebuild Project
July 2024

Table of Contents

LIST OF TABLES

LIST OF APPENDICES

1 EXECUTIVE SUMMARY

The I-695 Francis Scott Key (FSK Bridge) was a 1.6-mile-long structure over the Patapsco River in Baltimore/Dundalk, Maryland, which was struck by a cargo ship leaving the Port of Baltimore resulting in the collapse of the bridge in March 2024. MDTA's Francis Scott Key Bridge Rebuild Project (Rebuild Project) will follow the FSK Bridge Demolition Project, which will remove all remaining stable standing structures of the original bridge. The Rebuild Project will include construction of a new bridge, which will incorporate reinforced pier foundations, pier protection islands and dolphins in the Patapsco River to protect the piers, and will tie the new bridge into the existing roadway on either side of the river.

The project will result in temporary and permanent impacts to nontidal wetlands, nontidal wetland buffers, and the tidal Patapsco River, however there will be no impacts to tidal wetlands. Temporary impacts to nontidal wetlands and their buffers will be due to construction access. Temporary impacts to the Patapsco River will result from the use of barges and placement of temporary construction structures, such as pilings and cofferdams. Permanent impacts will be due to grading, construction of pier foundations, and construction of pier protection islands and dolphins in the Patapsco River.

The Rebuild Project has the potential to affect surface waters, surface water quality, aquatic biota, and watershed characteristics due to direct and indirect impacts to the Patapsco River and an increase in impervious surface in the watershed. In addition, there is the potential for impacts to fish passage during construction due to increased noise associated with construction activities and movement of equipment. Tidal discharge from the project will be to the Patapsco River and nontidal discharge will be to a small wetland complex.

MDTA will limit impacts to water quality to the greatest extent practicable and commits to the following measures to ensure that Maryland water quality standards are met:

- Discharges of sediment during construction will be avoided or minimized using MDE's *2011 Standards and Specifications for Soil and Erosion Control* (MDE 2011).
- All construction activities occurring within the FEMA designated 100-year floodplain will comply with FEMA-approved local floodplain construction requirements.
- Daily water quality readings will be taken during construction activities that disturb the river bottom. Water quality readings will confirm turbidity remains under a 150 NTU threshold.
- During construction of the bridge piers, dolphins, and pier protection islands, a turbidity curtain will be used for work in water less than 10 feet deep relative to mean low water.
- Underwater noise monitoring will begin at the start of any potential underwater hammering or pile driving operations.
- Any fish kills observed during the operation will be reported to the agencies and documented.

The FSK Bridge Rebuild Project will likely take MDTA three to four years to complete. Stormwater management will be addressed onsite to the maximum extent practicable and by a debit to the MDTA stormwater mitigation bank.

2 INTRODUCTION

On March 26, 2024, a cargo ship leaving the Port of Baltimore struck the I-695 Francis Scott Key Bridge (FSK Bridge), causing the 1.6-mile-long bridge to collapse into the Patapsco River. Remaining elements of the original bridge will be demolished and then a new bridge will be constructed. The FSK Bridge Rebuild Project will include construction of a new bridge to replace the original FSK Bridge. The rebuild project will incorporate reinforced pier foundations, islands and dolphins in the Patapsco River to protect the piers and will tie the new bridge into the existing roadway on either side of the river.

A draft Joint Federal/State Application (JPA) for impacts to the Patapsco River, non-tidal streams, non-tidal wetlands, and their buffers, within the Limits of Disturbance (LOD) of the I-695 FSK Rebuild Project is included in **Appendix E** of this report. The application is submitted pursuant to the requirements of the Code of Maryland Regulations, Sections 26.17 and 26.23, and Section 404 of the Clean Water Act (CWA) and supported by the National Environmental Policy Act (NEPA) *Categorical Exclusion* being prepared by Federal Highway Administration (FHWA). The construction activities will result in temporary and permanent impacts to nontidal wetlands, nontidal wetland buffers and the tidal Patapsco River, however there will be no impacts to tidal wetlands. Temporary impacts to nontidal wetlands and nontidal wetland buffers will be due to construction access. Temporary impacts to the Patapsco River will result from the use of barges and placement of temporary construction structures, such as pilings and cofferdams. Permanent impacts to nontidal wetlands, nontidal wetland buffers and the Patapsco River will be due to grading, construction of bridge pier foundations, and construction of pier protection islands and dolphins in the Patapsco River.

A draft Bridge Permit will be submitted to the U.S. Coast Guard (USCG) in August 2024 pursuant to the requirements of the General Bridge Act of 1946 and Section 9 of the Rivers and Harbors Act of 1899 and is included in **Appendix G**. A U.S. Coast Guard bridge permit is required for reconstruction of a bridge over navigable waters of the United States.

The FHWA, as the Lead Federal Agency, and the Maryland Transportation Authority (MDTA), as the Local Project Sponsor, have prepared a Categorical Exclusion in accordance with NEPA for the I-695 FSK Bridge Demolition and Reconstruction in Baltimore/Dundalk, Maryland.

Pursuant to Section 401 of the CWA, MDTA is requesting a Water Quality Certification for the FSK Bridge Demolition project. As required by 40 C.F.R. § 121.5 and Code of Maryland Regulations (COMAR) 26.08.02.10, the summary below includes project-specific information for the key elements needed to request a Water Quality Certification in Maryland.

3 KEY ELEMENTS FOR A CWA SECTION 401 WATER QUALITY CERTIFICATION

In accordance with 40 C.F.R. § 121.5 and COMAR 26.08.02.10, MDTA is providing the following general project information for this Water Quality Certificate Request.

3.1 Project Proponent and a Point of Contact

Applicant:
Maryland Transportation Authority
Attn: Brian Wolfe
8019 Corporate Drive, Suite F
Nottingham Maryland 21236
(410) 537-8200
Bwolfe3@mdta.maryland.gov

Authorized Agent:
RK&K
Attn: Justin Reel
700 East Pratt Street, Suite 500
Baltimore, MD 21202
(703) 338-4139
jreel@rkk.com

3.2 Applicable Federal License or Permit

U.S. Army Corps of Engineers Nationwide Permit, and the U.S. Coast Guard Bridge Permit. The draft JPA application is included in **Appendix E** and the draft U.S. Coast Guard Bridge Permit application is included in **Appendix G**.

3.3 Project Location and Watershed Information

Due to the linear nature of the project, there is no specific project site address. The project site includes all remaining elements of and approaches to the I-695 FSK Bridge in Baltimore/Dundalk, Maryland 21226/21222. The coordinates for the project are 39° 13' 00.6" N, 76° 31' 43.2" W. See **Appendix A**, the Project Location Map.

The project is located within portions of the Curtis Creek-Curtis Bay (hydrologic unit code (HUC)12 020600031202), Northwest Harbor-Patapsco River (HUC12 020600031203), and Stoney Creek-Patapsco River-Chesapeake Bay (HUC12 020600031204) Watersheds; and within the Baltimore Harbor Maryland 8-digit Watershed (02130903). See **Appendix B**, the Navigable Waters Discharge Map.

3.4 Names and Addresses of Adjacent Property Owners.

The names and addresses of adjacent property owners are included in **Table 1**.

Table 1. FSK Bridge Adjacent Property Owners

Adjacent Property Owner	Mailing Address
Baltimore Gas & Electric	110 W Fayette Street Baltimore, MD 21201

Adjacent Property Owner	Mailing Address
Maryland Port Authority	2700 Broening Highway, Dunmar Bld-So Ste 123, Baltimore, MD 21222
Maryland Port Administration	401 E Pratt Street Baltimore, MD 21202
Baltimore City, Mayor & City Council, Fort Armistead Park	4000 Hawkins Point Road Baltimore, MD 21226
Fort Carroll LLC, C/O M Eisenberg	2844 Old Court Road Baltimore, MD 21208

3.5 Signed Public Notice Billing Form

A signed Public Notice Billing Form is included in **Appendix C**.

3.6 Description of the Facility or Activity

The proposed FSK Rebuild Project will construct a replacement of the collapsed FSK Bridge. The project location will be the same as the original bridge, following the existing centerline across the Patapsco River and the approaches along I-695. The new bridge will remain within MDTA's existing right-of-way (ROW) however the project proposes changes to engineering parameters from the original FSK Bridge to meet current roadway standards. The proposed bridge will have an air draft of 230 feet over the 800-foot-wide authorized Fort McHenry Navigation Channel, per coordination with the U.S. Coast Guard (USCG) and as documented in the USCG Preliminary Navigation Clearance Determination (PNCD)[1]. The proposed air draft will be 45 feet higher than the original FSK Bridge to provide clearance for large vessels traveling underneath.

Similar to the original FSK Bridge, the replacement bridge will have a 4 percent grade on both sides of the 800-foot-wide navigation channel. Due to the increased air draft height over the 800-foot-wide navigation channel, the limits of the bridge and the elevation change will extend beyond the limits of the original bridge. The total distance where the new roadway/bridge profile will be higher than the existing ground will be approximately 2.4 miles, which is approximately 0.7 miles longer than the original FSK Bridge. A portion of this 2.4-mile length will include retaining walls and grading where the bridge profile will approach the existing ground. The limits of bridge structure versus retaining walls and grading will be determined in final design.

The main bridge span over the 800-foot-wide navigation channel is anticipated to be approximately 1,400 feet long between the main bridge piers, which will accommodate the placement of the new piers outside the existing piers. In compliance with the USCG PNCD, the horizontal clearance between the pier protection islands that will surround the new piers will be no less than 1,100 feet. The remaining bridge spans will include piers both in the Patapsco River and on both the approaches over land.

[1] The USCG issued a PNCD on June 6, 2024, stating that the replacement bridge is required to have a minimum vertical clearance of 230 feet and a minimum horizontal clearance of 1,100 feet.

The new typical section for the bridge and approaches will meet the design guidelines outlined in the AASHTO *A Policy on Geometric Design of Highways and Streets* (7th Edition published in 2018) for lane and shoulder widths and will include two 12-foot-wide lanes in each direction with 10-foot-wide outside shoulders and 4-foot-wide inside shoulders.

The project will consider a different bridge type than the original Key Bridge to support the increased main span length. A bridge that accommodates the increased air draft and main span length could be a cable-stay/suspension bridge that would be approximately 500 to 550 feet tall at the main towers. Refer to **Table 2** below for a comparison between the original FSK Bridge and the proposed replacement bridge.

Table 2: Structural Comparison between the Original Francis Scott Key Bridge and Replacement Bridge

	Approx Structure Height (feet)	Vertical Clearance (feet)	Main Span Length (feet)	Total Bridge Length (miles)	Number of Travel Lanes	Lane Width (feet)	Outside Shoulder Width (feet)	Inside Shoulder Width (feet)	Profile/ Grade on Both Sides of the Main Channel
Original Francis Scott Key Bridge	358	185	1,200	1.7	4	12	2	0	4%
Replacement Bridge (Approximate)	500-550[1]	230[1]	1,400[1]	2.4[1]	4	12	10	4	4%
Total Change	142-192	45	200	0.7	0	0	8	4	0

[1]*Note: The total proposed bridge length, height, vertical clearance and main span length will be determined in final design. For the purposes of this document, the proposed length includes the full limits where the profile elevation would change.*

3.7 Plan Depicting Proposed Activities

Construction plans are not available at this time. However, the FSK Bridge Rebuild Project Proposed Activities Map, a to-scale schematic map depicting the proposed project limits of disturbance (LOD), project elements, and potentially affected surface water bodies, including wetlands, is included in **Appendix D**.

3.8 Location and Nature of Potential Discharge and Receiving Waters

3.8.1 Direct and Indirect Impacts from Potential Discharge

The FSK Bridge Rebuild Project has minimized impacts to wetlands and waterways to the maximum extent practicable at this stage of design, however some impacts are unavoidable and the project will result in impacts to streams and nontidal wetlands. There will be both temporary and permanent impacts to nontidal wetlands, nontidal wetland buffers and the Patapsco River. Impacts to nontidal wetlands and nontidal wetland buffers will be from grading (permanent) and construction access (temporary). Some in-water impacts will be temporary, including temporary spudding for barges, installation of temporary mooring piles, and barge movement. Permanent in-water impacts will include construction of the bridge

pier foundations and the pier protection islands and dolphins. The project is anticipated to impact 0.25 acres (10,962 SF) of non-tidal wetlands, 1.31 acres (57,163 SF) of 25-foot nontidal wetland buffers, 0.01 acres (599 SF)/187 LF of nontidal intermittent waterways, 0.006 acres (246 SF)/84 LF of nontidal perennial waterways, and 12.14 acres (528,645 SF) of a tidal waterway (Patapsco River). See **Appendix D**, **Proposed Activities Map**, for locations of potential wetlands and waterways impact. Impacts will be reduced as the design progresses.

3.8.2 The Characteristics of the Potential Discharge

This project involves replacement of the FSK Bridge with improvements that will bring the bridge up to current safety standards. The conceptual design shows the existing bridge section and approach tie-ins widened by 20 feet compared to existing conditions. This widening results in an increase in impervious area. Reconstruction of existing impervious surface is also necessary to rebuild the bridge. New and reconstructed impervious surfaces must be treated based on the *Maryland Stormwater Management Guidelines for State and Federal Projects*, April 15, 2010.

The project has been divided into 20 Points and Lines of Investigation (POI/LOI), which can be seen on the attached mapping in **Appendices B and D**. It is assumed that the majority of the water quality requirements for this project will be met through a debit to the MDTA water quality bank in the Patapsco River Watershed, which currently has a balance of over 49 acres. Conceptual computations show a water quality requirement of approximately 27 acres for this project, which can be accessed through the existing bank balance.

It is anticipated that any increases in flow quantity/channel protection volume (CPv) requirements will be waived for most of the project due to many areas discharging directly/upstream with stable conveyance to a tidal water body (section 3.3.b.1.(a and b) of the Guidelines). POI/LOIs 4 and 6-20 all either experience direct discharge or have no associated increases in impervious area that would require quantity/CPv treatment.

POI/LOIs 1, 2, 3, and 5 do not discharge directly to tidally influenced waterways. For these POIs, potential proposed stormwater management facility locations have been included on the Proposed Activities Map in **Appendix D**. Based on the conceptual design, POI 1 includes only reconstruction work, while POI/LOIs 2, 3 and 5 experience increases in impervious area of 0.01, 0.06, and 0.21 acres, respectively. These POIs will provide stormwater management to the Maximum Extent Practicable to ensure that non-erosive conditions are provided at the outfall.

The majority of the project is located within the Chesapeake Bay Critical Area. The Critical Area Commission (CAC) requires performing Environmental Site Design Volume (ESDv) and Phosphorus removal computations, and meeting the resulting requirements via treatment. Excluding any on-site stormwater management that might aid in meeting these requirements, the Critical Area computations show a phosphorus removal requirement of 22.69 pounds of phosphorous per year. Since the on-site stormwater management required will not be sufficient to treat this requirement, offsite mitigation and tree planting areas will be identified in close coordination with Critical Area staff as the design advances.

A Navigable Waters Discharge Map is included in **Appendix B**. This map includes the location of activity and coordinates in degrees, minutes, and seconds of the discharge points into navigable waters. Navigable waters were identified using the National Waterway Network database in MD iMap. This project discharges into the Patapsco River, a tidal, navigable waterway.

3.8.3 Aquatic Life Use Data for Receiving Waters

Information on aquatic biota for the receiving waters within the FSK Bridge Rebuild Project study area was provided by the National Oceanic and Atmospheric Association (NOAA) Essential Fish Habitat (EFH) Mapper, results of which are included in **Appendix E**. The NOAA EFH Mapper indicates that the following fish species and life stages protected under the Magnuson-Stevens Act have been identified in the Patapsco River in the vicinity of the FSK Bridge: Atlantic butterfish (*Peprilus triacanthus*; adult, eggs, and larvae), Atlantic herring (*Clupea harengus*; adult, juvenile), black sea bass (*Centropristis striata*; adult, juvenile), bluefish (*Pomatomus saltatrix*; adult, juvenile), clearnose skate (*Raja eglanteria*; adult, juvenile), red hake (*Urophycis chuss*; adult, eggs, larvae, juvenile), scup (*Stenotomus chrysops*; adult, juvenile), summer flounder (*Paralichthys dentatus*; adult, juvenile, larvae), and windowpane flounder (*Scophthalmus aquosus*; adult, juvenile). No EFH Areas Protected from Fishing were identified within the project study area. Summer Flounder SAV Habitat Areas of Particular Concern may occur within the project study area, however no SAV has been documented in the project study area.

The Endangered Species Act (ESA) protects two federally listed fish species that may inhabit the project study area, the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and the shortnose sturgeon (*Acipenser brevirostrum*). **Table 3** summarizes federally listed fish species concerns for this project. No designated critical habitat is within the project study area.

Table 3. Federally Listed Fish Species Concerns

Species/Life Stage	Protection
Atlantic Sturgeon – Adult – Migrating & Foraging	ESA - Threatened/Endangered
Atlantic Sturgeon – Subadult - Migrating & Foraging	ESA - Threatened/Endangered
Atlantic Sturgeon – Juvenile - Migrating & Foraging	ESA - Endangered
Shortnose Sturgeon – Adult-Overwintering	ESA - Endangered
Shortnose Sturgeon – Adult-Migrating & Foraging	ESA - Endangered

Maryland Department of Natural Resources (MDNR) completed the state environmental review of potential impacts to natural and living resources on the project site and in its vicinity and requests that a number of recommendations be incorporated into the project to protect wildlife within the project area in their Environmental Review Request response letter, dated June 3, 2024, and included in **Appendix E**.

MDNR reports potential presence of many species of migratory birds within the project area. The Patapsco River provides habitat for colonial nesting waterbirds such as herons, cormorants, and gulls. These species nested on the piers and other structures of the original FSK Bridge. Historic Waterfowl Concentration Areas protected under Critical Area Law are located on the shorelines and in the open water of the Patapsco River in close proximity to the FSK Bridge Rebuild Project proposed limits of disturbance. To minimize disturbance to wintering and staging waterfowl, MDNR recommends that no in-water work be conducted from November 15 through March 1 of any year. They indicate that this time of year restriction may be waived when time of year restrictions related to other resource concerns are present or if threats to human health and safety exist.

The Virginia Institute of Marine Science (VIMS) annual aerial submerged aquatic vegetation (SAV) survey mapped a total of 176.8 acres of SAV in the Patapsco River in 2022. The 2022 levels are 45% of the 389-acre SAV goal for the Patapsco River and SAV acreage has been trending upwards in the Patapsco for the past 10 years. According to VIMS, SAV species in the Patapsco include horned pondweed (*Zannichellia palustris*), Common waterweed (*Elodea canadensis*), Coontail (*Certophylum demersum*), Wild celery (*Vallisneria americana*), Redhead grass (*Potamogeton perfoliatus*), Widgeongrass (*Ruppis maritima*), Curly pondweed (*Potamogeton crispus*), Eurasian Watermilfoil (*Myriophyllum spicatum*), and Hydrilla (*Hydrilla verticillata*). MDNR indicates that the reconstruction of the FSK Bridge has the potential to resuspend a thick layer of bottom sediments in the Patapsco River, which could create turbid conditions, reducing light and potentially leading to lower SAV survival, recruitment, and expansion. MDNR requests that all reasonable efforts be made to limit resuspension of sediments in the Patapsco River during reconstruction of the bridge, including blocking turbidity plumes from entering nearby creeks and bays where SAV is abundant. MDNR recommends a time of year restriction for in-water work from April 15 through October 15 to reduce impacts during the SAV growing season. MDNR expects this emergency bridge rebuild to cause inevitable impacts to SAV populations and requests that the project agree to restore SAV post-construction at a 3:1 mitigation ratio to areas where SAV distribution, density, or diversity is lost. MDNR recommends that the project plant wild celery in this mitigation effort.

Two Sensitive Species Project Review Areas (SSPRAs) are documented in the project area. There is a nesting colony of black crowned night herons (*Nycticorax nycticorax*) at Fort Carroll. This is a state rare (S3B) bird species. There are also American peregrine falcon (*Falco peregrinus anatum*) nest records on the project site. This is a species In Need of Conservation in Maryland. MDNR will provide further information on these state-listed rare, threatened, and endangered species in a separate correspondence that has not yet been received by the project team.

Anadromous fish species have been documented near the project site, including yellow perch (*Perca flavescens*), herring species (*Alosa* and *Clupea* spp.), and white perch (*Morone americana*). Due to the presence of yellow perch in the vicinity of the project area, no in-water work is permitted from February 15 through June 15, inclusive, during any year.

The Patapsco River also provides habitat for resident warmwater species, such as the American eel (*Anguilla rostrata*). American eels migrate upstream to smaller streams where they grow to adult stages. The spawning run of this species extends to the Sargasso Sea in the North Atlantic Ocean, after which the Patapsco River population returns to Maryland waters. This species supports an important Maryland fishery and its population is declining. MDNR requests that the project be designed to maintain or enhance fish passage through the project area, especially during low flow periods.

MDNR anticipates potential impacts to recreational and commercial fisheries and boating from this project and requests that the project team coordinate with MDNR Recreational and Commercial Fisheries to minimize potential impacts. MDNR anticipates potential impacts to striped bass (*Morone saxatilis*) and blue crab (*Callinectes sapidus*) fisheries and to charter boat companies and fishing clubs.

There is a designated oyster (*Crassostria virginica*) sanctuary surrounding Fort Carroll, which is the most upstream oyster bar in the Patapsco River. This oyster bar has been planted with hatchery oyster spat for years by local volunteers in oyster growing programs and is a sampling location for environmental education programs.

MDNR requests that the project limit the use of heavy equipment, disposal of excavated material, and other construction activities within or adjacent to delineated wetlands to the maximum extent possible If avoidance is not possible the project will be required to provide mitigation measures to replace or minimize habitat loss. MDNR also requests that best management practices be closely managed and maintained during the bridge rebuild to prevent runoff and debris from entering surface waters to protect stream resources.

The project will continue to work with MDNR and NOAA to protect aquatic species to the extent practicable.

3.8.4 Antidegradation Alternatives Analysis for Tier II waters

The Patapsco River is not classified as Tier II waters, thus the antidegradation alternatives analysis for Tier II waters is not applicable for this project.

3.8.5 Existing and Designated Uses Potentially Affected by Proposed Activities

COMAR Section 26.08.02.02 designates the Patapsco River, Bear Creek, and Curtis Bay as Use Class II tidal waters designated for aquatic life, which includes a timing restriction or stream closure period identifying when instream activities are prohibited to protect the growth and propagation of aquatic species. The Baltimore Harbor tributaries are Use Class I streams designated for aquatic life with no time of year restriction or closure period.

3.9 Treating, Controlling, Managing, and Monitoring Discharge

MDTA will take measures to avoid and minimize potential discharges that may affect surface water quality. Water quality effects will be largely minimized through the use of MDE-approved Erosion and Sediment (E&S) Controls, such as installation of super silt fence and stabilized construction entrances to ensure sediment is not introduced into the Patapsco River from the bridge construction activities. Discharges of sediment during construction will be avoided or minimized using MDE's *2011 Standards and Specifications for Soil and Erosion Control* (MDE 2011), which were developed to protect water quality during construction. MDTA will ensure that all construction activities comply with the stormwater and sediment control laws of Maryland.

All construction activities occurring within the FEMA designated 100-year floodplain will comply with FEMA-approved local floodplain construction requirements. These requirements consider structural evaluations, fill levels, and grading elevations.

The project has initiated Section 7 consultation under emergency procedures with NOAA and will coordinate actively with NOAA and MDNR to ensure aquatic species are protected to the extent practicable.

During construction of the bridge piers and any temporary construction structures such as pilings or cofferdams, a turbidity curtain will be used for work in water less than 10 feet deep relative to mean low water. Daily water quality readings will be taken to confirm turbidity remains under a 150 NTU threshold.

Underwater noise monitoring will begin at the start of any potential underwater pile driving or hammering operations.

3.10 Project Schedule

The FSK Bridge Rebuild Project is estimated to begin construction in January 2025 and be completed by October 2028.

3.11 Mitigation Plan

All impacts to tidal and nontidal wetlands, wetland buffers, and waterways, have been avoided and minimized to the maximum extent practicable at this point in the project. Erosion and sediment control measures will be implemented to ensure water quality is protected to the maximum extent practicable and will be covered in the Stormwater Management Report for the project. A mitigation plan will be developed as the design progresses.

3.12 Other Required Authorizations and Applicable Regulations/Policies

Table 4: Other Permits and Authorizations

Permit	Approving Agency	Comment
Section 404 Authorization (via Nationwide Permit)	USACE	• Permanent loss of waters of the U.S. over ½ acre would require 401 Water Quality Certification and Coastal Zone Consistency Determination
Section 408 Approval	USACE	• Required for potential impacts to the USACE navigation channel
Bridge Permit	USCG	• To rebuild a bridge over navigable waters
Coastal Zone Management Consistency Certification	MDE	• Typically provided with tidal and nontidal authorizations when required for Section 404 actions
Tidal Wetlands License	MDE/BPW	• Major Licenses require BPW approval
Critical Area Approval	MDNR	• Requires MDE Tidal and Nontidal and SWM/E&S permits to be issued • MOU in development
Reforestation Law/Roadside Tree Approval	MDNR	• Review/issuance by MDNR instead of Baltimore City has been confirmed
Stormwater and Erosion & Sediment Control Approvals	MDE	• Coordination needed on WQC and CA
NPDES	MDE	• NOI Submittal

3.13 Pre-Filing Meeting Request Documentation

The Pre-Filing Meeting Request Form for this project has been submitted and is included in **Appendix F**.

3.14 Required Statements

The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. In addition, the project proponent hereby requests that the certifying authority review and take action on this CWA 401 Certification Request within the applicable reasonable period of time.

3.15 Discharges to Outstanding National Resource Waters

The Patapsco River is not classified as Tier 3 Outstanding National Resource Waters (ONRWs), thus this section is not applicable. ONRWs are high quality waters that constitute an outstanding national resource, such as waters of national and State parks and wildlife refuges, and waters of exceptional recreational or ecological significance.

4 CONCLUSION

The FSK Bridge Rebuild Project may result in direct and indirect temporary and permanent impacts to surface waters from the potential for increased sediment/erosion, in-water noise, and temporarily decreased fish passage. Section 401 of the CWA requires that any applicant for a Federal permit or license to conduct an activity, including, but not limited to the construction or operation of facilities which may result in a discharge to a navigable waters, shall provide certification from the State that the proposed discharge complies with the State's water quality standards and requirements. MDTA has taken the following measures to ensure that any potential discharges associated with the project comply with Maryland water quality standards:

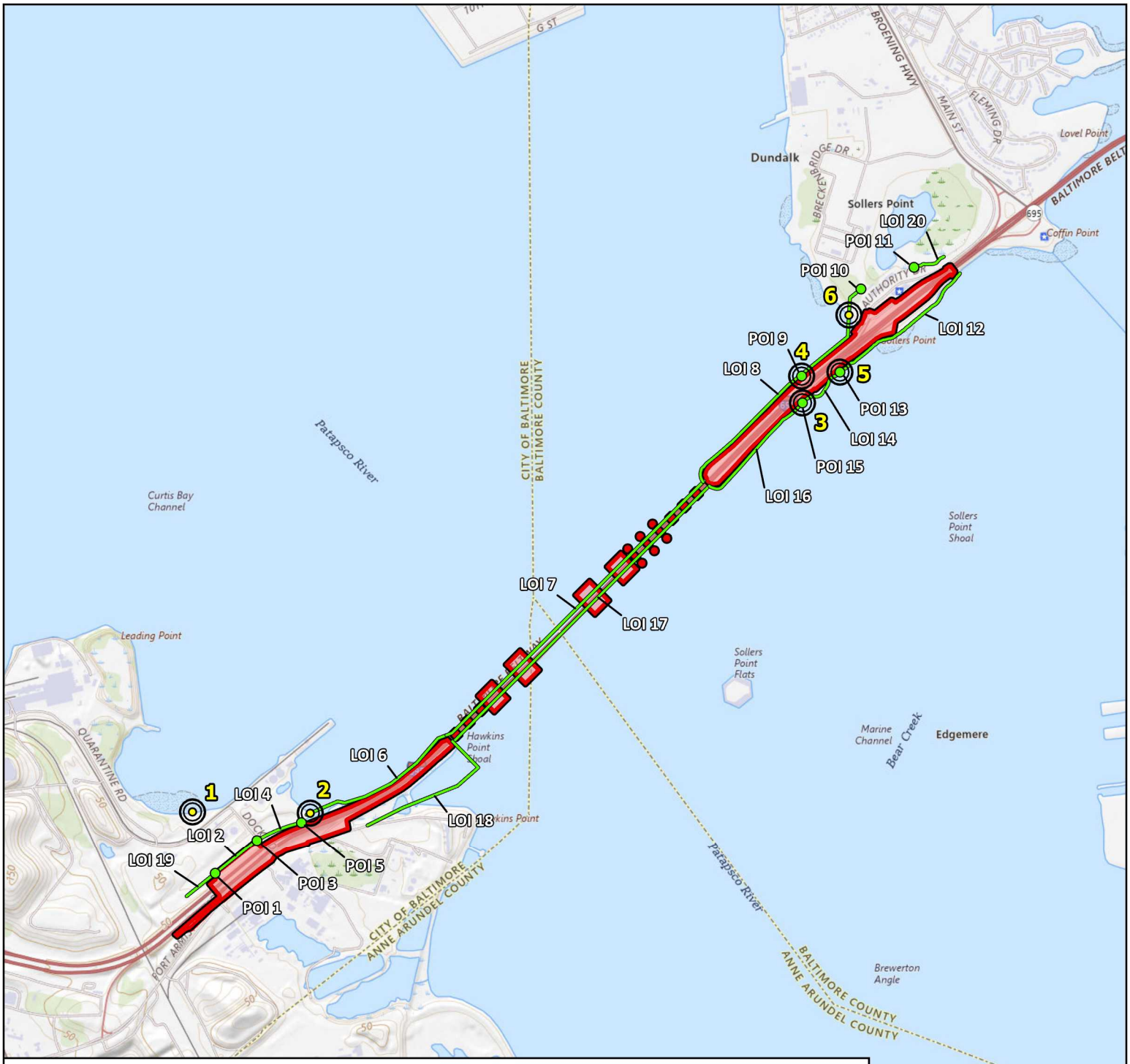
- Discharges of sediment during construction will be avoided or minimized using MDE's *2011 Standards and Specifications for Soil and Erosion Control* (MDE 2011).
- All construction activities occurring within the FEMA designated 100-year floodplain will comply with FEMA-approved local floodplain construction requirements.
- Daily water quality readings will be taken for construction activities that disturb the river bottom. Water quality readings will confirm turbidity remained under a 150 NTU threshold.
- During construction of the bridge piers, dolphins, and pier protection islands, a turbidity curtain will be used for work in water less than 10 feet deep relative to mean low water.
- Underwater noise monitoring will begin at the start of any potential underwater hammering or pile driving operations.
- Any fish kills observed during the operation will be reported to the agencies and documented.

As demonstrated in this application, the FSK Bridge Rebuild Project, as proposed, is consistent with applicable Maryland water quality standards. Accordingly, MDTA respectfully requests that MDE issue a water quality certification, consistent with the commitments set forth above unless they are subsequently revised through coordination with the appropriate state and federal agencies.

APPENDIX A
PROJECT LOCATION MAP

Figure 1 – Project Location Map

APPENDIX B
NAVIGABLE WATERS DISCHARGE LOCATION MAP



Notes:

1. Entire Project Area falls within the Baltimore Harbor MD 8-Digit Watershed 02130903.
2. LOIs 7 & 17 discharge directly into the Patapsco River from bridge scuppers at locations to be determined in final design. All other LOIs over the Patapsco sheet flow directly into the river along the flow paths shown on the map.

Limits of Disturbance
Points of Investigation
Lines of Investigation
Navigable Waters Discharge Location

N

0 1,000 2,000 ft

Source: USGS Curtis Bay Maryland 7.5-Minute Quadrangle Map, 2014

Francis Scott Key Bridge Rebuild Project

Water Quality Certification Request Navigable Waters Discharge Map

July 2024

U.S. Department of Transportation Federal Highway Administration

MDTA Maryland Transportation Authority

MDOT Maryland Department of Transportation State Highway Administration

Navigable Waters Discharge Location	POI/LOI	Latitiude	Longitude
1	LOI 19	76°32'47"	39°12'26"
	LOI 2	39°12'30"	76°32'40"
	POI 1	39°12'28"	76°32'44"
	POI 3	39°12'32"	76°32'36"
2	LOI 4	39°12'34"	76°32'33"
	POI 5	76°32'28"	39°12'35"
3	POI 15	39°13'33"	76°30'57"
4	POI 9	39°13'37"	76°30'57"
5	POI 13	39°13'38"	76°30'50"
6	LOI 20	39°13'53"	76°30'34"
	POI 10	39°13'49"	76°30'47"
	POI 11	39°13'52"	76°30'37"
Note: LOIs 7 & 17 discharge directly into the Patapsco River from bridge scuppers at locations to be determined in final design. LODs 6, 18, 8, 16, 14, 12 discharge via sheet flow to the Patapsco River across the LOIs shown on the map.			

APPENDIX C
PUBLIC NOTICE BILLING FORM

MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
NONTIDAL WETLANDS AND WATERWAYS DIVISION
1800 WASHINGTON BLVD., SUITE 430
BALTIMORE, MARYLAND 21230
410-537-3745

PUBLIC NOTICE BILLING APPROVAL FORM

PROJECT NUMBER _____

I agree to pay all expenses associated with the publishing of a public notice for the Nontidal Wetlands and Waterways Application submitted by MDTA **(Applicant's Name), which was dated and signed by you on** June 28, 2024**.**

_____
Applicant/Agent Signature

Brian Wolfe
Printed Name of Signee

TRACKING NO. _____

Please Print

Billing Address Maryland Transportation Authority

8019 Corporate Drive, Suite F

Nottingham, MD 21236

Phone Number 410-537-8200

NOTICE TO APPLICANTS

Certain projects involving nontidal wetlands and waterways permits require that a description of the proposed project be published in a local newspaper. This advertisement is necessary to fulfill legal public notice requirements. Projects that require public notice include, but are not limited to, the following:

- **Certain projects regulated by the U. S. Army Corps of Engineers that require a State Water Quality Certification.**
- **Projects resulting in a loss of more than 5,000 square feet of nontidal wetlands.**
- **Projects in nontidal wetlands of special State concern or wetlands having special plant or wildlife values.**
- **Projects resulting in a loss of more than 1 acre if isolated nontidal wetlands.**
- **Projects affecting waters of the State, including their 100 year frequency floodplain, except roads, bridges, and culverts that meet minimum design standards, temporary construction, minor repairs, or routine maintenance.**

The Water and Science Administration will arrange advertisement of the project for you. However, as the applicant for the project, you are responsible for paying the publishing costs. In order for this process of public notice to occur, your approval is necessary prior to publishing. Please complete the form on the other side of this page and return it to the Water and Science Administration so that your proposed project may be advertised without delay. Please make sure to sign the form. Processing of your application cannot continue until a signed form is received.

Please call the Nontidal Wetlands and Waterways Division at 410-537-3745 if you have any questions.

Thank you for your assistance in this matter.

PLEASE COMPLETE THE OTHER SIDE OF THIS PAGE

Also, please provide the names and mailing addresses of adjacent property owners. Add additional pages if needed.

Fort Carrol LLC, C/O M Eisenberg 2844 Old Court Road Baltimore, MD 21208

Baltimore Gas & Electric,110 W Fayette Street Baltimore, MD 21201

Maryland Port Authority, 2700 Broening Highway, Dunmar Bld-So Ste 123, Baltimore, MD 21222

Maryland Port Administration, 401 E Pratt Street Baltimore, MD 21202

Baltimore City, Mayor & City Council, Fort Armistead Park, 4000 Hawkins Point Road Baltimore, MD 21226

APPENDIX D
PROPOSED ACTIVITIES MAP

- Limits of Disturbance
- Potential Construction Activity Area
- Streams
- Wetlands
- 25ft Wetland Buffer
- Critical Area Expanded 100ft Buffer
- MHW Line
- Critical Area Boundary
- Bathymetry Contours
- Lines of Investigation
- Points of Investigation
- Potential Bioswale
- Potential Submerged Gravel Wetland

MDTA Maryland Transportation Authority

U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024

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MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024

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MDTA Maryland Transportation Authority

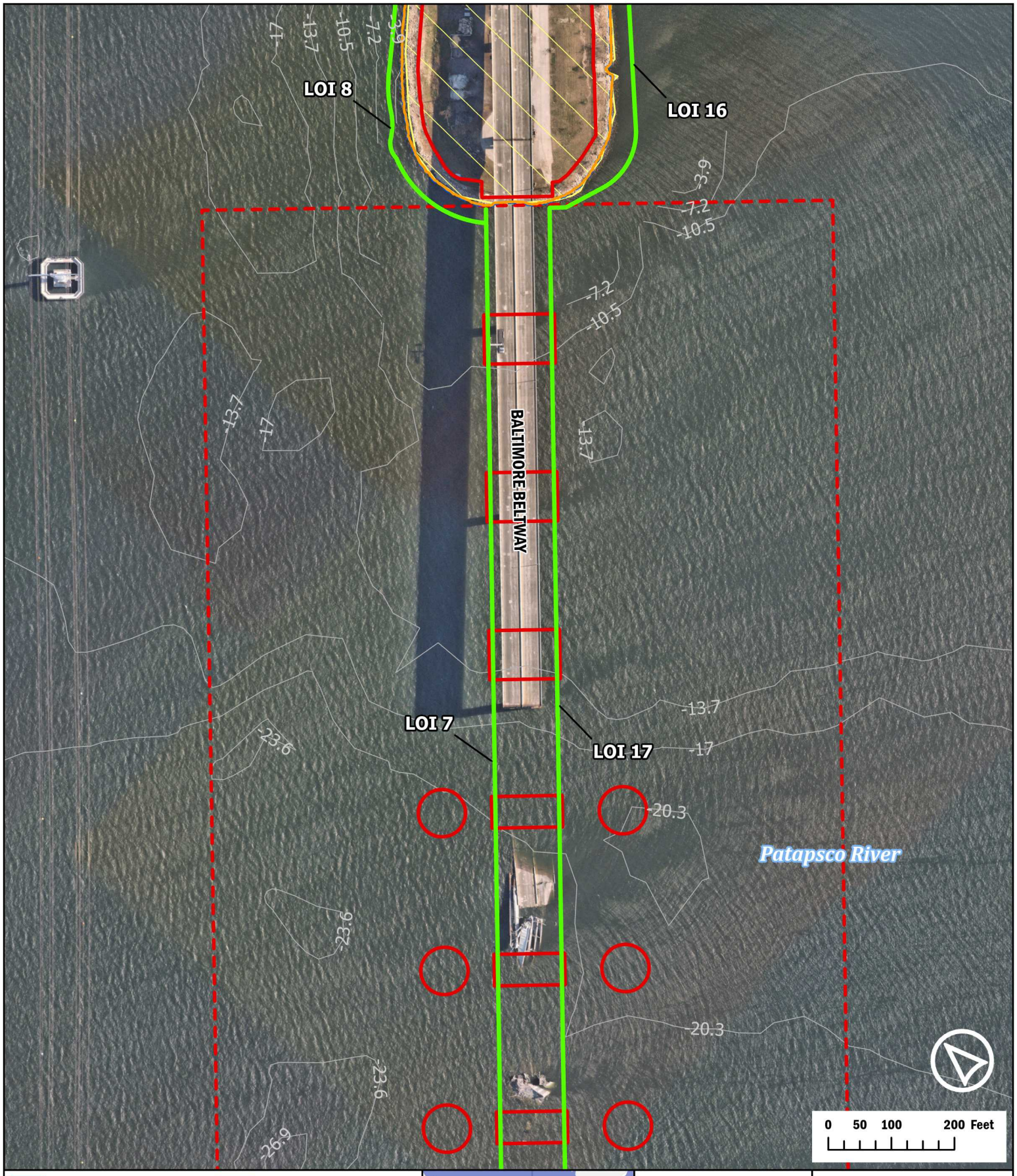
U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024



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MDTA Maryland Transportation Authority

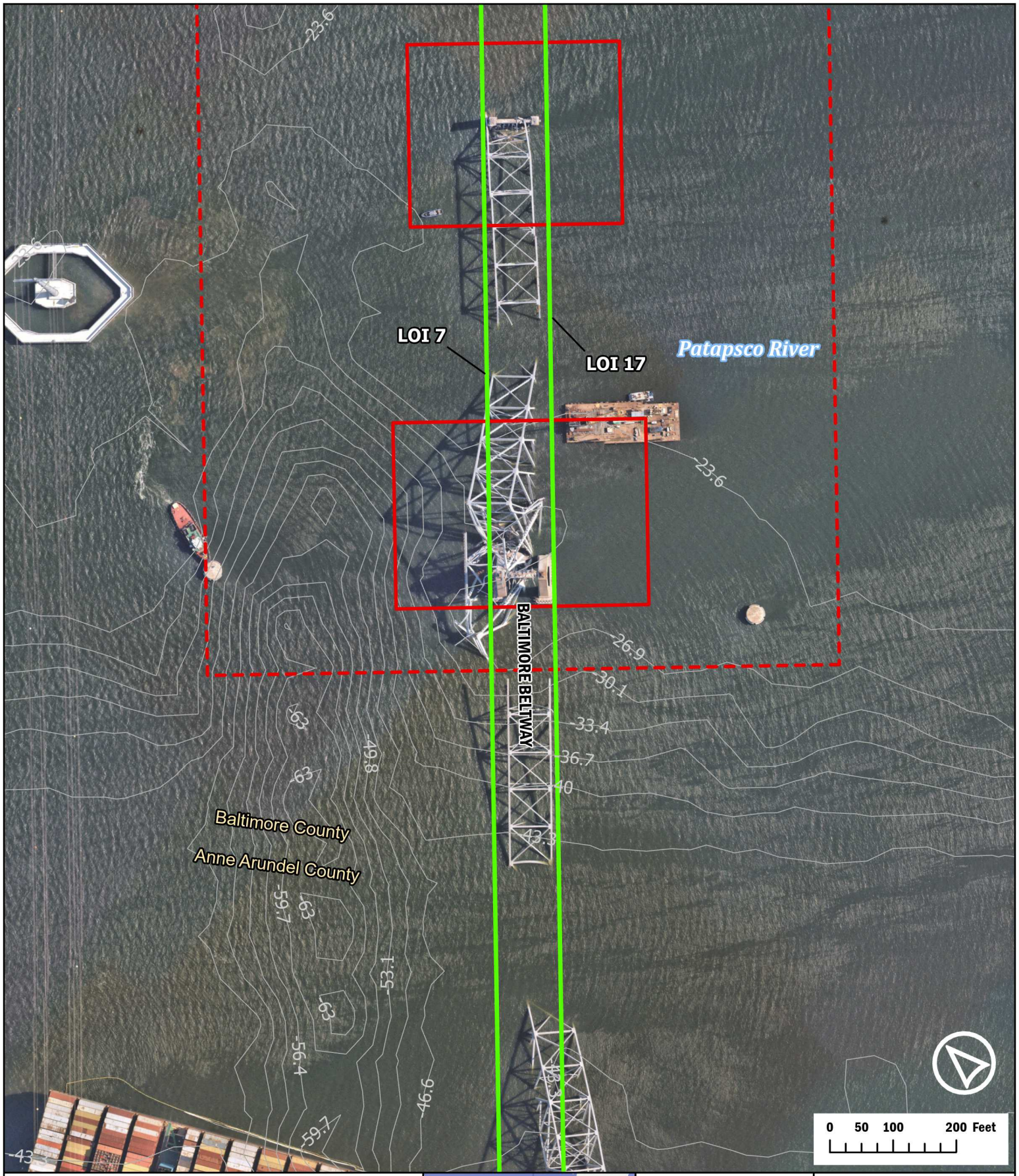
U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024



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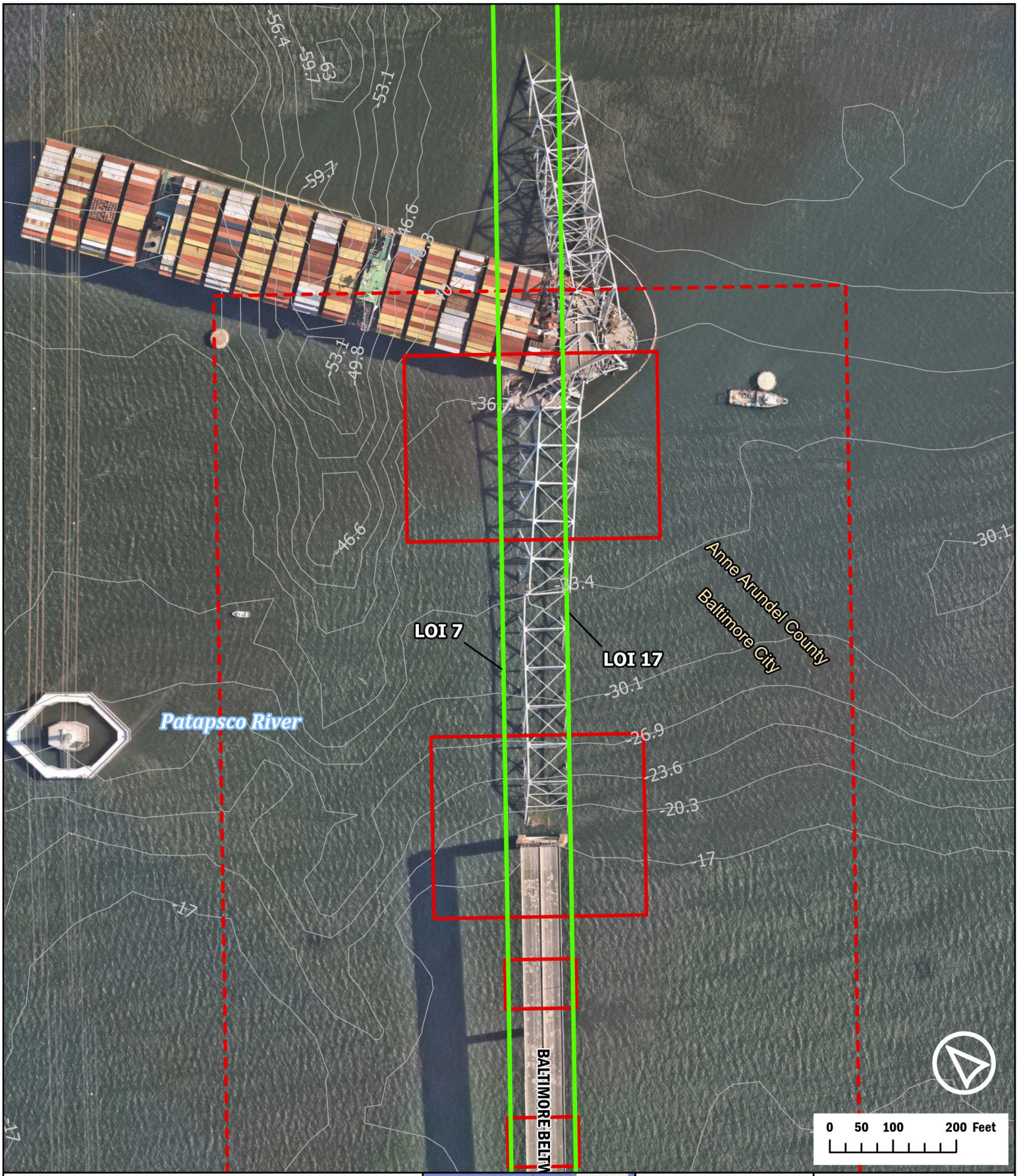
Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024



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MDTA Maryland Transportation Authority

U.S. Department of Transportation Federal Highway Administration

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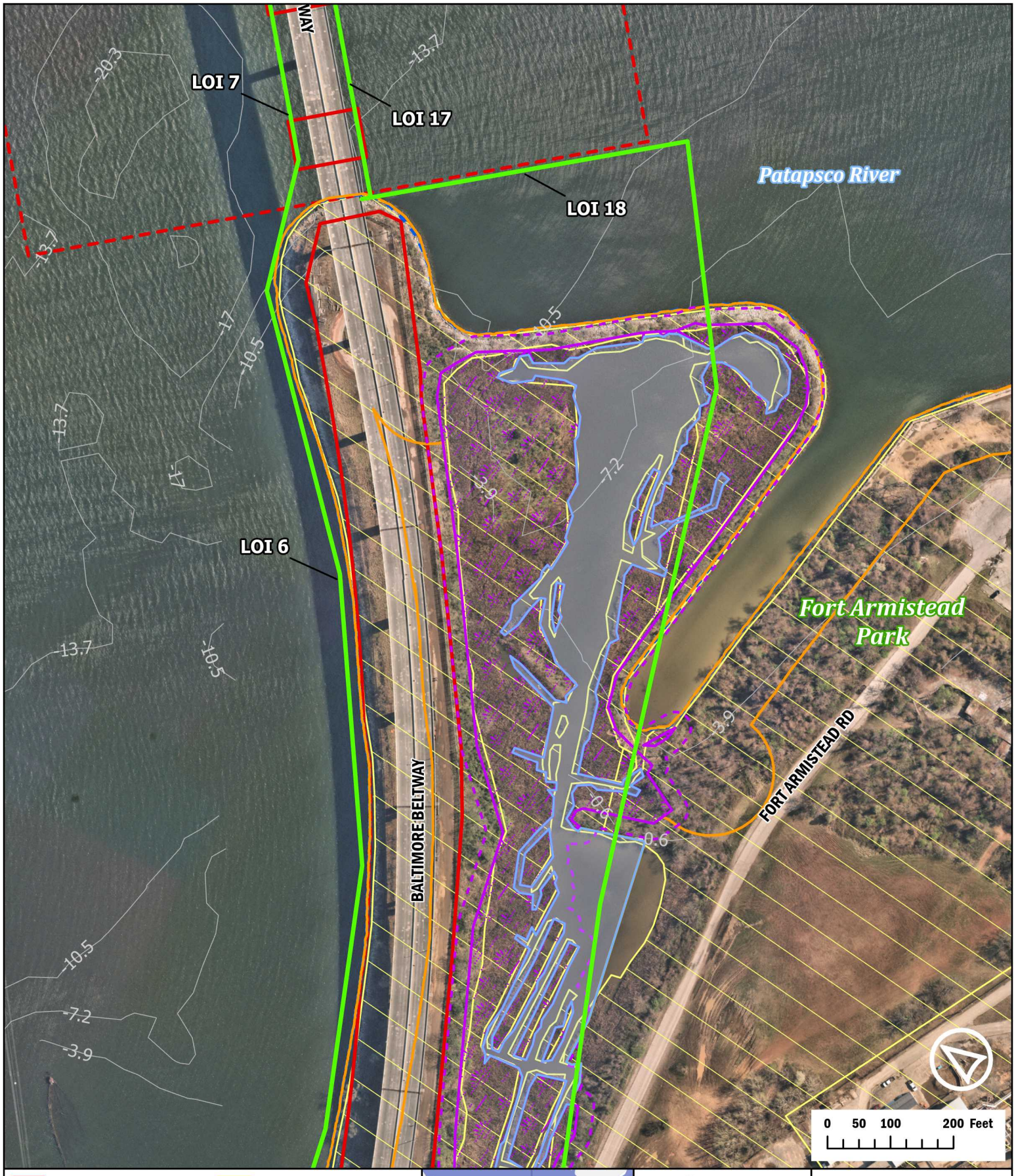
Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024



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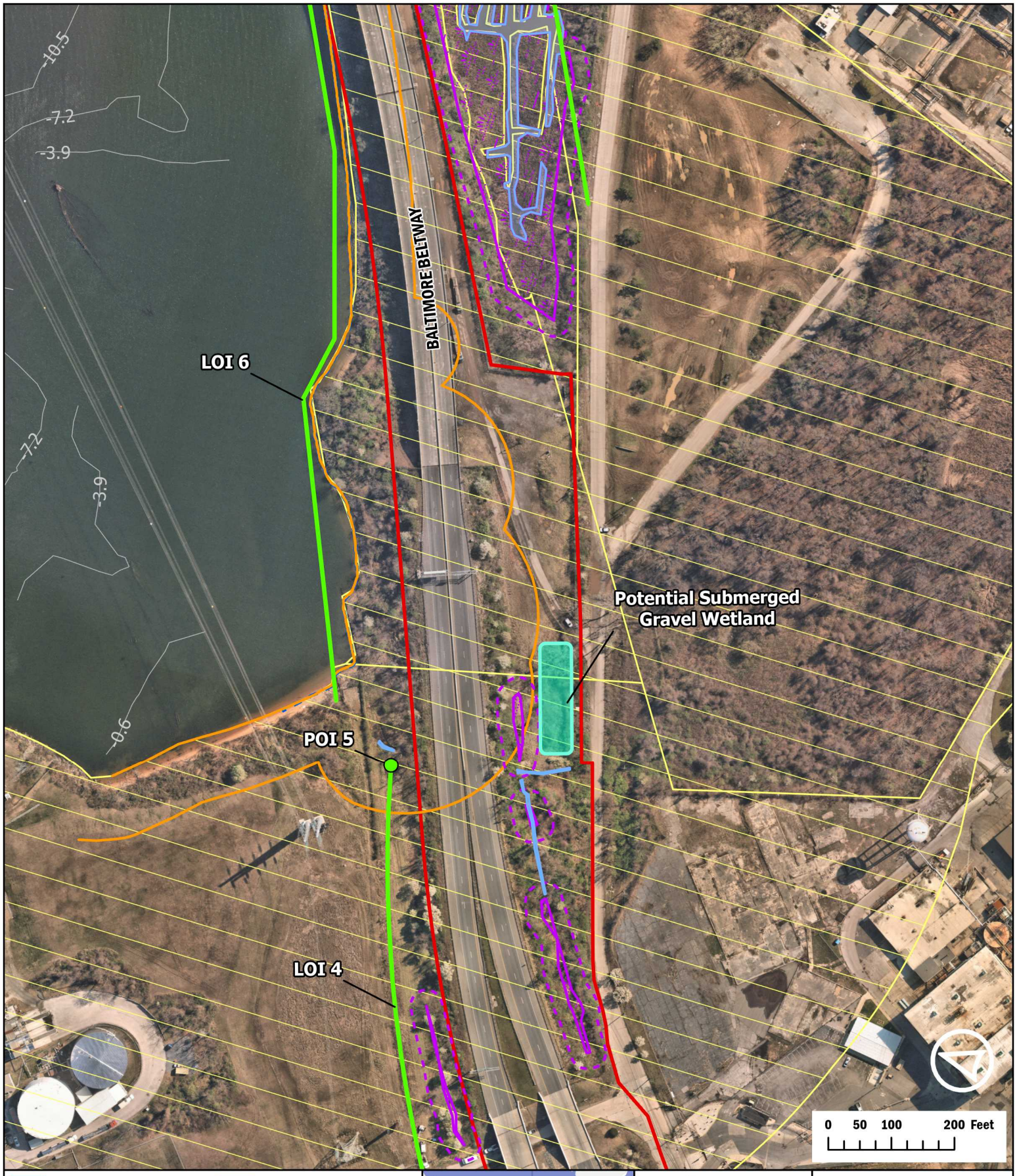

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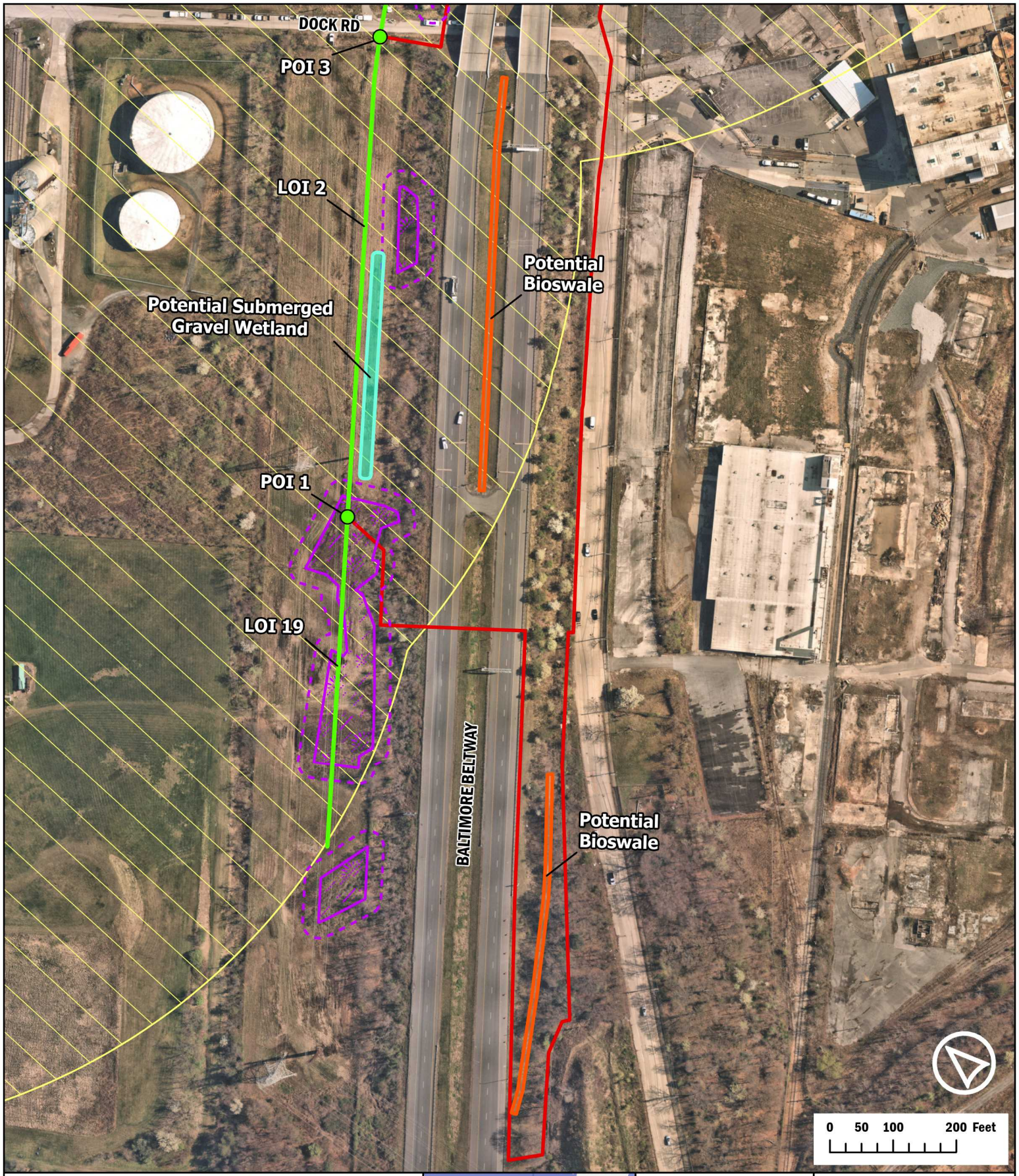

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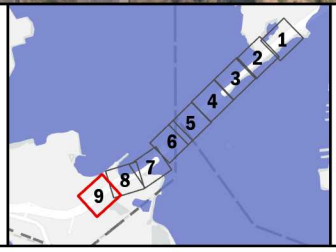

MDTA Maryland Transportation Authority

U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Proposed Activities Map

June 2024

APPENDIX E
JOINT PERMIT APPLICATION

JOINT FEDERAL/STATE APPLICATION FOR THE ALTERATION OF ANY FLOODPLAIN, WATERWAY, TIDAL OR NONTIDAL WETLAND IN MARYLAND

FOR AGENCY USE ONLY

Application Number		**Date Determined Complete**	
Date Received by State		**Date(s) Returned**	
Date Received by Corps			
Type of State permit needed		**Date of Field Review**	
Type of Corps permit needed		**Agency Performed Field Review**	

++

- Please submit 1 original and 6 copies of this form, required maps and plans to the Wetlands and Waterways Protection Program as noted on the last page of this form.
- Any application that is not completed in full or is accompanied by poor quality drawings may be considered incomplete and result in a time delay to the applicant.

Please check one of the following:

RESUBMITTAL: _____ APPLICATION AMENDMENT: _____ MODIFICATION TO AN EXISTING PERMIT: _____
JURISDICTIONAL DETERMINATION ONLY: __ APPLYING FOR AUTHORIZATION X
PREVIOUSLY ASSIGNED NUMBER (RESUBMITTALS AND AMENDMENTS) _____

DATE 7/1/2024

1. APPLICANT INFORMATION:

APPLICANT NAME:

A. Name: Julie McCarthy B. Daytime Telephone: (410) 537-7861
C. Company: Maryland Transportation Authority D. Email Address: jmccarthy@mdta.maryland.gov
E. Address: 300 Authority Drive
F. City: Baltimore State: MD Zip: 21222

AGENT/ENGINEER INFORMATION:

A. Name: Justin Reel B. Daytime Telephone: (703) 338-4139
C. Company: RK&K D. Email Address: jreel@rkk.com
E. Address: 700 E Pratt St. Suite 500
F. City: Baltimore State: MD Zip: 21202

ENVIRONMENTAL CONSULTANT:

A. Name: Justin Reel B. Daytime Telephone: (703) 338-4139
C. Company: RK&K D. Email Address: jreel@rkk.com
E. Address: 700 E Pratt St. Suite 500
F. City: Baltimore State: MD Zip: 21202

CONTRACTOR (If known): _____

A. Name: TBD B. Daytime Telephone: _____
C. Company: _____ D. Email Address: _____
E. Address: _____
F. City: _____ State: _____ Zip: _____

PRINCIPAL CONTACT:

A. Name: Justin Reel B. Daytime Telephone: (703) 338-4139
C. Company: RK&K D. Email Address: jreel@rkk.com
E. Address: 700 E Pratt St. Suite 500
F. City: Baltimore State: MD Zip: 21202

2. PROJECT DESCRIPTION
a. GIVE WRITTEN DESCRIPTION OF PROJECT:

See Attachment A - Additional Information

Has any portion of the project been completed? _____Yes x_____No If Yes, explain:

Is this a residential subdivision or commercial development? _____Yes X___No
If yes, total number of acres on property _____ acres
Will there be temporary or permanent tree clearing occurring on the overall project site (i.e., uplands and wetlands), including but not limited to, tree clearing for site development, road/highways, utilities, mining, stormwater management, restoration, energy production and transmission, etc.)? Yes x___ No____
If yes, total estimated acres of tree clearing for the overall project site: 7.5 acres

Does the application propose temporary fill impacting wetlands or waterways that will remain in place for more than one year? _____Yes X_____No

b. ACTIVITY: Check all activities that are proposed in the wetland, waterway, floodplain, and nontidal wetland buffer as appropriate.

A.	x	filling	D.		flooding or impounding water
B.	x	dredging	E.		draining
C.	x	excavating	F.	x	grading
			G.	x	removing or destroying vegetation
			H.	x	building structures

Area for item(s) checked: Wetland 539,607 (sq. ft.) Buffer (Nontidal Wetland Only) 57,163 (sq. ft.)
Expanded Buffer (Nontidal Wetland Only) 0 (sq. ft.)
Area of stream impact 848 (sq. ft.)
Length of stream affected 270 (linear feet)

c. TYPE OF PROJECTS: Project Dimensions

For each activity, give overall length and width (in feet), in columns 1 and 2. For multiple activities, give total area of disturbance in square feet in column 3. For activities in tidal waters, give maximum distance channelward (in feet) in column 4. For dam or small ponds, give average depth (in feet) for the completed project in column 5. Give the volume of fill or dredged material in column 6.

			Length (Ft.) 1	Width (Ft.) 2	Area (Sq. Ft.) 3	Maximum/Average Channelward Encroachment 4		Pond Depth 5	Volume of fill/dredge material (cubic yards) below MHW or OHW 6
A.		Bulkhead							
B.		Revetment							
C.		Vegetative Stabilization							
D.		Gabions							
E.		Groins							
F.		Jetties							
G.		Boat Ramp							
H.		Pier							
I.		Breakwater							
J.		Repair & Maintenance							
K.		Road Crossing							
L.		Utility Line							
M.		Outfall Construction							
N.		Small Pond							
O.		Dam							
P.		Lot Fill							
Q.		Building Structures							
R.		Culvert							
S.	x	Bridge							
T.		Stream Channelization							
U.		Parking Area							
V.		Dredging							

1. X New 2. _____ Maintenance 3. _____ Hydraulic 4. _____ Mechanical

W. x Other (explain) See Attachment A - Additional Information

d. PROJECT PURPOSE: Give brief written description of the project purpose:

See Attachment A - Additional Information

3. PROJECT LOCATION:

a. LOCATION INFORMATION:

A. County: BA, BC, AA B. City: Baltimore C. Name of waterway or closest waterway Patapsco River
D. State stream use class designation: Use Class I
E. Site Address or Location:
I-695 from southwest of Broening Hwy to northeast of B&O Railroad crossing
F. Directions from nearest intersection of two state roads:

I-695 from southwest of Broening Hwy to northeast of B&O Railroad crossing

Is your project located in the Chesapeake Bay Critical Area (generally within 1,000 feet of tidal waters or tidal wetlands)?:

X Yes _____ No

H. County Book Map Coordinates (Alexandria Drafting Co.); Excluding Garrett and Somerset Counties:
Map: 44 Letter: E Number: 13 (to the nearest tenth)
I. FEMA Floodplain Map Panel Number (if known): 2400870036G,
J. 1. 39.216833 latitude 2. -76.528667 longitude

b. ACTIVITY LOCATION: Check one or more of the following as appropriate for the type of wetland/waterway where you are proposing an activity:

A. X Tidal Waters
B. _____ Tidal Wetlands
C. _____ Special Aquatic Site (e.g., mudflat, vegetated shallows)
D. x Nontidal Wetland
E. x 25-foot buffer (nontidal wetlands only)
F. _____ 100-foot buffer (nontidal wetland of special State concern)
G. x In stream channel
1. _____ Tidal 2. x Nontidal
H. _____ 100-year floodplain (outside stream channel)
I. _____ River, lake, pond
J. _____ Other (Explain)

c. LAND USE:

A. Current Use of Parcel Is: 1. Agriculture: Has SCS designated project site as a prior converted cropland? ____Yes x No

2. x Wooded 3. _____ Marsh/Swamp 4. x Developed

5. x Other: MDTA ROW

B. Present Zoning Is: 1. ____ Residential 2. x Commercial/Industrial 3. _____ Agriculture 4. _____ Marina 5. _____ Other

C. Project complies with current zoning X Yes _____ No

THE FOLLOWING INFORMATION IS REQUIRED BY THE STATE (blocks 4-7):

4. REDUCTION OF IMPACTS: Explain measures taken or considered to avoid or minimize wetland losses in F. Also check Items A-E if any of these apply to your project.

A. _____ Reduced the area of disturbance
B. _____ Reduced size/scope of project
C. _____ Relocated structures
D. _____ Redesigned project

E. _____ Other _____

F. Explanation Impacts will be reduced as design progresses.

Describe reasons why impacts were not avoided or reduced in Q. Also check Items G-P that apply to your project.

G. ____ Cost
H. ____ Extensive wetlands on site
I. x Engineering/design constraints
J. ____ Other natural features
K. ____ Parcel size
L. ____ Other regulatory requirement
M. x Failure to accomplish project purpose
N. x Safety/public welfare issue
O. ____ Inadequate zoning
P. ____ Other

Q. Description

Impacts will be reduced as design progresses.

5. LETTER OF AUTHORIZATION: If you are applying for a letter of authorization for activities in nontidal wetlands and/or their buffers, explain why the project qualifies:

A. ____ No significant plant or wildlife value and wetland impact
1. ____ Less than 5,000 square feet
2. ____ In an isolated nontidal wetland less than 1 acre in size
B. ____ Repair existing structure/fill
C. ____ Mitigation Project
D. ____ Utility Line
1. ____ Overhead
2. ____ Underground
E. Other (explain)

F. x Check here if you are **not** applying for a letter of authorization.

IF YOU ARE APPLYING FOR A LETTER OF AUTHORIZATION, PROCEED TO BLOCK 10

6. ALTERNATIVE SITE ANALYSIS: Explain why other sites that were considered for this project were rejected in M. Also check any items in D-L if they apply to your project. **(If you are applying for a letter of authorization, do not complete this block.)**

A. x 1 site
B. ____ 2 - 4 sites
C. ____ 5 or more sites

Alternative sites were rejected/not considered for the following reason(s):

D. ____ Cost
E. ____ Lack of availability
F. x Failure to meet project purpose
G. ____ Located outside general/market area
H. ____ Greater wetlands impact
I. ____ Water dependency
J. ____ Inadequate zoning
K. ____ Engineering/design constraints
L. ____ Other

M. Explanation:

Project purpose is to replace the collapsed bridge

7. PUBLIC NEED: Describe the public need or benefits that the project will provide in F. Also check Items in A-E that apply to your project. **(If you are applying for a letter of exemption, do not complete this block.)**

A. x Economic
B. x Safety
C. x Health/welfare
D. ____ Does not provide public benefits
E. ____ Other ____

F. Description

See Attachment A - Additional Information

8. MITIGATION PLAN: Please provide the following information. **(If you are applying for a letter of authorization outside of the Critical Area, do not complete this block.)**

9. Description of a monetary compensation proposal, if applicable (for **state requirements** only). Attach another sheet if necessary.

Mitigation plan will be developed as design progresses.

b. Give a brief description of the proposed mitigation project.

Mitigation plan will be developed as design progresses.

c. Describe why you selected your proposed mitigation site, including what other areas were considered and why they were rejected.

Mitigation plan will be developed as design progresses.

d. Describe how the mitigation site will be protected in the future.

Mitigation plan will be developed as design progresses.

9. HAVE ADJACENT PROPERTY OWNERS BEEN NOTIFIED? A. _____ Yes B. x _____ No

Provide names and mailing addresses below (Use separate sheet, if necessary). **(If you are applying for a letter of exemption, do not complete this block.)**

a. Adjacent property owners have not yet been notified for this project.

b.

c.

10. OTHER APPROVALS NEEDED/GRANTED:

A. a. Agency	b. Date Sought	c. Decision 1. Granted	2. Denied	d. Decision Date	e. Other Status
MDNR-WHS		X		6/3/2024	
MDNR-ERP		X		6/3/2024	
USFWS Review		X		5/9/2024	
NOAA NMFS	ongoing				
MDE SSPRD	pending				

B**. FEDERALLY AUTHORIZED CIVIL WORKS PROJECTS**: Does the project require permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers' federally authorized civil works project, structure, property, or easement (e.g., federal navigation channel, flood control levees, dams and reservoirs, lake property, etc.)?

X Yes _____ No

If yes, have you submitted a written request for Section 408 permission from the Corps district having jurisdiction over that project (i.e., Baltimore district in Maryland or Philadelphia district in C & D canal)? _____ Yes x No

If yes, please provide the date your request was submitted to the Corps district: _____

C. EXISTING CORPS, MDE, OR ENVIRONMENTAL PROTECTION AGENCY SITE PROTECTION INSTRUMENTS: Is the proposed work located in an area encumbered by an existing site protection instrument such as a conservation easement, deed restriction, or declaration of restrictive covenants required as a condition of a prior U.S. Army Corps of Engineers', Maryland Department of the Environment, or Environmental Protection Agency authorization? _____ Yes X No

11. HISTORIC PROPERTIES: Is your project located in the vicinity of historic properties? (For example: structures over 50 years old, archeological sites, shell mounds, Indian or Colonial artifacts). Provide any supplemental information in Section 12.

A. x Yes B. _____ No C. _____ Unknown

12. ADDITIONAL INFORMATION: Use this space for detailed responses to any of the previous items. Attach another sheet if necessary:

See Attachment D - Section 106 Consultation and Programmatic Agreement

Check box if data is enclosed for any one or more of the following (see checklist for required information):

A. _____ Soil borings
B. _____ Wetland data sheets
C. _____ Photographs
D. _____ Field surveys
E. _____ Alternate site analysis
F. _____ Market analysis
G. _____ Site plan
H. _____ Avoidance and minimization analysis

I. x Other (explain)

Attachment A - Additional Information
Attachment B - Project Location Map
Attachment C - Impact Plates
Attachment D - Section 106 Consultation and Programmatic Agreement
Attachment E - Rare Threatened and Endangered Species Coordination

CERTIFICATION:

Application is hereby made for a permit or permits to authorize the work described in this application. I hereby designate and authorize the agent named above to act on my behalf in the processing of this application and to furnish any information that is requested. I certify that the information on this application form and on the attached plans and specifications is true and accurate to the best of my knowledge and belief. I understand that any of the agencies involved in authorizing the proposed works may request information in addition to that set forth herein as may be deemed appropriate in considering this proposal. I certify that all wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and all streams have been identified and delineated on site, and that all jurisdictional wetlands have been delineated in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and appropriate regional supplement(s). I grant permission to the agencies responsible for authorization of this work, or their duly authorized representative, to enter the project site for inspection purposes during working hours. I will abide by the conditions of all permit(s) or license(s) if issued and will not begin work without the appropriate authorization. I also certify that the proposed works are consistent with Maryland's Coastal Zone Management Plan. All information, including permit applications and related materials, submitted to MDE may be subject to public disclosure consistent with the Maryland Public Information Act, §4-101 et seq., General Provisions Article of the Maryland Code and the Freedom of Information Act, 5 USC Section 552 et seq. Pursuant to Clean Water Act Section 404(o), 33 USC 1344 (o), permit applications and permits will be available to the public. I understand that I may request that additional required information be considered confidential under applicable laws. I further understand that failure of the landowner to sign the application will result in the application being deemed incomplete.

LANDOWNER MUST SIGN: _____ DATE: _____

PRINTED NAME OF LANDOWNER_____

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers, 33 CFR 320-332. Principal Purpose: Information provided on this JPA will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice. Submission of requested information is voluntary, however, if information is not provided, the permit application cannot be evaluated nor can a permit be issued.

State Authorities: **Nontidal Wetlands Protection Act, Md. Ann. Code, Envir., Title 5, Subtitle 9; Waterway Construction, Md. Ann. Code, Envir., Title 5, Subtitle 5; Tidal Wetlands Act, Md. Ann. Code, Envir., Title 16.**

BEST MANAGEMENT PRACTICES VERIFICATION: I verify that my project will meet all Endangered Species Act Best Management Practices and Time of Year Restriction applicable to work in tidal waters and wetlands as required by the MDSPGP (see Section VII, General Conditions #14-15).

☐ **Yes** ☐ **No** ☑ **Unknown**

Refer to the application instructions and the MDSPGP for additional information regarding these Best Management Practices.

☐ **I am the property owner/applicant and do not want to be contacted by MDE. All correspondence should occur with my authorized agent /principal contact designated in Section 3, located on the 1st page of this application. (By initializing the box, you are acknowledging that you will not receive any correspondence directly from MDE). I understand a copy of MDE's final decision regarding this application will be sent to me. This opt-out option does not apply to the U.S. Army Corps' correspondence, which will continue to be with the applicant/permittee.**

WHERE TO MAIL APPLICATION

Maryland Department of the Environment
Water and Science Administration
Regulatory Services Coordination Office
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230
Telephone: (410) 537-3752
1-800-633-6101

BEFORE YOU MAIL… DON'T FORGET…

- **SIGN AND DATE THE APPLICATION. THE LANDOWNER MUST SIGN.**
- **SEVEN (7) COPIES OF ALL DOCUMENTS (APPLICATION, PLANS, MAPS, REPORTS, ETC.) MUST BE RECEIVED TO BEGIN OUR REVIEW.**
- **INCLUDE SEVEN (7) COPIES OF A VICINITY MAP (LOCATION MAP) WITH THE PROJECT SITE PINPOINTED.**
- **PAYMENTS: SEND AN APPLICATION FEE OF $750 ALONG WITH A COPY OF THE FIRST PAGE OF THE APPLICATION TO:**

  MARYLAND DEPARTMENT OF THE ENVIRONMENT
  P.O. BOX 2057, BALTIMORE, MD 21203-2057
  PCA: 13910 OBJ: 4142
- **PLEASE REFER TO OUR WEBSITE *http://www.mde.maryland.gov* FOR FURTHER INSTRUCTIONS.**

SUPPLEMENTAL INFORMATION TO BE INCLUDED ON PLANS, DRAWINGS, OR VICINITY MAPS

In addition to the information indicated on the previous pages, you should include the following on the 8 1/2 x 11 site plans and any blueprints you have submitted:

1. Delineation of any wetland buffers or expanded buffers, clearly marked and differentiated.

2. Location of mitigation area, if proposed on the same site as the project.

Note: If you are proposing a complex project you may wish to submit engineering blueprints of your project with the application form to expedite review.

Mitigation Location Map: If you are proposing that nontidal wetland mitigation be done at a different location than the proposed project, you should submit a map showing the location of the mitigation site in relation to the proposed nontidal wetland losses.

DELINEATION OF WETLANDS, OTHER SPECIAL AQUATIC SITES, AND OTHER WATERS

Applications must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and streams on the project site. Wetland delineations must be prepared in accordance with the current wetland delineation manual and appropriate regional supplement published by the Corps. Wetlands must be shown on all plans submitted with the application. All wetlands on site must be delineated and shown on the overall site plan. 8½ x 11 inch plans with topography showing relation of the wetlands and project impacts must be submitted. Copies of the wetland reports and data sheets used in making the determination must be included with your application submittal.

ATTACHMENT A: ADDITIONAL INFORMATION

Attachment A: Additional Information in Support of the JPA Form

Purpose and Need

The Project's purpose is to replace the Key Bridge over the Patapsco River and restore connectivity of the transportation network between Curtis Bay and Dundalk.

The needs for the Project include:

- Reconnecting I-695 across the Patapsco River to provide mobility meeting current standards.
- Accommodate existing and future ship navigation on the Patapsco River and into the Port of Baltimore.

The Key Bridge was a critical link in the regional and interstate transportation network. The collapse has negatively impacted community mobility and connectivity by creating a major gap in the Baltimore transportation network for both local and regional traffic.

In 2022, the Key Bridge had an average annual daily traffic (AADT) volume of 33,200 vehicles per day (vapid)[1]. Following the collapse, this daily traffic volume is required to find and use alternate routes, increasing vehicle miles traveled (VMT) and contributing to higher levels of congestion on the available interstate transportation network including on I-95 through Baltimore (the Fort McHenry Tunnel), I-895 (the Baltimore Harbor Tunnel), and I-695. Local routes such as MD 2, MD 710, MD 173, MD 150, MD 151, other local roadways have also experience increased detour traffic, including an increase in truck traffic. I-95 and I-895 were already operating over capacity during the peak hours prior to the collapse of the Key Bridge. The diverted traffic from the Key Bridge collapse has exacerbated congestion and delay issues along these parallel routes as well the remainder of the I-695 around Baltimore. A comparison of weekday speed and travel time data[2] from April 2024 (post-collapse) versus April 2023 (pre-collapse) shows that motorists on I-95 experience more than 30 minutes of additional delay during the morning peak period and more than 20 minutes of additional delay in the afternoon peak period. This equates to more than 14,000 collective vehicle-hours of additional delay each weekday for traffic on I-95. Similarly, motorists on I-895 experience approximately 20 minutes of additional delay during the morning peak period and approximately 15 minutes of additional delay in the afternoon peak period. This equates to approximately 7,000 collective vehicle-hours of additional delay to each weekday for traffic on I-895. Combining the impacts to both of these

[1] https://maps.roads.maryland.gov/itms_public/AADT_AAWDT_Detail.aspx?station_id=T0006

[2] INRIX data from the RITIS platform (www.ritis.org) Tuesday through Thursday April 18-20, 2023, and Tuesday through Thursday April 9-11, 2024. Data from I-895 for the entire length of the facility. Data from I-95 from the I-95/I-895 interchange south of Baltimore to the I-95/I-695 interchange north of Baltimore.

major freeways, the traffic diversions to I-95 and I-895 resulting from the collapse of the Key Bridge have resulted in more than 21,000 collective hours of additional delay each day of the work week. Furthermore, there are significant traffic operations and safety impacts to communities from the traffic diverting onto local roads, when I-895 and I-95 are severely congested.

In addition, over-height vehicles and vehicles transporting hazardous materials, including bottled propane gas in excess of 10 pounds per container (maximum of 10 containers), bulk gasoline, explosives, significant amounts of radioactive materials are prohibited from using the I-95 and I-895 tunnels. These vehicles previously relied on using the Key Bridge but are now required to use less efficient alternate surface routes, such as the western section of I-695 around the tunnels, which adds approximately 22 miles of additional VMT.

Regionally, the Key Bridge played a critical role in the transportation network, including the transport of goods to and from the Port of Baltimore and nearby distribution centers such as Tradepoint Atlantic at Sparrows Point. A recent study indicated that the economic cost of the bridge collapse to the Port of Baltimore is estimated in the tens of millions of dollars per day[3]. The same study determined that the Key Bridge collapse has impacted jobs, income, and industries locally and throughout the state. The impacts caused by the loss of this key infrastructure element presents significant challenges to residents, businesses, and industries with long-term implications. Therefore, rebuilding the bridge is an urgent and essential project to maintain the local, regional, and national economy.

Project Description

The proposed Project is a replacement of the collapsed Key Bridge. The project location would be the same as the original bridge, following the existing centerline across the Patapsco River and the approaches along I-695. The new bridge would remain within MDTA's existing ROW.

The Project proposes several changes to engineering parameters from the original Key Bridge to meet current roadway standards. The proposed bridge would have an air draft of 230 feet over the 800-foot-wide authorized Fort McHenry Navigation Channel, per coordination with the USCG and as documented in the PNCD[4]. The proposed air draft would be 45 feet higher than the original Key Bridge to provide clearance for large vessels traveling underneath.

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[3] https://www.mdchamber.org/2024/03/28/understanding-key-bridge-collapse-impact/#:~:text=Port%20activities%20generate%20approximately%20$3.3,could%20make%20those%20more%20severe.

[4] The USCG issued a PNCD on June 6, 2024 stating that the replacement bridge is required to have a minimum vertical clearance of 230 feet and a minimum horizontal clearance of 1,100 feet. The PNCD is included as Attachment 2.

Similar to the original Key Bridge, the replacement bridge would have a 4% grade on both sides of the 800-foot-wide navigation channel. Due to the increased air draft height over the 800-foot-wide navigation channel, the limits of the bridge and the elevation change would extend beyond the limits of the original bridge. The total distance where the new roadway/bridge profile would be higher than the existing ground would be approximately 2.4 miles, which is approximately 0.7 miles longer than the original Key Bridge. A portion of this 2.4-mile length would include retaining walls and grading where the bridge profile would approach the existing ground; the limits of bridge structure versus retaining walls and grading will be determined in final design.

The main bridge span over the 800-foot-wide navigation channel is anticipated to be approximately 1,400 feet long between the main bridge piers, which would accommodate the placement of the new piers outside the existing piers. In compliance with the USCG PNCD, the horizontal clearance between the pier protection islands that would surround the new piers would be no less than 1,100 feet[4]. The remaining bridge spans would include piers both in the Patapsco River and on both the approaches over land. In addition to the main piers, there would be pier protections around all piers within the Pier Protection Limit based on NOAA Chart 12281.

The new typical section for the bridge and approaches would meet the design guidelines outlined in the AASHTO *A Policy on Geometric Design of Highways and Streets* (7th Edition published in 2018) for lane and shoulder widths and would include two 12-foot-wide lanes in each direction with 10-foot-wide outside shoulders and 4-foot-wide inside shoulders.

The Project will consider a different bridge type than the original Key Bridge to support the increased main span length. A bridge that accommodates the increased air draft and main span length could be approximately 500 to 550 feet tall at the main towers. Refer to **Table 1** below for a comparison between the Key Bridge and the proposed replacement bridge.

Table 1: Structural Comparison between the Key Bridge and Replacement Bridge

	Approx Structure Height (feet)	Vertical Clearance (feet)	Main Span Length (feet)	Total Bridge Length (miles)	Number of Travel Lanes	Lane Width (feet)	Outside Shoulder Width (feet)	Inside Shoulder Width (feet)	Profile/ Grade on Both Sides of the Main Channel
Key Bridge	358	185	1,200	1.7	4	12	2	0	4%
Replacement Bridge (Approximate)	500-550	230	1,400	2.4[1]	4	12	10	4	4%
Total Change	142-192	45	200	0.7	0	0	8	4	0

[1]*Note: The total proposed bridge length will be determined in final design. For the purposes of this JPA, the proposed length includes the full limits where the profile elevation would change.*

ATTACHMENT B: PROJECT LOCATION MAP

Figure 1 – Project Location Map

ATTACHMENT C: IMPACT PLATES

Potential Limits of Disturbance
Potential Temporary Pile Area
Proposed Bridge Area
Navigation Channel Boundaries
MHW Line
Streams
Wetlands
25ft Wetland Buffer
Property Parcels

MDTA Maryland Transportation Authority

MDOT MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024

- Potential Limits of Disturbance
- Potential Temporary Pile Area
- Proposed Bridge Area
- Navigation Channel Boundaries
- MHW Line
- Streams
- Wetlands
- 25ft Wetland Buffer
- Property Parcels

MDTA Maryland Transportation Authority

U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

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June 2024

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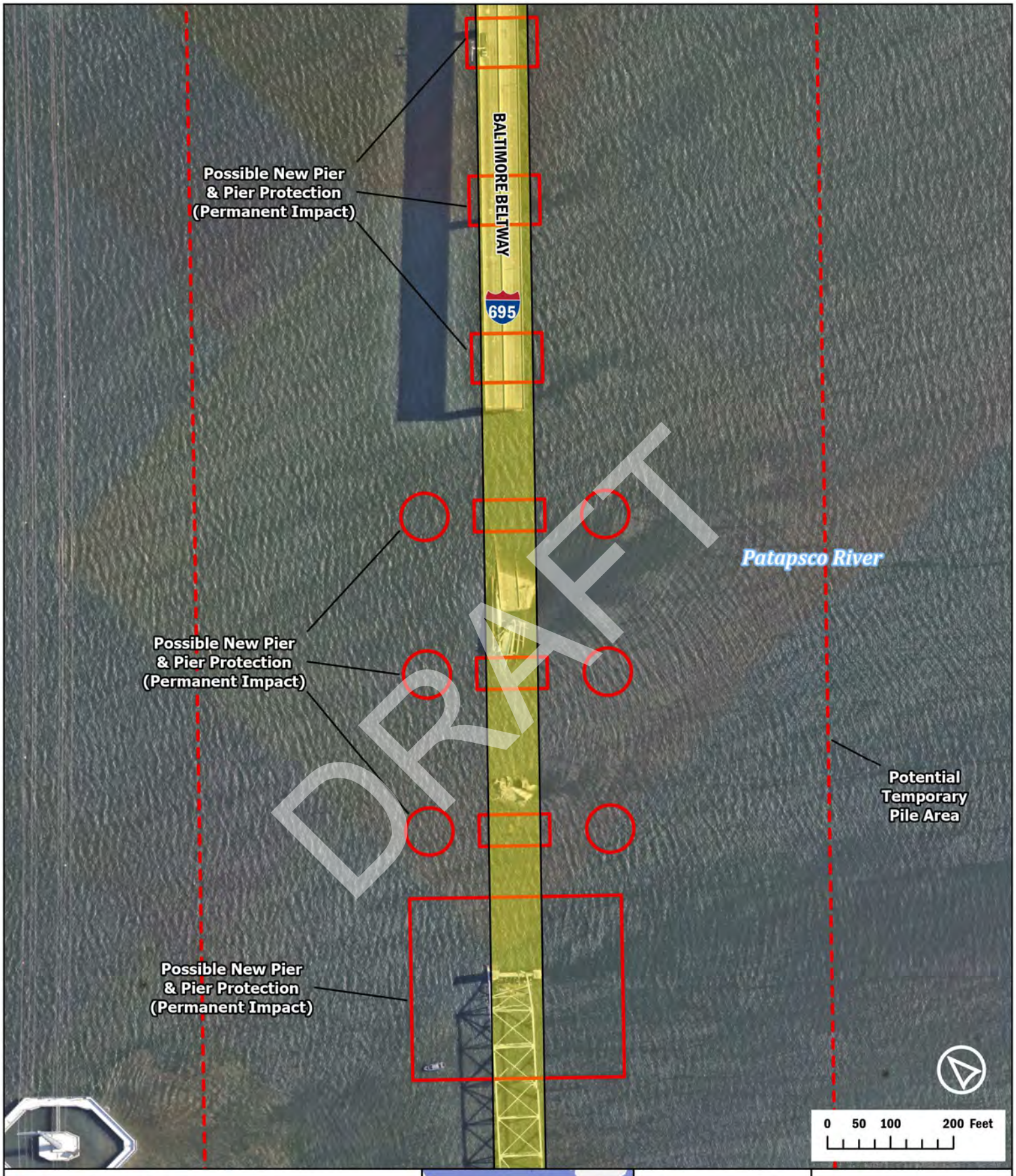
MDTA Maryland Transportation Authority

MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024



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MDTA Maryland Transportation Authority

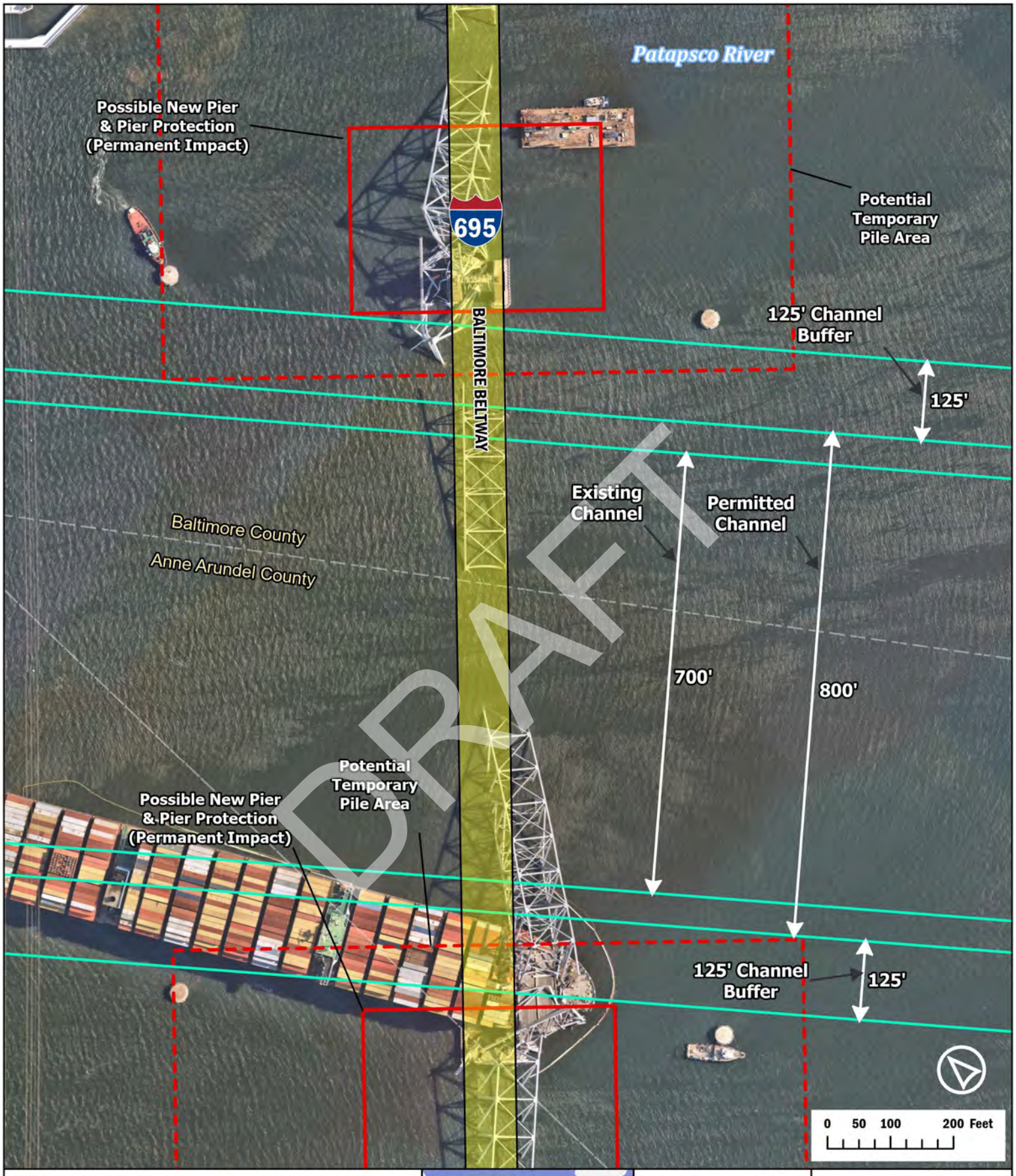
U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024



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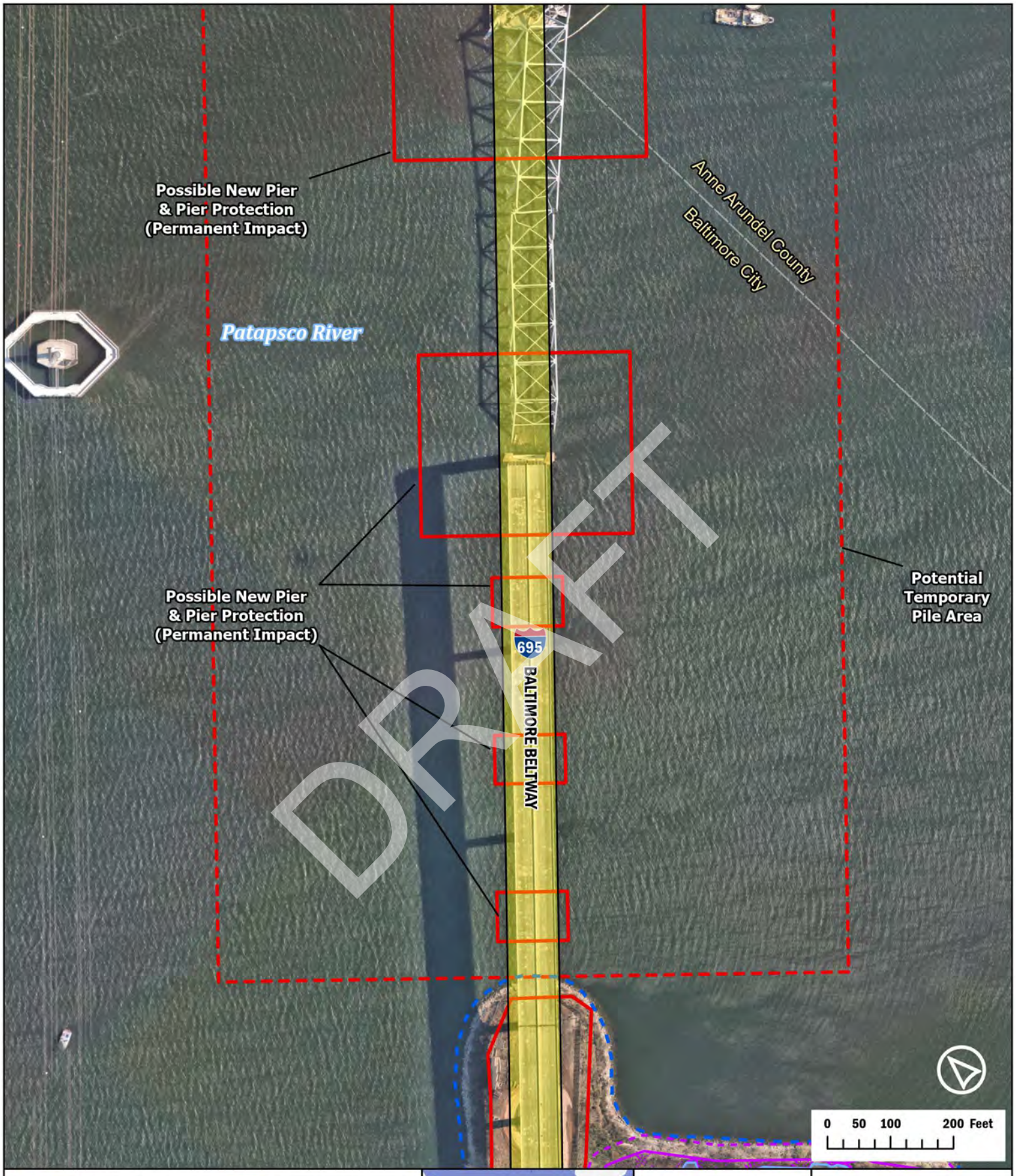
U.S. Department of Transportation Federal Highway Administration
MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024



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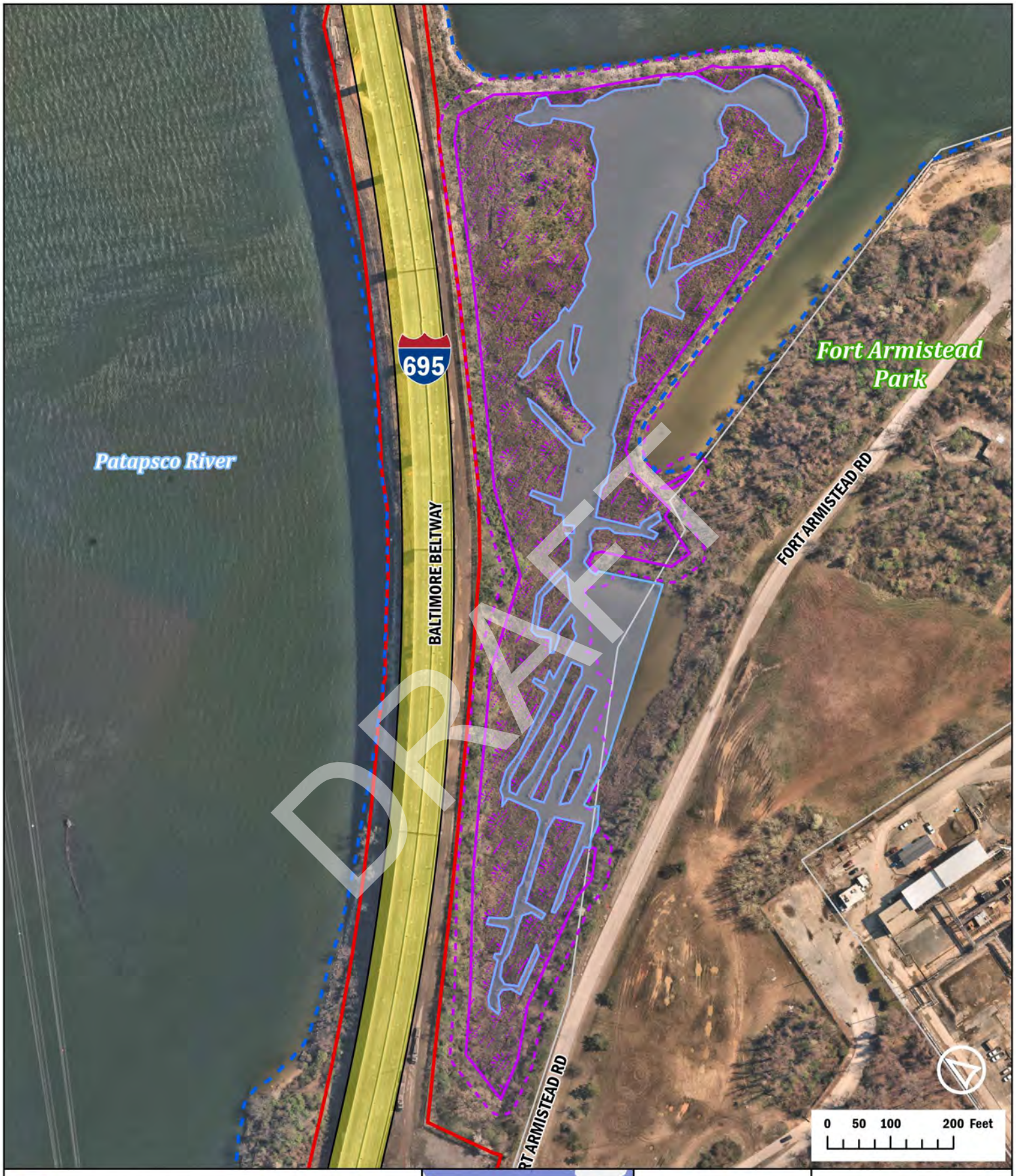
MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024



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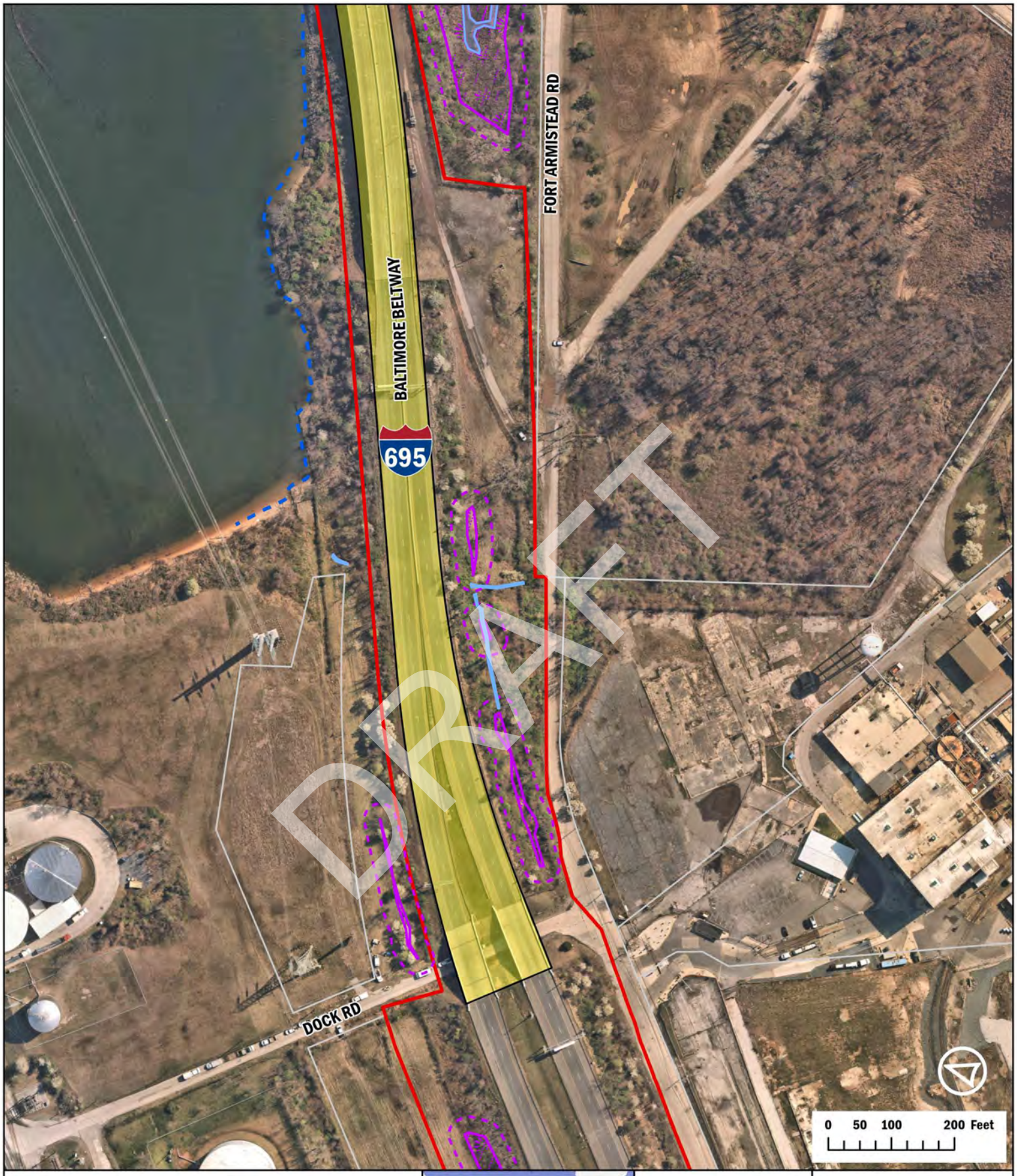
June 2024



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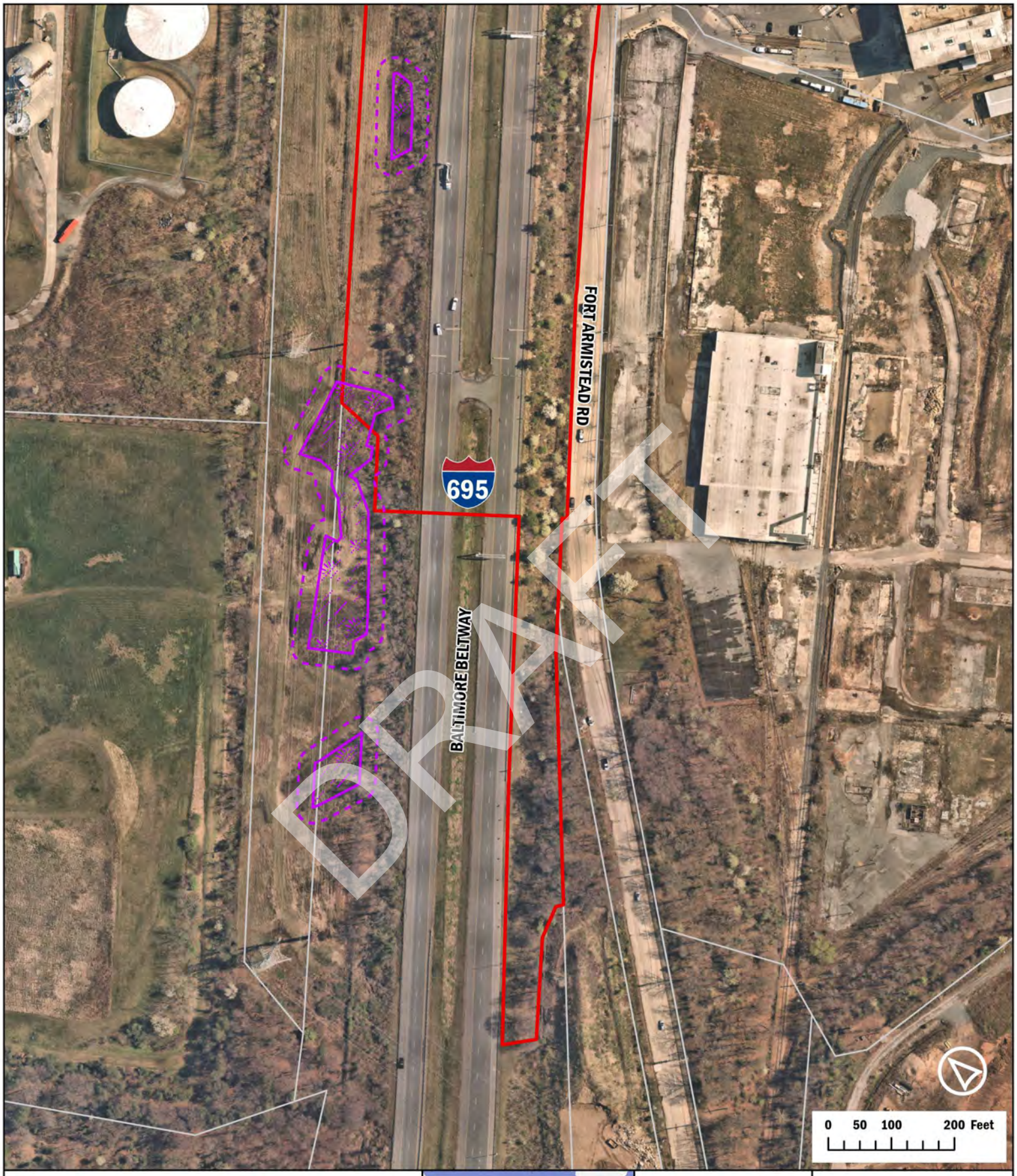
June 2024



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MDTA Maryland Transportation Authority

U.S. Department of Transportation Federal Highway Administration

MDOT Maryland Department of Transportation State Highway Administration

Francis Scott Key Bridge Rebuild Project

Impact Plates

June 2024

ATTACHMENT D: SECTION 106 CONSULTATION AND PROGRAMMATIC AGREEMENT

May 16, 2024

Ms. Elizabeth Hughes
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place
Crownsville MD 21032-2023

Dear Ms. Hughes:

Introduction and Project Description

On behalf of the Federal Highway Administration (FHWA) and in accordance with the Programmatic Agreement (PA) Implementing Section 106 of the National Historic Preservation Act for FHWA Undertakings in Maryland (Section 106 PA), this letter serves to inform the Maryland Historical Trust (MHT) of the Maryland Department of Transportation State Highway Administration's (SHA) proposed Project to rebuild the Maryland Transportation Authority's Francis Scott Key Bridge carrying I-695 over the Patapsco River. SHA seeks to establish the Area of Potential Effects (APE) and to provide information about historic properties identification within the APE.

On March 26, 2024, the MDTA Francis Scott Key Bridge (Key Bridge), which carries I-695 over the Patapsco River, was struck by a cargo ship leaving the Port of Baltimore, resulting in the collapse of the bridge. The collapse prompted the immediate closure of I-695 between MD 173 (exit 1) and MD 157/Peninsula Expressway (exit 43) and halted vehicle traffic across the Patapsco River as well as marine shipping to and from the Port of Baltimore. Following the incident, Executive Order 01.01.2024.09 was released by the State of Maryland, declaring a State of Emergency as a result of the Key Bridge collapse. Immediate recovery and debris removal actions were conducted.

MDTA and SHA are now proposing to replace the collapsed Francis Scott Key Bridge in the same location as the original structure. The Project is in portions of Baltimore City, Baltimore County, and Anne Arundel County, Maryland. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the old structure will be removed to clear the on-alignment location of the new structure. This would likely involve fully removing the on-land piers and removing the remaining in-water piers to near or below the river bottom (mud line).

The Project includes construction of a replacement bridge that would restore transportation connectivity; incorporate design upgrades that meet current standards and conditions that have changed since construction of the original bridge in 1977; and accommodate existing and future ship navigation on the Patapsco River and into the Port of Baltimore. As the proposed Project is a replacement of the collapsed bridge, the location of the Project would be the same as the old structure and remain within the existing ROW, following the existing centerline across the Patapsco River and the approaches along I-695. The new bridge would have four travel lanes, maintaining the capacity of the former bridge.

The Project proposes several design changes to be incorporated into the replacement bridge to account for advancements in design standards and changes in existing conditions since the original bridge was constructed. A bridge type will be developed that could support a longer main span and higher air draft clearance; and this will likely involve support towers which could be taller than the old bridge to as much as 500-550 feet above the water. The replacement bridge would have a 230-foot minimum air draft and a clear span of 1,200 feet at full air draft along the main span to provide additional overhead clearance for large vessels traveling under the bridge. Considering a change in air draft and clear span, the Project also proposes an increased length to 1,400 feet along the main span with additional piers, increasing the bridge to 2.4 miles in total length with a 4% profile to match the existing alignment and approaches. The new typical section for the Project would meet the design specifications for lanes and shoulders outlined in the American Association of Highway and Transportation Officials (AASHTO) *A Policy on Design Standards – Interstate System* (May 2016) and would include two 12-foot-wide lanes and 10-foot/4-foot-wide shoulders.

The project includes obtaining federal permits from United States Coast Guard (USCG) US Army Corps of Engineers (USACE). On May 2, 2024, FHWA sent an email to the USCG and the USACE, proposing to assume the role of Lead Federal Agency, in accordance with 36 CFR 800.2(a)(2), to fulfill collective federal agency responsibilities under Section 106. USCG and USACE responded on May 13 and 14, 2024, respectively, concurring with FHWA taking this role.

A location map is included as Attachment 1.

Funding

Federal funds are anticipated for this project.

Area of Potential Effects

In determining the Area of Potential Effects (APE) for this project, SHA considered possible visual, audible, atmospheric and/or physical impacts to historic properties, both archaeological sites and architectural resources, which would diminish the integrity of any characteristics that would qualify a property for the National Register of Historic Places (NRHP). The area along the Patapsco River is characterized as an industrial shipping port. The previous steel arch continuous through truss bridge was visually prominent along the Patapsco River to the north and south of the bridge. While the bridge was also visible farther inland, it was less prominent amidst other dominant commercial and industrial buildings and structures comprising the Baltimore skyline. The proposed new bridge will be taller and likely a different bridge type, but will not substantially alter the viewshed along the Patapsco River and does not have the potential to affect historic properties beyond the Patapsco River shoreline. The APE, therefore, is confined to parcels along the Patapsco River shoreline, west to Fort McHenry and east to Fort Smallwood Park, as well parcels directly adjacent to MDTA ROW along I-695 (Attachment 2a-d). The archaeological survey area is defined as the limits of construction disturbance within MDTA ROW from its intersection with Broening Highway to the north and the Quarantine Road intersection to the south.

Proposed Identification Methods and Results

Architecture: There are eight architectural historic properties in the APE.

Resource Name	MIHP No.	NRHP Status
Fort McHenry National Monument & Historic Shrine	B-8	Listed, October 15, 1966
Baltimore Harbor Tunnel	B-5333	Eligible, 2021
Canton Grain Elevator	B-985	Eligible, 2019
Baltimore Municipal Airport, Harbor Field	B-3603	Eligible, 1992
Baltimore Municipal Airport Air Station	B-2094	Eligible, 1994
Turner's Station African American Survey District	BA-3056	Eligible, 2019
Sparrow's Point Shipyard District	BA-3208	Eligible, 2006
Fort Carroll	BA-451	Eligible, 2006
Fort Smallwood Park	AA-898	Eligible, 2013

Additional MIHP resources are associated with these historic properties as contributing/non-contributing resources. A-897 and A-897A, as well as A-898A through A-898I, are associated with Fort Smallwood Park. Likewise, BA-3208-1 through BA-328-5 are associated with Sparrow's Point Shipyard District.

Center Street, 114 (DOE-BA-0042); Avondale Road, 202 (DOE-BA-0015); Carver Road, 105 (DOE-BA-0040); and Fleming Community Center (DOE-BA-0083) were individually evaluated and determined not eligible for the NRHP in the 1990s, before Turner's Station African American Historic District was determined NRHP eligible. All resources except 114 Center Street are contributing resources in the district.

As outlined above, notable effects would be confined to those properties immediately adjacent to the work and/or within limits of disturbance for construction of the new bridge. SHA has determined there is limited potential for other types of effects, in consideration of the prior modern bridge structure. The new structure will be on the same alignment as the prior bridge, but is anticipated to be of increased height, and will likely be a different bridge type than the prior bridge. The prior bridge was visible in whole or in part from a great number of locations in dense, urban Baltimore City and surrounding areas. The replacement bridge will have slightly increased visibility. However, historic properties effects resulting from these changes would be limited to those properties where the differences between the prior bridge and the replacement bridge would be integral to the character, experience or integrity of the historic property.

Given this narrow potential for effects, SHA proposes architectural inventory and evaluation efforts under 36 CFR 800.4(a) consisting of NHRP evaluation of: 1) parcels immediately adjacent to MDTA ROW and project limits and 2) MIHP resources within the APE. Since all MIHP resources within the APE have an NRHP evaluation, resources requiring evaluation include the following:

Unrecorded Architectural Resources
6001 Dock Road
3901 Fort Armistead Road
3925 Fort Armistead Road
Fort Armistead Park
BG&E parcels (Tax Map 110, Parcels 3, 26, 27, and 58)
Francis Scott Key Bridge Administrative Building

The APE also includes four metal girder bridges along I-695: BCZ496061 (1975); BCZ496051 (1975); BCZ492061 (1972); and BCZ492051 (1979). Metal girder bridges are not eligible for the NRHP under the Advisory Council on Historic Preservation Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges (Federal Register Vol. 77, No. 222) and do not require NRHP evaluation.

Archaeology: There are no recorded archaeological historic properties within the archaeology survey area.

There is minimal potential for terrestrial archaeological historic properties within the archaeological survey area. The terrestrial portion of the archaeological survey area has not been subjected to Phase I archaeological survey. A review of soil data, historic topographic maps, and twentieth-century aerial photographs demonstrates that the entirety of the terrestrial archaeological survey area is located on made land and fill with minimal potential to contain archaeological historic properties (USDA-NRCS 2024; USGS 1894, 1946, 1975; HistoricAerials.com 2024). No further terrestrial archaeological work is recommended.

There is also minimal potential for underwater archaeological historic properties. Several prior underwater archaeological surveys have occurred in the archaeological survey area (Koski-Karell, 1979; U.S. Army Corps of Engineers 1992; Pelletier, Williams, and Randolph 2005). There is one archaeological quad file within the archaeology survey area, CURTIS-QF10, the approximate location of a pier at the mouth of Bear Creek, that was recorded based on historical mapping as part of a Phase IA underwater archaeological project ca. 1990. Subsequent underwater archaeological survey in the vicinity of CURTIS-QF10 by Pelletier, William, and Randolph (2005) did not identify evidence of the pier. Additionally, the presence of a dredged channel under the collapsed truss span of the Francis Scott Key Bridge, where recovery efforts are currently focused, suggests no intact, unrecorded resources are likely to be present or affected by the undertaking. No further underwater archaeological work is recommended.

Review Request

FHWA has requested a PA for this project, the scope of which would be commitments to this identification effort, an effects determination following completion of historic properties identification and evaluation, and a process for managing change under the progressive design build project. We request any comments you may have by May 27, 2024 on the APE, that no further archaeological work is necessary, and the scope of identification efforts. Based on the project schedule, SHA will need to execute the PA by July 8, 2024; pending any comments you may have to provide on the content of this letter, we will work with FHWA to provide a draft PA.

We invite, by copy of this letter, the organizations listed in Attachment 3 to provide comments and participate in the Section 106 process. Pursuant to the requirements of the implementing regulations found at 36 CFR Part 800, SHA seeks their assistance in identifying historic preservation issues as they relate to this specific project (see 36 CFR §800.2(c)(3) and (5), and §800.3(f) for information regarding the identification and participation of consulting parties, and §800.4, and §800.5 regarding the identification of historic properties and assessment of effects). For additional information regarding the Section 106 regulations, see the Advisory Council on Historic Preservation's website,

www.achp.gov, or contact SHA or MHT. If no response is received by May 27, 2024, we will assume that these offices decline to participate. Please call Sarah Groesbeck at 410-545-0038 (or email sgroesbeck@mdot.maryland.gov) or myself with questions regarding this project.

Sincerely,

Steve Archer
Assistant Division Chief
Environmental Planning Division

Attachments

cc: Mr. Alex Bienko, Environmental Specialist, MD Division, FHWA
Mr. David Clarke, Federal Preservation Officer, FHWA
Ms. Donna Buscemi, Deputy Director, OPPE, SHA
Ms. Sarah Groesbeck, Architectural Historian, OPPE-EPLD, SHA
Ms. Heather Lowe, Planning and Community Relations Manager, MDTA
Mr. Ray Moravec, Director, OPPE, SHA
Ms. Sushmita Sarkar, Environmental Manager, OPPE-EPLD, SHA
Ms. Melissa Williams, Director, Planning & Program Development, MDTA

Project Limits

MDTA Maryland Transportation Authority

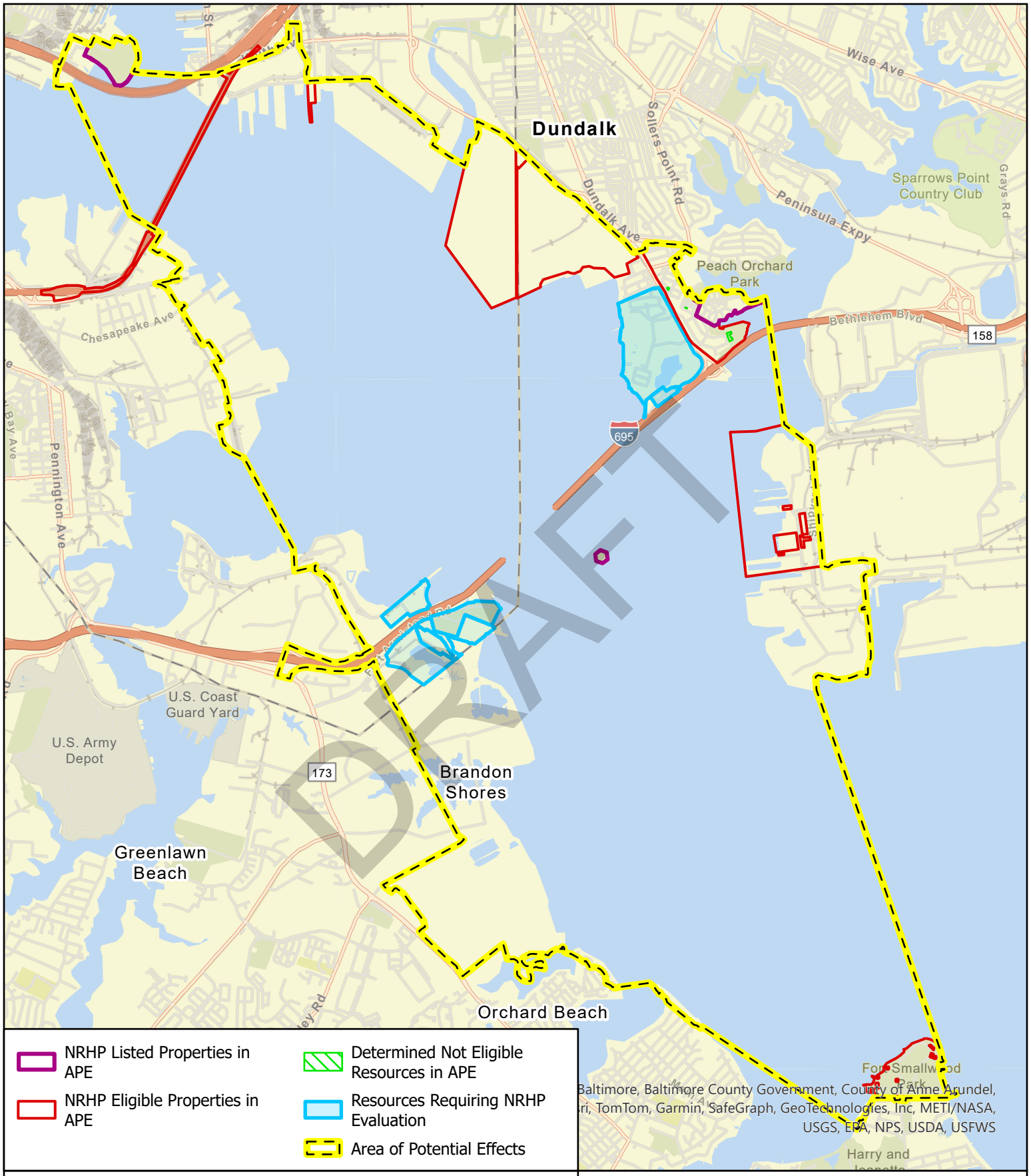
U.S. Department of Transportation Federal Highway Administration

0 1,000 2,000 4,000 Feet

Francis Scott Key Bridge Rebuild Project

Project Location

Attachment 2a: Area of Potential Effects Map



I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.5 1 2 Miles

Scale: 1:55,000 May 15, 2024

N

Attachment 2b: Area of Potential Effects Map

I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

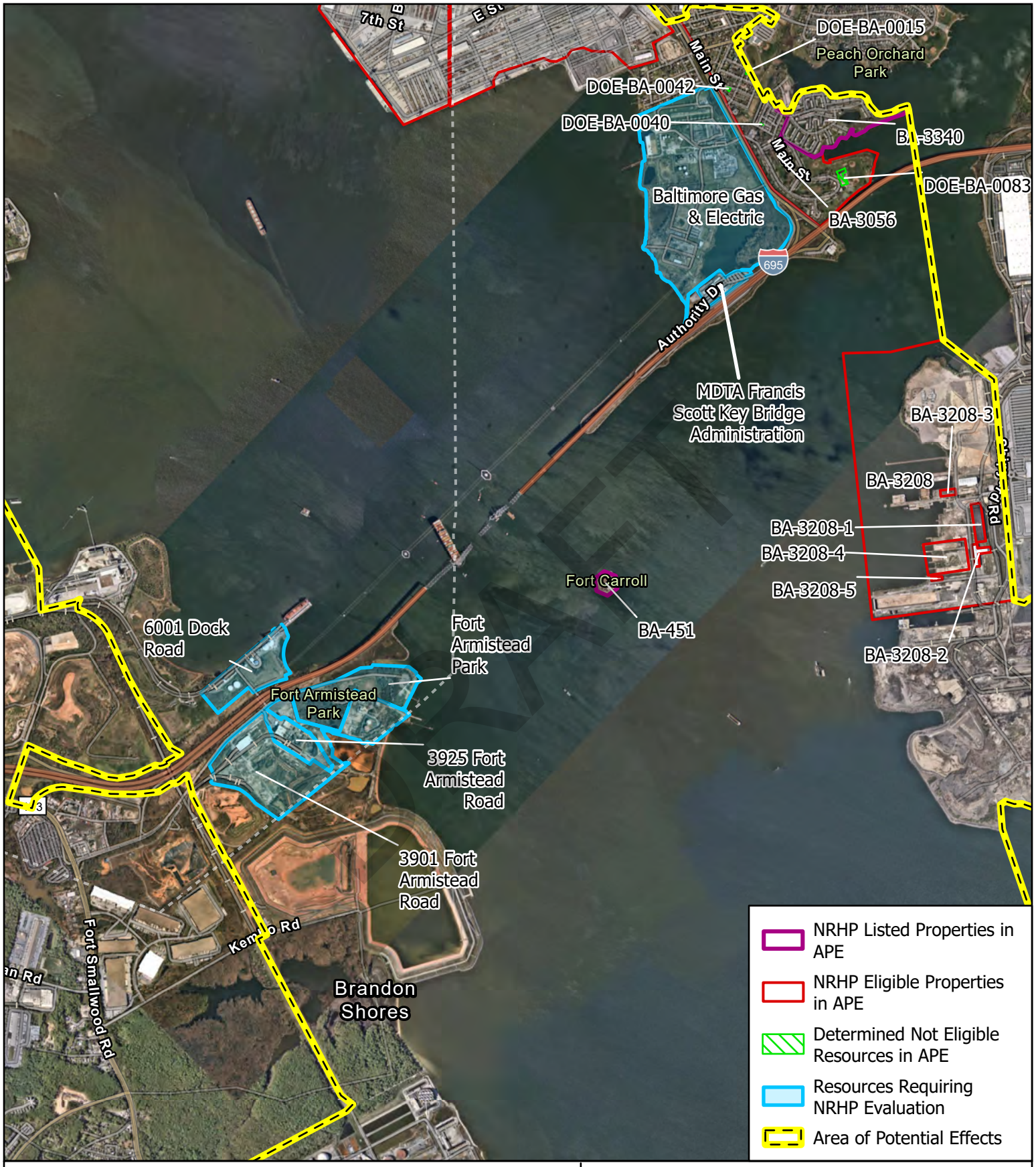
0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: City of Baltimore, Baltimore County Government, County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 2c: Area of Potential Effects Map



I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: Baltimore County Government, County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 2d: Area of Potential Effects Map

I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 3

Francis Scott Key Bridge Rebuild

Consulting Parties

Organization	Contact Person	Email
Advisory Council on Historic Preservation	Mandy Ranslow	mranslow@achp.gov
Anne Arundel County Department of Recreation and Parks	Erica Matthews	rpjack50@aacounty.org
Anne Arundel Co. Office of Environmental & Cultural Resources	Darian Beverungen	PZBeve19@aacounty.org
Anne Arundel County Office of Transportation	Samuel Snead	trsnea19@aacounty.org
Anne Arundel County Trust for Preservation	Patricia Melville	actforpreservation@gmail.com
Baltimore City Commission for Historical and Architectural Preservation	Eric Holcomb	eric.holcomb@baltimorecity.gov
Baltimore City Department of Planning	Chris Ryer	Chris.Ryer@baltimorecity.gov
Baltimore City Department of Transportation	Corren Johnson	Corren.Johnson@baltimorecity.gov;
Baltimore Heritage	Johns Hopkins	hopkins@baltimoreheritage.org
Baltimore National Heritage Area	Shauntee Daniels	sdaniels@baltimoreheritagearea.org
Baltimore County Landmarks Preservation Commission	Caitlin Merritt	cmerritt@baltimorecountymd.gov
Baltimore County Traffic Engineering and Transportation Planning	Angelica Daniel	adaniel@baltimorecountymd.gov
Fort McHenry National Monument and Historic Shrine	Robert Stewart	robert_stewart@nps.gov
Friends of Fort McHenry	Melanie Santiago-Mosier	info@friendsoffortmchenry.org
Maryland Commission on Indian Affairs	Keith Colston	keith.colston@maryland.gov
Maryland Port Authority	Amanda Pañafiel	apenafiel@marylandports.com
National Park Service Northeast Region	Mark Eberle	mark_eberle@nps.gov
Preservation Alliance of Baltimore County, Inc.	Anne Gryczon	Director@PreservationABC.org
Preservation Maryland	Nicolas Redding	nredding@presmd.org
Turner Station Conservation Team	Gloria Nelson	glorianelson8@verizon.net
United States Army Corps of Engineers	Hal R. Pitts	hal.r.pitts@uscg.mil
United States Coast Guard	Joseph DeVia	joseph.davia@usace.army.mil

Attachment 3

MD State Recognized Tribes

Cedarville Band of Piscataway	Natalie Standing-on-the-Rock Proctor	piscatawayindians@gmail.com

Federally Recognized Tribes

Absentee-Shawnee Tribe of Oklahoma	Devon Frazier	dfrazier@astribe.com
Delaware Nation	Katelyn Lucas	klucas@delawarenation-nsn.gov
Delaware Tribe of Indians	Susan Bachor	sbachor@delawaretribe.org
Eastern Shawnee	Lora Nuckolls	thpo@estoo.net
Oneida Indian Nation	Jesse Bergevin	jbergevin@oneida-nation.org
Onondaga Nation	Anthony Gonyea	ononcomm@gmail.com
Pamunkey Indian Tribe	Shaleigh Howells	Shaleigh.howells@pamunkey.org
St. Regis Mohawk	Darren Bonaparte	darren.bonaparte@srmt-nsn.gov
Seneca-Cayuga	William Tarrant	wtarrant@sctribe.com
Shawnee Tribe	Tonya Tipton	tonya@shawnee-tribe.com
Tuscarora Nation	Bryan Printup	bprintup@hetf.org

May 16, 2024

Steve Archer
Assistant Division Chief, Environmental Planning Division
Maryland Department of Transportation State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202

Re: MDTA Francis Scott Key Bridge
I-695 over the Patapsco River
Initiation of Section 106 Review
Baltimore City, Anne Arundel County and Baltimore County, Maryland

Dear Mr. Archer,

Thank you contacting the Maryland Historical Trust (MHT), a division of the Maryland Department of Planning, on behalf of the Federal Highway Administration (FHWA) to initiate the Section 106 review process for the above-referenced project. We look forward to working with your agency and other involved parties to successfully complete the preservation requirements for the proposed undertaking.

Based on our review of your letter and the information presented at recent Interagency Review Meetings, we understand that Maryland Department of Transportation State Highway Administration (SHA) proposes to replace the Maryland Transportation Authority's (MDTA) Francis Scott Key Bridge in the same location as the original structure. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the collapsed structure will be removed to clear the on-alignment location of the new structure.

Your letter seeks to initiate the Section 106 process for this undertaking, establish an Area of Potential Effects (APE) for the project, and determine the scope of cultural resources identification efforts. MHT concurs with MDTA/SHA's defined APE for cultural resources, as illustrated in Attachment 2 of your submittal. We recognize that MDTA/SHA may make further refinements to its APE as planning proceeds - based on the addition of ancillary actions or other design modifications.

As you are aware, considerable information already exists regarding identified historic and archaeological resources within this large study area. The table provided with your letter includes most of the known historic properties within the APE, however, we request that you add the National Register-listed Day Village Historic District (MIHP No. BA-3340) to your inventory of existing cultural resources. MHT agrees with MDTA/SHA's historic property investigation methodology for unrecorded architectural resources that consists of the National Register evaluation of parcels immediately adjacent to MDTA ROW and project limits. These resources include: 6001 Dock Road, 3901 Fort Armistead Road, 3925 Fort Armistead Road, Fort Armistead Park, BG&E property (Tax Map 110, Parcels 3, 26, 27, and 58), and the Francis Scott Key Bridge Administrative Building.

Previous studies and current recovery efforts suggest that there is minimal potential for terrestrial and underwater archaeological historic properties within the archaeological study area. Therefore, MHT agrees with MDTA/SHA's recommendation for no further archaeological work at this stage in project planning. Once MDTA/SHA has developed more detailed design and construction plans, it will need to reassess whether further cultural resources investigations are warranted, in consultation with MHT, particularly for any staging areas, anchorages, and other related ancillary actions.

We agree with the list of potential consulting parties for this undertaking, presented in Attachment 3 of your letter. As the Section 106 coordination and public outreach efforts progress, additional relevant parties may be identified and invited to participate in the consultation.

Finally, MHT acknowledges the need to execute a Programmatic Agreement (PA) for this undertaking that will memorialize MDTA/SHA's commitments to 1) complete the identification of historic properties, 2) make an effects determination following the evaluation of historic properties within the APE, and 3) create a process for ongoing consultation and managing changes under this progressive design build project. MHT is committed to working with MDTA/SHA, FHWA, and other involved parties to successfully execute and implement the PA to meet the project's schedule deadlines.

Thank you for initiating consultation with MHT early in project planning for this undertaking. If you have questions or require any assistance, please contact Beth Cole (for archaeology) at beth.cole@maryland.gov or Tim Tamburrino (for the historic built environment) at tim.tamburrino@maryland.gov.

Sincerely,

Elizabeth Hughes
Director/State Historic Preservation Officer

EH/BC/TJT/202402473

May 31, 2024

Mr. Alexnader Bienko
Environmental Specialist
Federal Highway Administration
Maryland Division
31 Hopkins Plaza, Suite 1520
Baltimore, MD 21201

Ref: *Rebuilding the Francis Scott Key Bridge over the Patapsco River*
Baltimore, Anne Arundel and Baltimore Counties, Maryland
ACHP Project Number: 020962

Dear Mr. Bienko:

On May 16, 2024, the Advisory Council on Historic Preservation (ACHP) appreciates receiving your notification and supporting documentation regarding the initiation of Section 106 consultation regarding the referenced undertaking. Based upon the information you provided, we have concluded, pursuant to 36 CFR § 800.2(b)(1), of the regulations, "Protection of Historic Properties" (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, that our participation may be premature.

The Federal Highway Administration (FHWA) should continue consultation with the Maryland State Historic Preservation Officer, Indian tribes and other consulting parties, as appropriate, to develop a Section 106 agreement document (Agreement) stipulating how historic properties identification and the assessment of effects will be completed. The ACHP is available to offer technical assistance and would appreciate receiving updates as the Section 106 review continues.

If you have any questions or require our further assistance at this time, please contact me at (202) 517-0214 or by e-mail at rmangum@achp.gov and reference the ACHP Project Number above.

Sincerely,

Rachael Mangum

Rachael Mangum
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration (FHWA) plans to approve the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement (The Project), administered by the Maryland Department of Transportation State Highway Administration (SHA) and the Maryland Transportation Authority (MDTA); and

WHEREAS, on March 26, 2024 the MDTA Francis Scott Key Bridge, which carries I-695 over the Patapsco River, was struck by a cargo ship leaving the Port of Baltimore, resulting in the collapse of the bridge, impairing essential traffic. Following the incident, Executive Order 01.01.2024.09 was released by the State of Maryland, declaring a State of Emergency as a result of the Key Bridge collapse.

WHEREAS, The Project consists of construction of a replacement bridge in the same location, following the existing centerline, and within existing right-of-way, while incorporating design upgrades that meet current standards and conditions, as described in detail in Attachment 4; and.

WHEREAS, FHWA has determined that the Project is an undertaking, as defined in 36 C.F.R. §800.16(y), and thus is subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800 as amended; and

WHEREAS, SHA and MDTA intend to deliver the Project using a progressive design-build delivery method; and

WHEREAS, the Project may be implemented in construction phases, yet to be fully defined, and although this Programmatic Agreement (PA) reflects evaluation of the entire defined Project, certain commitments may require phased implementation; and

WHEREAS, pursuant to Section 9 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 and 403) and the General Bridge Act of 1946, a Coast Guard Bridge Permit will likely be required from the United States Coast Guard (USCG) for this Project, and pursuant to Section 10 of the Rivers and Harbors 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 will likely be required from the United States Army Corps of Engineers (USACE) for this Project; and

WHEREAS, the USACE and USCG have agreed FHWA is the lead federal agency for purposes of ensuring that the Project complies with Section 106 of the NHPA, as amended, and codified in its implementing regulations, 36 C.F.R. Part 800, as amended (August 5, 2004) and have agreed to participate in this PA as consulting parties; and

WHEREAS, federal agencies which, at FHWA's invitation, designate FHWA as the lead federal agency for the Project may use this PA to fulfill their obligations under Section 106 of the NHPA according to 36 C.F.R. 800.2(a)(2), without the need for amendment of this PA, provided that FHWA follows the requirements of this PA; and

WHEREAS, SHA, on behalf of FHWA, has established the Area of Potential Effects (APE) for the project in consultation with the Maryland State Historic Preservation Office (MD SHPO), encompassing the corridor project limits as described above, including areas of direct limits of disturbance, inclusive of all project elements with the potential to affect historic properties, and a sufficient buffer for visual effects where they may be likely to occur; the detailed map of the APE is provided in Attachment 4; and

WHEREAS, FHWA, in consultation with MD SHPO, identified ten (10) historic properties that are listed in, or eligible for inclusion in the National Register of Historic Places (NRHP): Fort McHenry National Monument & Historic Shrine (Maryland Inventory of Historic Places [MIHP] B-8); Baltimore Harbor Tunnel (MIHP B-5333); Canton Grain Elevator (MIHP B-985); Baltimore Municipal Airport, Harbor Field (MIHP B-3603); Baltimore Municipal Airport Air Station (MIHP B-2094); Turner's Station African American Survey District (MIHP BA-3056); Sparrow's Point Shipyard District (MIHP BA-3208); Day Village Historic District (MIHP No. BA-3340); Fort Carroll (MIHP BA-451); and Fort Smallwood Park (MIHP AA-898);
and

WHEREAS, FHWA has identified six (6) architectural resources requiring NRHP evaluation, as shown in Attachment 4: 6001 Dock Road; 3901 Fort Armistead Road; 3925 Fort Armistead Road; Fort Armistead Park; BG&E Parcels (Tax Map 110, Parcels 3, 26, 27, and 58); and MDTA's Francis Scott Key Bridge Administration Building; and

WHEREAS, FHWA has elected to phase the identification, evaluation, and effects assessment of certain portions of the APE and historic properties where timing, unavailability of access or design information precluded such identification, evaluation and assessment, as provided in 36 C.F.R. 800.4(b)(2), and 36 C.F.R. 800.5(a)(3); and

WHEREAS, FHWA will ensure additional identification, evaluation, and assessment is completed in a timely manner prior to final design and construction, to allow for meaningful consultation and practical opportunities to avoid, minimize, or mitigate for any potential adverse effects to historic properties; and

WHEREAS, FHWA has initiated consultation pursuant to 36 C.F.R. 800.3(c) with the MD SHPO by letter on May 16, 2024; SHA on behalf of FHWA will continue to consult with MD SHPO and consulting parties under the terms of this PA in order to identify historic properties, assess the

effects of the Project on historic properties, and, if necessary, resolve adverse effects to historic properties; and

WHEREAS, FHWA, pursuant to 36 C.F.R. 800.6(a)(1)(i)(C), on May 16, 2024, initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP), and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. 800.6(a)(1)(iii); and

WHEREAS, FHWA, ACHP, SHA, MDTA and the MD SHPO, under the *Amended Programmatic Agreement Among the Federal Highway Administration, the Maryland Department of Transportation State Highway Administration, the Advisory Council on Historic Preservation, the Maryland State Historic Preservation Officer, Implementing Section 106 of the National Historic Preservation Act for the Federal-aid Highway Program in Maryland* ("Statewide PA"), linked in Attachment 2, have agreed to delegate certain authorities relating to Section 106 of the NHPA to SHA and MDTA for Federal-aid Highway Projects in Maryland; and

WHEREAS, SHA, pursuant to the Statewide PA, employs professionals meeting the Secretary of the Interior's Professional Qualifications Standards (48 Fed. Reg. 44738-39, September 29, 1983) with experience and background in the fields of archaeology, architectural history and/or history who will oversee implementation of stipulations in this PA; and

WHEREAS, SHA and MDTA, on behalf of FHWA, pursuant to 36 C.F.R. 800.4(a)(1), has established the APE for the Project in consultation with the MD SHPO, and, per 36 C.F.R 800.4(b) in consultation with MD SHPO proposed a scope of effort to identify historic properties within the APE, and offered Federally-recognized Native American Tribal Nations (Tribes) an opportunity to provide input on this scope of effort; and

WHEREAS, SHA, MDTA and FHWA, pursuant to 36 C.F.R 800.2(d) have sought and considered the views of the public regarding the Project's effects on historic properties by providing notice to the public via the project website, and in stakeholder public meetings on June 11, 2024; and

WHEREAS, SHA and MDTA, during the course of consultation, have invited the parties listed in Attachment 4 to participate in consultation on the Project; and

WHEREAS, SHA, MDTA and FHWA, have initiated consultation with Tribes listed in Attachment 4 and provided the Tribes with information about the Project. SHA, on behalf of FHWA, has invited the same Tribes to be consulting parties, as shown in Attachment 4; and

WHEREAS, FHWA, SHA and MDTA have determined archaeological properties are unlikely to be affected by the Project based on information available at the time of execution of the PA; and

WHEREAS, no historic properties exist within the expected limits of disturbance of the project, and no physical effects to historic properties are likely to occur based on information available at the time of execution of this PA; and

WHEREAS, FHWA has invited SHA and MDTA to be invited Signatories to this PA, based on their responsibilities for implementation of its terms, and all Signatories, required and invited, are

referred to as "Signatories" to this document; and.

WHEREAS, FHWA intends to use this PA to comply with 36 C.F.R. Part 800, 54 U.S.C. § 100902, 36 C.F.R. Part 14 and to govern the implementation of the Project and the identification and resolution of any adverse effects.

NOW, THEREFORE, FHWA, SHA, MDTA and MD SHPO, (hereinafter "Signatories") agree that the Project will be implemented in accordance with the following Stipulations in order to take into account the effect of the Project on historic properties and that these Stipulations will govern compliance of the Project with Section 106 of the NHPA until this PA expires or is terminated.

Stipulations

I. Roles and Responsibilities

A. FHWA is the lead federal agency and is responsible for ensuring the terms of this PA are carried out.

B. SHA and MDTA are delegated authority by FHWA under this PA and the Statewide PA to continue defined aspects of consultation, project compliance review, and implementation of this PA's terms. SHA and MDTA will jointly be responsible for implementation of this PA excepting where otherwise specified. Additionally:

1. MDTA and/or SHA, using FHWA funding in whole or in part, will enter into an agreement or agreements with a design-build contractor to design and build the Project, using a progressive design-build model. MDTA, in its administrative role with the contractor, will coordinate with and provide SHA all information necessary, and exercise oversight of the contractor to ensure compliance with this PA and its implementation. MDTA and SHA will work informally to resolve any disagreement, but will follow Stipulation X of the PA if resolution is not reached informally. SHA and MDTA may not delegate consultation obligations or other responsibilities related to Section 106 consultation specified in this PA to the design-builder.
2. SHA, on behalf of MDTA and FHWA, will consult with MD SHPO for actions under this PA and 36 C.F.R. 800.

C. SHPO: The MD SHPO has jurisdiction as established in the NHPA for historic properties in Maryland. MD SHPO will:

1. Respond to requests from SHA for concurrence on eligibility determinations, effect determinations, and technical documents within a 30-day review period unless otherwise specified in this PA, or SHA specifically provides for an extended review period at the time of submittal. SHA and FHWA may assume concurrence or no objection to determinations and submittals if no response is received within 30 days, if no extended timeline is specifically

established in the review request or if no timeline is specified in 36 C.F.R. 800. All durations referenced in this PA refer to calendar days.

2. Provide written comments, share general technical assistance/guidance, and make available survey records or other documents necessary to fulfill the requirements of this PA to SHA or its designates.

D. Consulting Parties/Public

1. SHA has consulted with or provided the opportunity to consult to the parties listed in Attachment 4 prior to finalizing this PA.

2. SHA will provide consulting parties who have elected to participate in consultation, regardless of concurring status, with opportunities to consult on Project changes or new elements with the potential to affect historic properties. Consulting parties may sign this PA as concurring parties at any time after execution of the PA with the invitation of SHA or FHWA. Additional consulting parties may be identified at a later time without the need to amend this PA.

3. Concurrence with the PA by a party does not necessarily indicate that the party supports the Project or endorses all stipulations of this PA, but rather indicates the desire of such parties to acknowledge consultation and/or remain involved in implementation of specific terms of this PA.

4. SHA and MDTA will provide for notification of the public for substantial changes to the Project that would result in an expanded APE or new effects to historic properties consistent with 36 CFR 800.8(c)(1)(iv) and procedures under NEPA to ensure ongoing opportunities for public input. As appropriate, this process may identify new consulting parties who may wish to consult at a later time in response to Project refinement.

II. Professional Standards

A. Guidelines, standards and regulations relevant to this PA and its purposes are listed below, and links to these documents are found in Attachment 2. Additionally, it is the intention of the Signatories to interpret this PA to incorporate any subsequent standards, revisions of standards, or applicable guidance issued by the Secretary of the Interior, ACHP, or MD SHPO as then in force during this PA.

1. 36 C.F.R. Part 800: Protection of Historic Properties, as amended (2004);

2. *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (1983);

3. Secretary of the Interior's Professional Qualifications Standards (48 Fed. Reg. 44738-39, September 29, 1983)

4. *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), including *Technical Update No. 1 of the Standards and*

Guidelines for Archaeological Investigations in Maryland: Collections and Conservation Standards (2018);

5. *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust, 2023);

6. Program Comment for Actions Affecting Post-1945 Concrete Steel Bridges (77 FR 68790);

7. *Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System* (ACHP Program Comment, 2005)

8. *Section 106 Archaeology Guidance* (ACHP, 2009)

9. National Register of Historic Places Bulletin 15, *How to Apply the National Register Criteria for Evaluation* (National Park Service revised 1997), National Register of Historic Places Bulletin 16A, *How to Complete the National Register Registration Form* (National Park Service revised 1997), and other National Register Bulletins as applicable

10. Secretary of the Interior's Standards for the Treatment of Historic Properties (1995, Revised 2017); and accompanying guidelines for Treatment of Historic Properties (1995, Revised 2017) and Cultural Landscapes (1996)

III. Historic Properties Identification and Effects Assessment

A. *Historic Properties Identification*. SHA and MDTA commit to evaluating the following properties within the APE for eligibility for the NRHP, in accordance with 36 C.F.R. 800.4(c), including providing eligibility determinations to consulting parties and seeking concurrence from MD SHPO:

- 6001 Dock Road
- 3901 Fort Armistead Road
- 3925 Fort Armistead Road
- Fort Armistead Park
- BG&E parcels (Tax Map 110, Parcels 3, 26, 27, and 58)
- Francis Scott Key Bridge Administrative Building

B. *Effect Determination*. Following the evaluation of the properties specified in Stipulation III.A., and at such time as the following information is available: the limits of approach work, bridge type, bridge height, anchorage locations, and locations of any proposed ancillary staging areas, SHA, on behalf of FHWA, will make a finding of effect in accordance with 36 C.F.R. 800.4(d), and 36 C.F.R. 800.5.

1. Finding of No Properties Affected or No Adverse Effect to Historic Properties. Should SHA, on behalf of FHWA, find that no historic properties are affected by the Project or No Adverse Effect to historic properties will result from the Project, and MD SHPO concurs with the finding, in consideration of the views of any consulting parties, SHA and FHWA will proceed with the project, and follow Stipulations IV-XI.

2. Finding of Adverse Effect. If potential adverse effects to historic properties are identified, SHA, MDTA and FHWA will seek to avoid or minimize adverse effects. If adverse effects cannot be completely avoided, and SHA determines there is an adverse effect to historic properties, SHA, MDTA, and FHWA will develop a mitigation plan in consultation with MD SHPO and appropriate consulting parties, identifying mitigation that is reasonable, feasible, and commensurate with the effects to historic properties. SHA will seek concurrence from MD SHPO on the mitigation plan, and, upon MD SHPO concurrence, will implement the provisions of the plan. FHWA, SHA, and MDTA will amend this PA to incorporate its provisions.

3. If SHPO does not concur with the mitigation plan, FHWA, SHA, and MDTA will consult with MD SHPO and appropriate consulting parties to revise the mitigation plan. If the Signatories cannot reach concurrence on the plan, the parties will follow Stipulation X regarding dispute resolution.

IV. Consultation Regarding Project Development

A. As project design advances or ancillary activities not currently known are identified, SHA will initiate consultation with MD SHPO and other consulting parties, and the public per Stipulation I.E. using the following process:

1. On an ongoing basis, SHA cultural resources staff will review proposed changes that affect project location, design, or limits of disturbance, for potential new effects to historic properties.

2. If SHA determines there is potential for new or changed effects, SHA will notify FHWA and consult as described in Stipulation IV.B below.

B. SHA, on behalf of FHWA, consistent with the principles described in 36 C.F.R. §§ 800.3 – 6, will consult with MD SHPO and other Signatories to this PA, and consulting parties identified for this undertaking as appropriate on:

1. Amendments to the APE, consistent with 36 C.F.R. § 800.16(d), including identification and documentation of any new historic properties within the amended APE consistent with 36 C.F.R § 800.4(a) and (b).

2. Changes to the LOD within the existing APE where any additional archaeological investigation would be recommended, including newly identified staging or stockpile areas outside MDTA right-of-way within the APE.

3. New or revised determinations of eligibility for historic properties within the APE as described above, consistent with 36 C.F.R § 800.4(c).

4. New or revised assessment of effects to historic properties within the APE as described above, consistent with 36 C.F.R § 800.5.

C. SHA will provide consultation materials in written or electronic form, and follow timelines for comment opportunity as specified in Stipulation I.C.1.

V. Monitoring of Performance

A. Specific points for continued consultation are defined in Stipulations III and IV.

B. Should Adverse Effects be identified, and a mitigation plan be developed in accordance with Stipulation III.B.2, the mitigation plan will include a schedule for periodic regular reporting and/or meetings until the commitments of any mitigation plan are completed, or another point in time identified in the plan.

C. SHA and MDTA will convene consulting party meetings as necessitated by project advancement described in Stipulation IV or when requested by any Signatory.

VI. Post-Review Discovery of Human Remains

SHA will follow the attached Inadvertent Discovery Plan (Attachment 1) should human remains be identified in any areas of the project**.**

VII. Other Post-Review Discoveries

SHA will follow the procedures in Attachment 1 of this PA for any inadvertent archaeological discoveries or inadvertent effects to historic properties during construction.

VIII. Confidentiality

The Signatories agree to provide by the provisions of Section 304 of the NHPA, and other applicable requirements, to withhold information concerning the location, character, or ownership of resources where release of such information may endanger the integrity of the resource.

IX. Amendment

Any Signatory to this PA may request that it be amended, whereupon the Signatories will consult in accordance with 36 C.F.R. § 800.14 to consider such an amendment. Amendments will be effective upon the date of the last signature from the Signatories.

X. Dispute Resolution

A. Should any Signatory or consulting party object at any time to the manner in which the terms of this PA are implemented, within 30 days of information being provided relating to the issue forming the basis of the objection, or within 30 days where the objector can otherwise be reasonably assumed to be aware of the issue forming the basis of objection, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will take the following steps:

1. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to ACHP. FHWA will request ACHP provide comment on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP, Signatories and consulting parties and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
2. If ACHP does not provide its advice regarding the dispute within the 30-day period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and consulting parties to the PA and provide them with a copy of such written response.
3. In the case of objections related to NRHP eligibility, any Signatory may object in writing within 30 days to an SHA or FHWA determination of eligibility. If SHA and FHWA are unwilling to revise the determination in response to the objection or other relevant information, FHWA (or SHA on its behalf) will submit the determination to the Keeper of the National Register of Historic Places for a determination pursuant to 36 C.F.R. Part 63.

B. Objections from the Public: Should a member of the public object to an action taken under this PA, or compliance with the PA, within 30 days of information being provided relating to the issue forming the basis of the objection, or within 30 days where the objector can otherwise be reasonably assumed to be aware of the issue forming the basis of objection, FHWA will ensure that SHA consults with the objecting party to respond to the objection in coordination with FHWA where relevant, provided the

objection is made in writing to FHWA or SHA contacts identified in Attachment 3 or any subsequent updates to Attachment 3. SHA and FHWA will inform other Signatories of the objection and proposed resolution. Should a Signatory disagree with the proposed resolution, the Signatories will follow Stipulation X.

C. FHWA's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XI. Termination

A. Any Signatory to this PA may terminate it by providing 30 days' notice in writing to the other Signatories, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

B. If any Signatory to this PA determines that a term will not or cannot be carried out, that party shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation IX, above. If within 30 days (or another time period agreed to by all Signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other Signatories.

C. In the event of termination, FHWA will comply with 36 C.F.R. § 800 for all remaining actions, or until a new agreement is reached fulfilling such requirements.

This PA will continue in full force and effect until 10 years from the date of execution of the PA, or such time of final acceptance of the Project and when all terms of this PA have been met, should the terms be met prior to the 10-year expiration. The PA will be invalid if the Project is terminated or authorization for the Project is rescinded. At any time in the six-month period prior to its expiration, the Signatories will consult to consider an extension or amendment of the PA. At such time, the Signatories may consider an amendment to extend the PA unmodified for an additional specified duration or consult to amend the PA in accordance with Stipulation IX. No extension or amendment will be effective until all Signatories have signed the amendment or amendment to extend.

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

FEDERAL HIGHWAY ADMINISTRATION

By: _____ **Date:** _____
Valeriya Remezova, Division Administrator

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

MARYLAND STATE PRESERVATION OFFICER

By: _____ **Date:** _____
Elizabeth Hughes, State Historic Preservation Officer

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

MARYLAND TRANSPORTATION AUTHORITY

By: _____ **Date:** _____
Joseph G. Sagal, Executive Director

SIGNATORY PAGE

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
MARYLAND TRANSPORTATION AUTHORITY,
AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION

By: _____ **Date:** _____
William Pines, P.E., Administrator

CONCURRING PARTY PAGE

PROGRAMMATIC AGREEMENT
Among the
FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ADMINISTRATION,
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AND
MARYLAND STATE HISTORIC PRESERVATION OFFICER

Implementing Section 106 of the National Historic Preservation Act for the I-695 Over the Patapsco River Francis Scott Key Bridge Replacement Project Anne Arundel and Baltimore Counties, and Baltimore City, Maryland

By: _____ **Date:** _____

Print Name:_____

Organization: _____

Attachments

1. Inadvertent Discovery Plan
2. Links to Documentation Referenced
3. Contact Information for FHWA, MDTA and SHA staff (to be updated as necessary)
4. Section 106 Initiation Letter

Attachment 1
Inadvertent Discovery Plan

A. Unanticipated Impacts to Architectural Historic Properties: if the Project causes unanticipated impacts to any National Register of Historic Places (NRHP) eligible, listed, or contributing buildings, sites, structures, or objects of the built environment, the contractor must notify the engineer and immediately cease any activity causing ongoing damage until consultation occurs. SHA shall, in consultation MD SHPO, determine if adverse effects have occurred to the property/properties and develop a plan for the protection of the historic property, and minimization or mitigation of impacts. If mitigation is identified, FHWA, SHA, MD SHPO, and other Signatories as necessary will execute a Memorandum of Agreement or amend this PA to record the identified mitigation. SHA or MDTA may hold the contractor(s) liable for any or all costs resulting from this process following appropriate processes identified in its contract instruments.

B. Unanticipated Damage to Known Archaeological Resources: if unauthorized excavation occurs outside the approved limits of disturbance (LOD) or other approved boundaries designed to protect archaeological resources or cemeteries and thereby causes impacts to known, NRHP-eligible properties, SHA and/or MDTA will ensure any activity causing ongoing damage is stopped until consultation occurs. SHA will conduct a damage assessment consistent with the model used for such assessments under the Archaeological Resources Protection Act (https://www.nps.gov/archeology/pubs/techbr/tchBrf20.pdf). SHA will use the results of the assessment in consultation with the MD SHPO to determine if the resource has been adversely affected and determine appropriate mitigation. If the resource is of known or suspected Native American affiliation, FHWA, with assistance from SHA shall consult with federally recognized Indian Tribes as appropriate. If the resource is affiliated with other known descendant groups or consulting parties, SHA will consult with such parties as well. If mitigation is identified, FHWA, SHA, MD SHPO, and other Signatories as necessary will execute a Memorandum of Agreement or amend this PA to record the identified mitigation. SHA or MDTA may hold the contractor(s) liable for any or all costs resulting from this process following appropriate processes identified in its contract instruments.

C. Unanticipated Discovery of Human Remains: Should any burials, interments, or human remains (hereafter, "remains") be encountered during construction, SHA and/or MDTA will ensure all applicable construction work in the vicinity of the remains is immediately stopped to prevent damage to the remains, or to any additional remains that might be present in the vicinity. A minimum 100-foot buffer around identified remains will be established by SHA and/or MDTA free of disturbance, to be adjusted as appropriate for the site conditions. Construction may occur outside the buffer unless evidence of additional remains is found. If remains are suspected to be human but not confirmed, SHA will ensure that such confirmation is made by a qualified professional. Human remains will at all times be treated respectfully and access and visibility limited to the site of discovery to authorized personnel only. Within Maryland, pursuant to State of Maryland Criminal Code § 10-402, the State's Attorney must authorize movement or removal of any remains until determined to be archaeological. If the remains are determined to be archaeological, SHA and the MD SHPO will consult to determine treatment of the remains and any other necessary treatment such as work needed to define extent of remains in the most expeditious manner feasible.

If the remains are determined archaeological and suspected to be of Native American origin, SHA, in coordination with FHWA, shall provide notification to tribal governments in accordance with any expressed tribal consultation preferences within 24 hours or as soon as practicable. SHA and/or FHWA will consult with affected federally recognized Indian Tribes, the Maryland Commission on Indian Affairs and appropriate Maryland Indian groups as appropriate regarding treatment of the remains. SHA and/or MDTA will accommodate tribal cultural preferences to the extent practicable during such an event. If remains can be associated with other known descendant communities or organizations, such parties shall also be consulted.

In consultation with the MD SHPO, Federally Recognized Indian Tribes, and FHWA as appropriate, and other identified descendant/affiliated consulting parties, the SHA shall develop a plan for the treatment or disposition of the remains or follow provisions of an existing Treatment Plan developed per this PA. SHA and/or MDTA shall implement the provisions of the agreed Treatment Plan.

Should the remains be associated with, or constitute an intact archaeological resource, provision **D** below is also applicable.

D. Unanticipated Discovery of Archaeological Resources: If previously unidentified archaeological features, artifacts, or other materials (hereafter, "resource") are discovered during construction, all ground-disturbing work in the vicinity of the resource shall be temporarily suspended or modified to prevent further damage to the resource, and SHA will provide a reasonable buffer where ground disturbance is prohibited to cover the extent of the resource that may not be exposed.

The SHA archaeologist shall perform a preliminary inspection to identify the resource and evaluate its likelihood of NRHP eligibility. Following this inspection, construction may resume in the vicinity of but outside the boundary of the archaeological resource as defined by the SHA archaeologist. If the resource is potentially eligible for the NRHP, SHA will consult with the MD SHPO on an eligibility determination and, if determined eligible for the NRHP, every effort shall be made to minimize impacts through redesign or modification of construction methods. If the resource is of known or suspected Native American affiliation, FHWA, with assistance from SHA shall consult

with federally recognized Indian Tribes as appropriate. If the resource can be reasonably identified with other descendant or affiliated communities, SHA shall also attempt to consult with such parties.

In consultation with the MD SHPO, SHA shall develop a plan for the treatment of any resource determined eligible. SHA shall describe actions proposed to avoid, minimize, or mitigate adverse effects, and request MD SHPO, tribal, and any other consulting party comments within 5 working days, unless there is a life or safety hazard requiring immediate interim action. SHA will disclose any interim action affecting the eligible resource taken in the event of a life or safety hazard. SHA, at its discretion, may establish a longer comment period if practicable in consideration of potential safety, cost, public travel disruption, and other factors.

SHA shall then implement the provisions of the agreed-upon plan and/or amend this PA to document the resolution, should the resource be determined eligible and should the Project adversely affect the resource.

Attachment 2
Links to Documentation Referenced In the I-695 Over the Patapsco River PA

Federal Codes and Regulations

36 C.F.R. Part 14 and 54 U.S.C. § 100902
Rights-of-Way
https://www.ecfr.gov/current/title-36/chapter-I/part-14
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title54-section100902&num=0&edition=prelim

36 C.F.R. Part 63
Dispute Resolution of Determinations of Eligibility for Inclusion in the NRHP
https://www.ecfr.gov/current/title-36/chapter-I/part-63

36 C.F.R. Part 79
Curation of Federally Owned and Administered Archaeological Collections
https://www.ecfr.gov/current/title-36/chapter-I/part-79

36 C.F.R. Part 800
Implementing Regulations of Section 106 of the National Historic Preservation Act
https://www.ecfr.gov/current/title-36/chapter-VIII/part-800?toc=1

40 C.F.R. 1506.6(a)
Public involvement – National Environmental Policy Act
https://www.ecfr.gov/current/title-40/chapter-V/subchapter-A/part-1506#1506.6

54 U.S.C.

- National Historic Preservation Act
  - § 306108 Effect of Undertaking on Historic Property
    - https://uscode.house.gov/view.xhtml?req=(title:54%20section:306108%20edition:prelim)
  - § 307103 Access to Information (Section 304)
    - https://www.achp.gov/digital-library-section-106-landing/frequently-asked-questions-protecting-sensitive-information

State Codes and Regulations

Maryland Criminal Code § 0-402
Courts and Judicial Proceedings
https://law.justia.com/codes/maryland/2013/article-gcr/section-10-402

Guidelines and Standards

Advisory Council on Historic Preservation

- *Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System* (ACHP Program Comment, 2005)
  https://www.achp.gov/sites/default/files/exemptions/2017-01/final_interstate_exemption_notice.pdf

- *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* (ACHP March 2023)
  https://www.achp.gov/sites/default/files/policies/2023-07/PolicyStatementonBurialSitesHumanRemainsandFuneraryObjects30June2023.pdf

- *Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges* (77 FR 68790)
  https://www.federalregister.gov/documents/2012/11/16/2012-27866/program-comment-issued-for-streamlining-section-106-review-for-actions-affecting-post-1945-concrete

- *Section 106 Archaeology Guidance* (ACHP, 2009)
  https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf

The Maryland Historical Trust

- Standards and Guidelines for Archaeological Investigations in Maryland (Shaffer and Cole 1994)
  https://mht.maryland.gov/documents/PDF/archeology/Archeology_standards_investigations.pdf

- *Technical Update No. 1 of the Standards and Guidelines for Archaeological Investigations in Maryland: Collections and Conservation Standards* (2018)
  https://mht.maryland.gov/documents/PDF/archeology/Archeology_standards_curation.pdf

- Standards and Guidelines for Architectural and Historical Investigations in Maryland (Maryland Historical Trust, Revised 2019)
  https://mht.maryland.gov/documents/PDF/research/Survey_standards_architecture_web.pdf

- NRHP Bulletin 15 – How to Apply the National Register Criteria for Evaluation (National Park Service revised 1997)
  https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf

- Other NRHP Bulletins

https://www.nps.gov/subjects/nationalregister/publications.htm#:~:text=national%20register%20of%20historic%20places%20bulletins

- The Secretary of the Interior's Guidelines for the Treatment of Cultural Landscapes (1996) https://www.nps.gov/tps/standards/four-treatments/landscape-guidelines/index.htm

- The Secretary of the Interior's Guidelines for the Treatment of Historic Properties (1995, Revised 2017) https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf

- The Secretary of the Interior's Professional Qualifications Standards https://www.nps.gov/articles/sec-standards-prof-quals.htm **OR** see 48 FR 44738 https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf

- The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (1983) https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf

- The Secretary of the Interior's Standards for the Treatment of Historic Properties (1995, Revised 2017) https://www.nps.gov/tps/standards/four-treatments.htm OR https://www.ecfr.gov/current/title-36/chapter-I/part-68

Other Referenced Information

- SHA and MDTA Statewide PA: https://www.roads.maryland.gov/OPPEN/2021_PA_Amendment.pdf

Attachment 3
FHWA, SHA and MDTA Staff Contact Information:

For FHWA:

Mr. Alexander Bienko
Environmental Specialist
FHWA - Maryland Division
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1520
Baltimore, MD 21201
phone (410) 779-7148

For SHA:

Mr. Steve Archer
Assistant Division Chief
Maryland Department of Transportation State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202
phone (410) 545-8508

For MDTA:

Ms. Melissa Williams
Director
Maryland Transportation Authority
Planning & Program Development
2310 Broening Highway
Baltimore, MD 21224
phone (410) 802-9684 (direct)

Attachment 4
Section 106 Consultation Initiation Letter

May 16, 2024

Ms. Elizabeth Hughes
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place
Crownsville MD 21032-2023

Dear Ms. Hughes:

Introduction and Project Description

On behalf of the Federal Highway Administration (FHWA) and in accordance with the Programmatic Agreement (PA) Implementing Section 106 of the National Historic Preservation Act for FHWA Undertakings in Maryland (Section 106 PA), this letter serves to inform the Maryland Historical Trust (MHT) of the Maryland Department of Transportation State Highway Administration's (SHA) proposed Project to rebuild the Maryland Transportation Authority's Francis Scott Key Bridge carrying I-695 over the Patapsco River. SHA seeks to establish the Area of Potential Effects (APE) and to provide information about historic properties identification within the APE.

On March 26, 2024, the MDTA Francis Scott Key Bridge (Key Bridge), which carries I-695 over the Patapsco River, was struck by a cargo ship leaving the Port of Baltimore, resulting in the collapse of the bridge. The collapse prompted the immediate closure of I-695 between MD 173 (exit 1) and MD 157/Peninsula Expressway (exit 43) and halted vehicle traffic across the Patapsco River as well as marine shipping to and from the Port of Baltimore. Following the incident, Executive Order 01.01.2024.09 was released by the State of Maryland, declaring a State of Emergency as a result of the Key Bridge collapse. Immediate recovery and debris removal actions were conducted.

MDTA and SHA are now proposing to replace the collapsed Francis Scott Key Bridge in the same location as the original structure. The Project is in portions of Baltimore City, Baltimore County, and Anne Arundel County, Maryland. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the old structure will be removed to clear the on-alignment location of the new structure. This would likely involve fully removing the on-land piers and removing the remaining in-water piers to near or below the river bottom (mud line).

The Project includes construction of a replacement bridge that would restore transportation connectivity; incorporate design upgrades that meet current standards and conditions that have changed since construction of the original bridge in 1977; and accommodate existing and future ship navigation on the Patapsco River and into the Port of Baltimore. As the proposed Project is a replacement of the collapsed bridge, the location of the Project would be the same as the old structure and remain within the existing ROW, following the existing centerline across the Patapsco River and the approaches along I-695. The new bridge would have four travel lanes, maintaining the capacity of the former bridge.

The Project proposes several design changes to be incorporated into the replacement bridge to account for advancements in design standards and changes in existing conditions since the original bridge was constructed. A bridge type will be developed that could support a longer main span and higher air draft clearance; and this will likely involve support towers which could be taller than the old bridge to as much as 500-550 feet above the water. The replacement bridge would have a 230-foot minimum air draft and a clear span of 1,200 feet at full air draft along the main span to provide additional overhead clearance for large vessels traveling under the bridge. Considering a change in air draft and clear span, the Project also proposes an increased length to 1,400 feet along the main span with additional piers, increasing the bridge to 2.4 miles in total length with a 4% profile to match the existing alignment and approaches. The new typical section for the Project would meet the design specifications for lanes and shoulders outlined in the American Association of Highway and Transportation Officials (AASHTO) *A Policy on Design Standards – Interstate System* (May 2016) and would include two 12-foot-wide lanes and 10-foot/4-foot-wide shoulders.

The project includes obtaining federal permits from United States Coast Guard (USCG) US Army Corps of Engineers (USACE). On May 2, 2024, FHWA sent an email to the USCG and the USACE, proposing to assume the role of Lead Federal Agency, in accordance with 36 CFR 800.2(a)(2), to fulfill collective federal agency responsibilities under Section 106. USCG and USACE responded on May 13 and 14, 2024, respectively, concurring with FHWA taking this role.

A location map is included as Attachment 1.

Funding

Federal funds are anticipated for this project.

Area of Potential Effects

In determining the Area of Potential Effects (APE) for this project, SHA considered possible visual, audible, atmospheric and/or physical impacts to historic properties, both archaeological sites and architectural resources, which would diminish the integrity of any characteristics that would qualify a property for the National Register of Historic Places (NRHP). The area along the Patapsco River is characterized as an industrial shipping port. The previous steel arch continuous through truss bridge was visually prominent along the Patapsco River to the north and south of the bridge. While the bridge was also visible farther inland, it was less prominent amidst other dominant commercial and industrial buildings and structures comprising the Baltimore skyline. The proposed new bridge will be taller and likely a different bridge type, but will not substantially alter the viewshed along the Patapsco River and does not have the potential to affect historic properties beyond the Patapsco River shoreline. The APE, therefore, is confined to parcels along the Patapsco River shoreline, west to Fort McHenry and east to Fort Smallwood Park, as well parcels directly adjacent to MDTA ROW along I-695 (Attachment 2a-d). The archaeological survey area is defined as the limits of construction disturbance within MDTA ROW from its intersection with Broening Highway to the north and the Quarantine Road intersection to the south.

Proposed Identification Methods and Results

Architecture: There are eight architectural historic properties in the APE.

Resource Name	MIHP No.	NRHP Status
Fort McHenry National Monument & Historic Shrine	B-8	Listed, October 15, 1966
Baltimore Harbor Tunnel	B-5333	Eligible, 2021
Canton Grain Elevator	B-985	Eligible, 2019
Baltimore Municipal Airport, Harbor Field	B-3603	Eligible, 1992
Baltimore Municipal Airport Air Station	B-2094	Eligible, 1994
Turner's Station African American Survey District	BA-3056	Eligible, 2019
Sparrow's Point Shipyard District	BA-3208	Eligible, 2006
Fort Carroll	BA-451	Eligible, 2006
Fort Smallwood Park	AA-898	Eligible, 2013

Additional MIHP resources are associated with these historic properties as contributing/non-contributing resources. A-897 and A-897A, as well as A-898A through A-898I, are associated with Fort Smallwood Park. Likewise, BA-3208-1 through BA-328-5 are associated with Sparrow's Point Shipyard District.

Center Street, 114 (DOE-BA-0042); Avondale Road, 202 (DOE-BA-0015); Carver Road, 105 (DOE-BA-0040); and Fleming Community Center (DOE-BA-0083) were individually evaluated and determined not eligible for the NRHP in the 1990s, before Turner's Station African American Historic District was determined NRHP eligible. All resources except 114 Center Street are contributing resources in the district.

As outlined above, notable effects would be confined to those properties immediately adjacent to the work and/or within limits of disturbance for construction of the new bridge. SHA has determined there is limited potential for other types of effects, in consideration of the prior modern bridge structure. The new structure will be on the same alignment as the prior bridge, but is anticipated to be of increased height, and will likely be a different bridge type than the prior bridge. The prior bridge was visible in whole or in part from a great number of locations in dense, urban Baltimore City and surrounding areas. The replacement bridge will have slightly increased visibility. However, historic properties effects resulting from these changes would be limited to those properties where the differences between the prior bridge and the replacement bridge would be integral to the character, experience or integrity of the historic property.

Given this narrow potential for effects, SHA proposes architectural inventory and evaluation efforts under 36 CFR 800.4(a) consisting of NHRP evaluation of: 1) parcels immediately adjacent to MDTA ROW and project limits and 2) MIHP resources within the APE. Since all MIHP resources within the APE have an NRHP evaluation, resources requiring evaluation include the following:

Unrecorded Architectural Resources
6001 Dock Road
3901 Fort Armistead Road
3925 Fort Armistead Road
Fort Armistead Park
BG&E parcels (Tax Map 110, Parcels 3, 26, 27, and 58)
Francis Scott Key Bridge Administrative Building

The APE also includes four metal girder bridges along I-695: BCZ496061 (1975); BCZ496051 (1975); BCZ492061 (1972); and BCZ492051 (1979). Metal girder bridges are not eligible for the NRHP under the Advisory Council on Historic Preservation Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges (Federal Register Vol. 77, No. 222) and do not require NRHP evaluation.

Archaeology: There are no recorded archaeological historic properties within the archaeology survey area.

There is minimal potential for terrestrial archaeological historic properties within the archaeological survey area. The terrestrial portion of the archaeological survey area has not been subjected to Phase I archaeological survey. A review of soil data, historic topographic maps, and twentieth-century aerial photographs demonstrates that the entirety of the terrestrial archaeological survey area is located on made land and fill with minimal potential to contain archaeological historic properties (USDA-NRCS 2024; USGS 1894, 1946, 1975; HistoricAerials.com 2024). No further terrestrial archaeological work is recommended.

There is also minimal potential for underwater archaeological historic properties. Several prior underwater archaeological surveys have occurred in the archaeological survey area (Koski-Karell, 1979; U.S. Army Corps of Engineers 1992; Pelletier, Williams, and Randolph 2005). There is one archaeological quad file within the archaeology survey area, CURTIS-QF10, the approximate location of a pier at the mouth of Bear Creek, that was recorded based on historical mapping as part of a Phase IA underwater archaeological project ca. 1990. Subsequent underwater archaeological survey in the vicinity of CURTIS-QF10 by Pelletier, William, and Randolph (2005) did not identify evidence of the pier. Additionally, the presence of a dredged channel under the collapsed truss span of the Francis Scott Key Bridge, where recovery efforts are currently focused, suggests no intact, unrecorded resources are likely to be present or affected by the undertaking. No further underwater archaeological work is recommended.

Review Request

FHWA has requested a PA for this project, the scope of which would be commitments to this identification effort, an effects determination following completion of historic properties identification and evaluation, and a process for managing change under the progressive design build project. We request any comments you may have by May 27, 2024 on the APE, that no further archaeological work is necessary, and the scope of identification efforts. Based on the project schedule, SHA will need to execute the PA by July 8, 2024; pending any comments you may have to provide on the content of this letter, we will work with FHWA to provide a draft PA.

We invite, by copy of this letter, the organizations listed in Attachment 3 to provide comments and participate in the Section 106 process. Pursuant to the requirements of the implementing regulations found at 36 CFR Part 800, SHA seeks their assistance in identifying historic preservation issues as they relate to this specific project (see 36 CFR §800.2(c)(3) and (5), and §800.3(f) for information regarding the identification and participation of consulting parties, and §800.4, and §800.5 regarding the identification of historic properties and assessment of effects). For additional information regarding the Section 106 regulations, see the Advisory Council on Historic Preservation's website,

www.achp.gov, or contact SHA or MHT. If no response is received by May 27, 2024, we will assume that these offices decline to participate. Please call Sarah Groesbeck at 410-545-0038 (or email sgroesbeck@mdot.maryland.gov) or myself with questions regarding this project.

Sincerely,

Digitally signed by Steve Archer
Adobe Acrobat version: 2024.002.20687

Steve Archer
Assistant Division Chief
Environmental Planning Division

Attachments

cc: Mr. Alex Bienko, Environmental Specialist, MD Division, FHWA
Mr. David Clarke, Federal Preservation Officer, FHWA
Ms. Donna Buscemi, Deputy Director, OPPE, SHA
Ms. Sarah Groesbeck, Architectural Historian, OPPE-EPLD, SHA
Ms. Heather Lowe, Planning and Community Relations Manager, MDTA
Mr. Ray Moravec, Director, OPPE, SHA
Ms. Sushmita Sarkar, Environmental Manager, OPPE-EPLD, SHA
Ms. Melissa Williams, Director, Planning & Program Development, MDTA

Project Limits

MDTA Maryland Transportation Authority

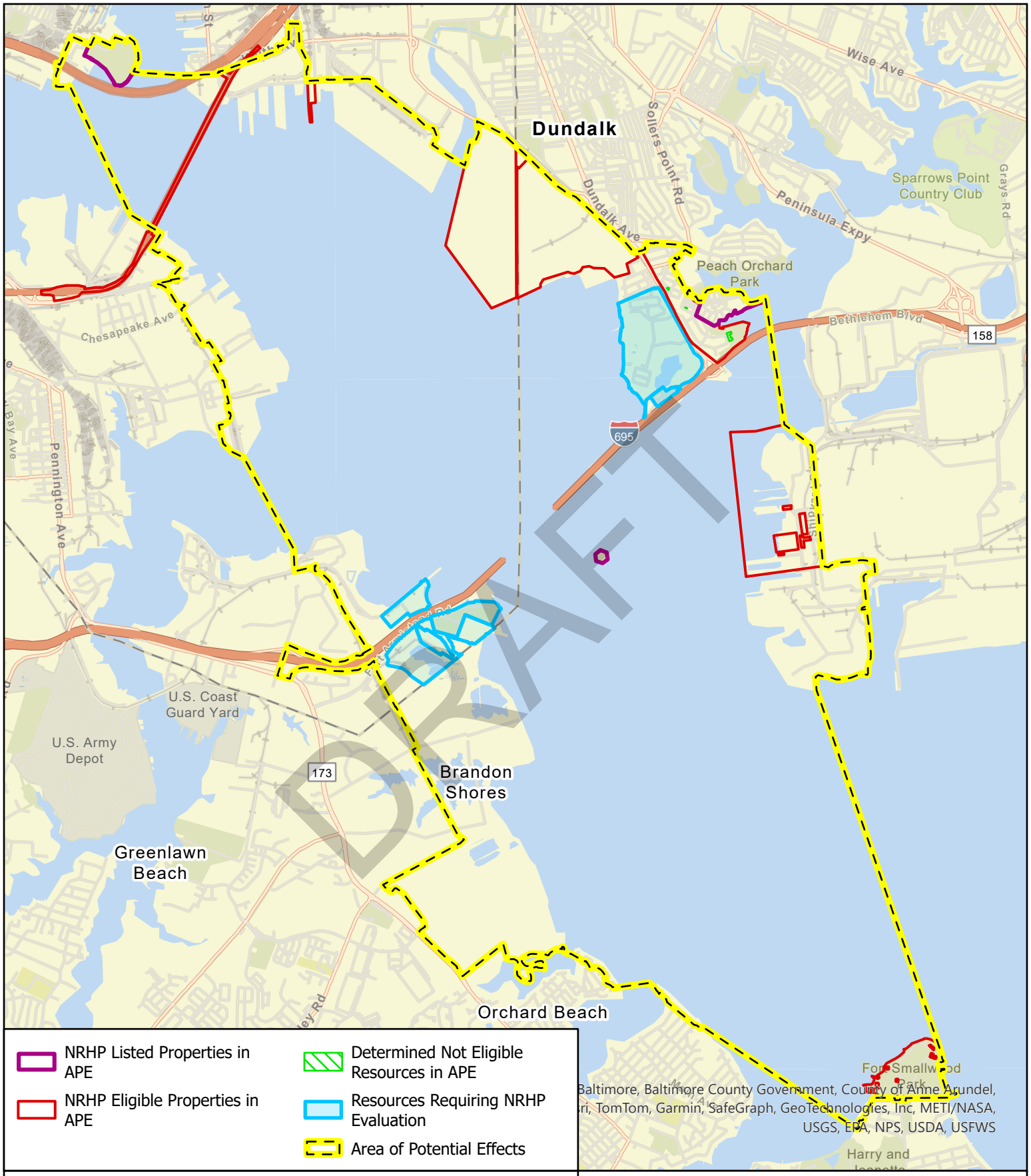
U.S. Department of Transportation Federal Highway Administration

0 1,000 2,000 4,000 Feet

Francis Scott Key Bridge Rebuild Project

Project Location

Attachment 2a: Area of Potential Effects Map



I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.5 1 2 Miles

Scale: 1:55,000 May 15, 2024

N

Attachment 2b: Area of Potential Effects Map

I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

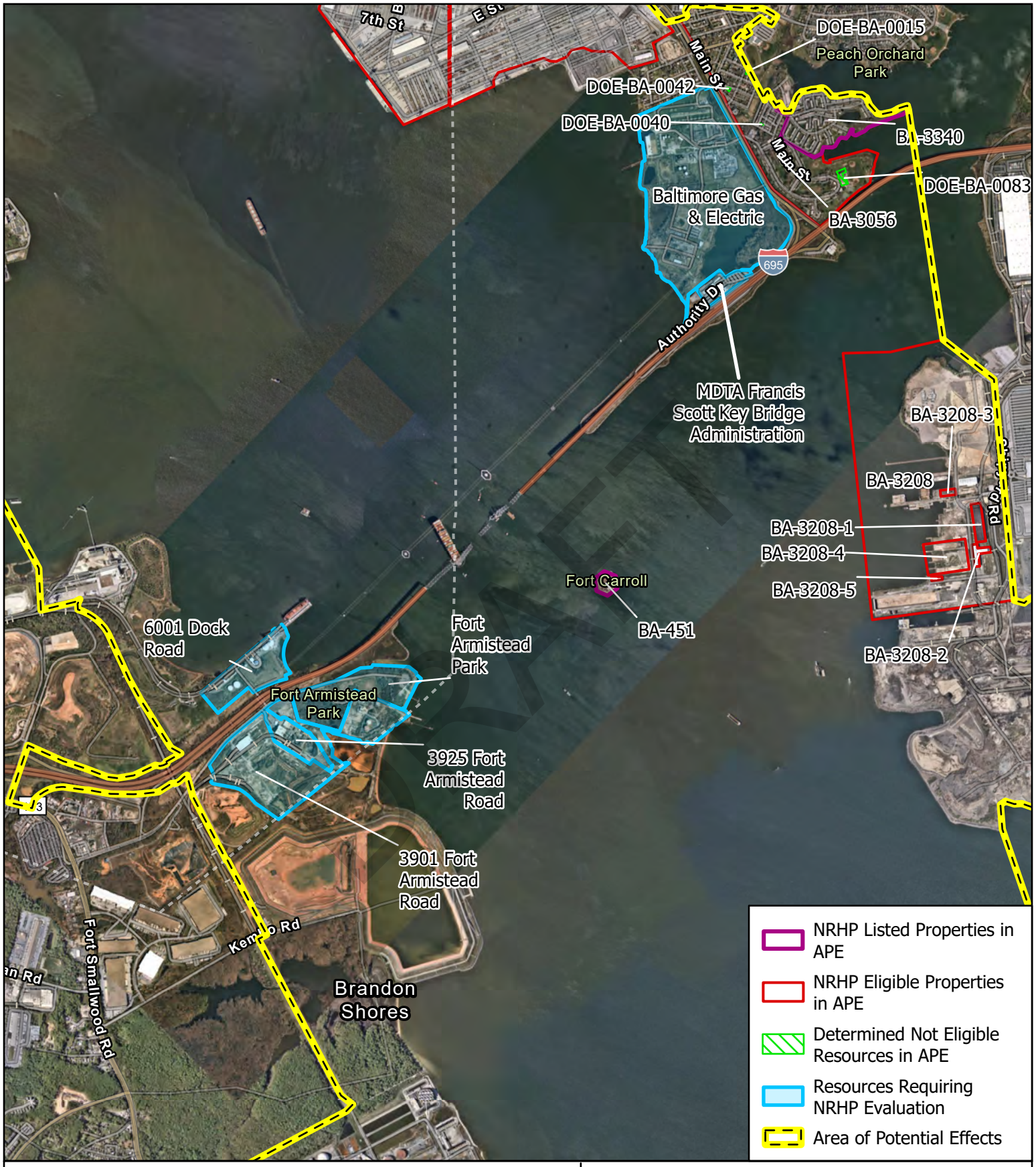
0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: City of Baltimore, Baltimore County Government, County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 2c: Area of Potential Effects Map



I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: Baltimore County Government, County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 2d: Area of Potential Effects Map

I-695 over Patapsco River
Rebuilding the Francis Scott Key Bridge

Baltimore City, Baltimore County, Anne Arundel County

0 0.25 0.5 1 Miles

Scale: 1:30,000 May 15, 2024

N

Imagery Credits: County of Anne Arundel, VGIN, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Attachment 3

Francis Scott Key Bridge Rebuild

Consulting Parties

Organization	Contact Person	Email
Advisory Council on Historic Preservation	Mandy Ranslow	mranslow@achp.gov
Anne Arundel County Department of Recreation and Parks	Erica Matthews	rpjack50@aacounty.org
Anne Arundel Co. Office of Environmental & Cultural Resources	Darian Beverungen	PZBeve19@aacounty.org
Anne Arundel County Office of Transportation	Samuel Snead	trsnea19@aacounty.org
Anne Arundel County Trust for Preservation	Patricia Melville	actforpreservation@gmail.com
Baltimore City Commission for Historical and Architectural Preservation	Eric Holcomb	eric.holcomb@baltimorecity.gov
Baltimore City Department of Planning	Chris Ryer	Chris.Ryer@baltimorecity.gov
Baltimore City Department of Transportation	Corren Johnson	Corren.Johnson@baltimorecity.gov;
Baltimore Heritage	Johns Hopkins	hopkins@baltimoreheritage.org
Baltimore National Heritage Area	Shauntee Daniels	sdaniels@baltimoreheritagearea.org
Baltimore County Landmarks Preservation Commission	Caitlin Merritt	cmerritt@baltimorecountymd.gov
Baltimore County Traffic Engineering and Transportation Planning	Angelica Daniel	adaniel@baltimorecountymd.gov
Fort McHenry National Monument and Historic Shrine	Robert Stewart	robert_stewart@nps.gov
Friends of Fort McHenry	Melanie Santiago-Mosier	info@friendsoffortmchenry.org
Maryland Commission on Indian Affairs	Keith Colston	keith.colston@maryland.gov
Maryland Port Authority	Amanda Pañafiel	apenafiel@marylandports.com
National Park Service Northeast Region	Mark Eberle	mark_eberle@nps.gov
Preservation Alliance of Baltimore County, Inc.	Anne Gryczon	Director@PreservationABC.org
Preservation Maryland	Nicholas Redding	nredding@presmd.org
Turner Station Conservation Team	Gloria Nelson	glorianelson8@verizon.net
United States Army Corps of Engineers	Hal R. Pitts	hal.r.pitts@uscg.mil
United States Coast Guard	Joseph DeVia	joseph.davia@usace.army.mil

Attachment 3

MD State Recognized Tribes

Cedarville Band of Piscataway	Natalie Standing-on-the-Rock Proctor	piscatawayindians@gmail.com

Federally Recognized Tribes

Absentee-Shawnee Tribe of Oklahoma	Devon Frazier	dfrazier@astribe.com
Delaware Nation	Katelyn Lucas	klucas@delawarenation-nsn.gov
Delaware Tribe of Indians	Susan Bachor	sbachor@delawaretribe.org
Eastern Shawnee	Lora Nuckolls	thpo@estoo.net
Oneida Indian Nation	Jesse Bergevin	jbergevin@oneida-nation.org
Onondaga Nation	Anthony Gonyea	ononcomm@gmail.com
Pamunkey Indian Tribe	Shaleigh Howells	Shaleigh.howells@pamunkey.org
St. Regis Mohawk	Darren Bonaparte	darren.bonaparte@srmt-nsn.gov
Seneca-Cayuga	William Tarrant	wtarrant@sctribe.com
Shawnee Tribe	Tonya Tipton	tonya@shawnee-tribe.com
Tuscarora Nation	Bryan Printup	bprintup@hetf.org

May 16, 2024

Steve Archer
Assistant Division Chief, Environmental Planning Division
Maryland Department of Transportation State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202

Re: MDTA Francis Scott Key Bridge
I-695 over the Patapsco River
Initiation of Section 106 Review
Baltimore City, Anne Arundel County and Baltimore County, Maryland

Dear Mr. Archer,

Thank you contacting the Maryland Historical Trust (MHT), a division of the Maryland Department of Planning, on behalf of the Federal Highway Administration (FHWA) to initiate the Section 106 review process for the above-referenced project. We look forward to working with your agency and other involved parties to successfully complete the preservation requirements for the proposed undertaking.

Based on our review of your letter and the information presented at recent Interagency Review Meetings, we understand that Maryland Department of Transportation State Highway Administration (SHA) proposes to replace the Maryland Transportation Authority's (MDTA) Francis Scott Key Bridge in the same location as the original structure. The project limits extend along I-695 from Quarantine Road in Curtis Bay to Broening Highway in Dundalk and is entirely within MDTA's existing right-of-way (ROW). The remaining portions of the collapsed structure will be removed to clear the on-alignment location of the new structure.

Your letter seeks to initiate the Section 106 process for this undertaking, establish an Area of Potential Effects (APE) for the project, and determine the scope of cultural resources identification efforts. MHT concurs with MDTA/SHA's defined APE for cultural resources, as illustrated in Attachment 2 of your submittal. We recognize that MDTA/SHA may make further refinements to its APE as planning proceeds - based on the addition of ancillary actions or other design modifications.

As you are aware, considerable information already exists regarding identified historic and archaeological resources within this large study area. The table provided with your letter includes most of the known historic properties within the APE, however, we request that you add the National Register-listed Day Village Historic District (MIHP No. BA-3340) to your inventory of existing cultural resources. MHT agrees with MDTA/SHA's historic property investigation methodology for unrecorded architectural resources that consists of the National Register evaluation of parcels immediately adjacent to MDTA ROW and project limits. These resources include: 6001 Dock Road, 3901 Fort Armistead Road, 3925 Fort Armistead Road, Fort Armistead Park, BG&E property (Tax Map 110, Parcels 3, 26, 27, and 58), and the Francis Scott Key Bridge Administrative Building.

Previous studies and current recovery efforts suggest that there is minimal potential for terrestrial and underwater archaeological historic properties within the archaeological study area. Therefore, MHT agrees with MDTA/SHA's recommendation for no further archaeological work at this stage in project planning. Once MDTA/SHA has developed more detailed design and construction plans, it will need to reassess whether further cultural resources investigations are warranted, in consultation with MHT, particularly for any staging areas, anchorages, and other related ancillary actions.

We agree with the list of potential consulting parties for this undertaking, presented in Attachment 3 of your letter. As the Section 106 coordination and public outreach efforts progress, additional relevant parties may be identified and invited to participate in the consultation.

Finally, MHT acknowledges the need to execute a Programmatic Agreement (PA) for this undertaking that will memorialize MDTA/SHA's commitments to 1) complete the identification of historic properties, 2) make an effects determination following the evaluation of historic properties within the APE, and 3) create a process for ongoing consultation and managing changes under this progressive design build project. MHT is committed to working with MDTA/SHA, FHWA, and other involved parties to successfully execute and implement the PA to meet the project's schedule deadlines.

Thank you for initiating consultation with MHT early in project planning for this undertaking. If you have questions or require any assistance, please contact Beth Cole (for archaeology) at beth.cole@maryland.gov or Tim Tamburrino (for the historic built environment) at tim.tamburrino@maryland.gov.

Sincerely,

Elizabeth Hughes
Director/State Historic Preservation Officer

EH/BC/TJT/202402473

From:	Schiszik, Lauren (DOP)
To:	Sarah Groesbeck (Consultant)
Cc:	Ryer, Chris (DOP); Holcomb, Eric (DOP)
Subject:	RE: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland
Date:	Thursday, May 16, 2024 10:12:23 AM

Good morning Sarah,

Thank you for inviting CHAP to serve as a consulting party for this Section 106 process. I am accepting this invitation on Eric's behalf while he is out of the office.

Best,
Lauren

Lauren Schiszik (she, her)
Historic Preservation Planner Supervisor and Acting Executive Director, CHAP
City of Baltimore | Department of Planning
417 E. Fayette St., 8th Floor ¦Baltimore, MD 21202
410-396-5796
http://chap.baltimorecity.gov

OUR MISSION: To build Baltimore as a diverse, sustainable and thriving city of neighborhoods and as the economic and cultural driver for the region.
OUR EQUITY STATEMENT: An equitable Baltimore addresses the needs and aspirations of its diverse population and meaningfully engages residents through inclusive and collaborative processes to expand access to power and resources.

From: Sarah Groesbeck (Consultant) <SGroesbeck.consultant@mdot.maryland.gov>
Sent: Thursday, May 16, 2024 9:57 AM
To: Schiszik, Lauren (DOP) <Lauren.Schiszik@baltimorecity.gov>
Subject: FW: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland

Hi Lauren,

This originally went to Eric Holcomb but I got his out of office message. I'm forwarding this to you because of the abbreviated comment period.

Thanks,
Sarah

From: Sarah Groesbeck (Consultant)
Sent: Thursday, May 16, 2024 9:44 AM
To: Sarah Groesbeck (Consultant) <SGroesbeck.consultant@mdot.maryland.gov>
Cc: Steve Archer <SArcher@mdot.maryland.gov>
Subject: Section 106 Consultation: Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County Maryland

Good Afternoon,

On behalf of the Federal Highway Administration, the Maryland Department of Transportation State Highway Administration (SHA) is transmitting the attached Section 106 consultation initiation letter for Project No. AB490M83, Francis Scott Key Bridge Rebuild in Baltimore City, Baltimore County, and Anne Arundel County. We request any comments to SHA Cultural Resources by May 27, 2024. No hard copies will follow.

If you have questions or comments, please contact me or Steve Archer.

Thank you,
Sarah

Sarah Groesbeck
Consultant Architectural Historian
Cultural Resources Section
Environmental Planning Division (EPLD)

410.545.0038 **office**
sgroesbeck@mdot.maryland.gov
Maryland State Highway Administration
707 North Calvert Street, Baltimore, MD 21202-3601

ANNE ARUNDEL COUNTY
MARYLAND
Office of Planning and Zoning

2664 Riva Road, P.O. Box 6675
Annapolis, MD 21401
410-222-7450

Jenny B. Dempsey
Planning and Zoning Officer

May 17, 2024

Sarah Groesbeck
Environmental Planning Division
Maryland State Highway Administration
707 N. Calvert Street
Baltimore, MD 21202

Re: **Section 106 Consultation: Francis Scott Key Bridge Rebuild – Project No. AB490M83**

Dear Ms. Groesbeck,

Thank you for providing Anne Arundel County's Cultural Resources Section in the Office of Planning & Zoning the opportunity to comment on the above referenced project as part of the Section 106 consultation process. Based on the information provided, it is our understanding that the Francis Scott Key Bridge is to be replaced by a new bridge in the same original location as the Key Bridge. The only historic resource within the APE that is located in Anne Arundel County is Ft. Smallwood Park (AA-898) and associated contributing and non-contributing buildings within the park. As noted in the information your office provided, Ft. Smallwood Park is eligible for listing in the National Register of Historic Places; and therefore, would need an evaluation of effects.

In addition, our office concurs on the Maryland Historical Trust's recommendation of no adverse effect for archaeological resources at this stage, but that further archaeological review may be warranted as the planning continues.

Our office looks forward to continuing to participate in the consultation process as this project moves forward.

Sincerely,

Darian Beverungen

Ms. Darian Beverungen
Senior Planner, Cultural Resources Section
Office of Planning & Zoning

ATTACHMENT E: RARE THREATENED AND ENDANGERED SPECIES (RTE) COORDINATION

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To: 05/01/2024 16:21:08 UTC
Project Code: 2024-0079302
Project Name: Francis Scott Key Bridge Rebuild

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see https://www.fws.gov/program/migratory-bird-permit/what-we-do.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see https://www.fws.gov/library/collections/threats-birds.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit https://www.fws.gov/partner/council-conservation-migratory-birds.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
(410) 573-4599

PROJECT SUMMARY

Project Code: 2024-0079302
Project Name: Francis Scott Key Bridge Rebuild
Project Type: Bridge - Replacement
Project Description: Reconstruction of the Francis Scott Key Bridge following the collapse. The bridge will be reconstructed on alignment and the approach roadways adjusted as needed to accommodate the new bridge structure.

Project Location:

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@39.2174299,-76.5278891271044,14z

Counties: Anne Arundel , Baltimore , and Baltimore counties, Maryland

ENDANGERED SPECIES ACT SPECIES

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat *Myotis septentrionalis* No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This species only needs to be considered if the project includes wind turbine operations. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat *Perimyotis subflavus* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

INSECTS

NAME	STATUS
Monarch Butterfly *Danaus plexippus* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

WETLANDS

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER POND

- PUBHx

FRESHWATER EMERGENT WETLAND

- PEM1Cd
- PEM1C

ESTUARINE AND MARINE DEEPWATER

- E1UBL

ESTUARINE AND MARINE WETLAND

- E2USP

IPAC USER CONTACT INFORMATION

Agency: Maryland State Highway Administration
Name: Justin Reel
Address: 700 East Pratt Street, Suite 500
City: Baltimore
State: MD
Zip: 21202
Email jreel@rkk.com
Phone: 7033384139

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127

In Reply Refer To: 05/09/2024 14:28:59 UTC
Project code: 2024-0079302
Project Name: Francis Scott Key Bridge Rebuild

Federal Nexus: yes
Federal Action Agency (if applicable): Federal Highway Administration

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for 'Francis Scott Key Bridge Rebuild'

Dear Sushmita Sarkar:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on May 09, 2024, for 'Francis Scott Key Bridge Rebuild' (here forward, Project). This project has been assigned Project Code 2024-0079302 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements may not be complete.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat Rangewide Determination Key (DKey), invalidates this letter. ***Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.***

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis completed by the Service, your project has reached the determination of "May Affect, Not Likely to Adversely Affect" the northern long-eared bat. Unless the Service advises you within 15 days of the date of this letter that your

IPaC-assisted determination was incorrect, this letter verifies that consultation on the Action is complete and no further action is necessary unless either of the following occurs:

- new information reveals effects of the action that may affect the northern long-eared bat in a manner or to an extent not previously considered; or,
- the identified action is subsequently modified in a manner that causes an effect to the northern long-eared bat that was not considered when completing the determination key.

15-Day Review Period

As indicated above, the Service will notify you within 15 calendar days if we determine that this proposed Action does not meet the criteria for a "may affect, not likely to adversely affect" (NLAA) determination for the northern long-eared bat. If we do not notify you within that timeframe, you may proceed with the Action under the terms of the NLAA concurrence provided here. This verification period allows the identified Ecological Services Field Office to apply local knowledge to evaluation of the Action, as we may identify a small subset of actions having impacts that we did not anticipate when developing the key. In such cases, the identified Ecological Services Field Office may request additional information to verify the effects determination reached through the Northern Long-eared Bat DKey.

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Monarch Butterfly *Danaus plexippus* Candidate
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

You may coordinate with our Office to determine whether the Action may affect the species and/or critical habitat listed above. Note that reinitiation of consultation would be necessary if a new species is listed or critical habitat designated that may be affected by the identified action before it is complete.

If you have any questions regarding this letter or need further assistance, please contact the Chesapeake Bay Ecological Services Field Office and reference Project Code 2024-0079302 associated with this Project.

Action Description
You provided to IPaC the following name and description for the subject Action.

1. Name

Francis Scott Key Bridge Rebuild

2. Description

The following description was provided for the project 'Francis Scott Key Bridge Rebuild':

> Reconstruction of the Francis Scott Key Bridge following the collapse. The bridge will be reconstructed on alignment and the approach roadways adjusted as needed to accommodate the new bridge structure.

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@39.2174299,-76.5278891271044,14z

DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect, but not likely to adversely affect” for the Endangered northern long-eared bat (*Myotis septentrionalis*).

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

   Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

   No

2. The action area does not overlap with an area for which U.S. Fish and Wildlife Service currently has data to support the presumption that the northern long-eared bat is present. Are you aware of other data that indicates that northern long-eared bats (NLEB) are likely to be present in the action area?

   Bat occurrence data may include identification of NLEBs in hibernacula, capture of NLEBs, tracking of NLEBs to roost trees, or confirmed NLEB acoustic detections. Data on captures, roost tree use, and acoustic detections should post-date the year when white-nose syndrome was detected in the relevant state. With this question, we are looking for data that, for some reason, may have not yet been made available to U.S. Fish and Wildlife Service.

   No

3. Does any component of the action involve construction or operation of wind turbines?

   Note: For federal actions, answer ‘yes’ if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

   No

4. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Yes

5. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   Yes

6. FHWA, FRA, and FTA have completed a range-wide programmatic consultation for transportation- related actions within the range of the Indiana bat and northern long-eared bat.

   Does your proposed action fall within the scope of this programmatic consultation?

   Note:If you have **previously consulted** on your proposed action with the Service under the NLEB 4dRule, answer 'no' to this question and proceed with using this key. If you have **not yet consulted** with the Service on your proposed action and are unsure whether your proposed action falls within the scope of the FHWA, FRA, FTA range-wide programmatic consultation, please select "Yes" and use the FHWA, FRA, FTA Assisted Determination Key in IPaC to determine if the programmatic consultation is applicable to your action. Return to this key and answer ‘no’ to this question if it is not.

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   Yes

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the effects of any activities that would not occur but for the proposed action.

    If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

    Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of Effects of the Action can be found here: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    No

11. [Semantic] Is the action area located within 0.5 miles of a known northern long-eared bat hibernaculum?

    Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

    Automatically answered
    No

12. Does the action area contain any caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating northern long-eared bats?

    No

13. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?
    (If unsure, answer "Yes.")

    Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats (i.e., live trees and/or snags ≥3 inches (12.7 centimeter) dbh), answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat can be found at: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    Yes

14. Will the action cause effects to a bridge?

    Yes

15. Has a site-specific bridge assessment following USFWS guidelines been completed?

    Note: For information on conducting a bridge/structure assessment, see Appendix D of the User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat and the associated Bridge/Structure Bat Assessment Form. Additional resources can be found at: https://www.fws.gov/media/bats-and-transportation-structures-references-and-additional-resources and a training video is located at: https://www.youtube.com/watch?v=iuFwkT7q8Ws.

    No

16. Will the proposed action result in the cutting or other means of knocking down, bringing down, or trimming of any trees suitable for northern long-eared bat roosting?

    Note: Suitable northern long-eared bat roost trees are live trees and/or snags ≥3 inches dbh that have exfoliating bark, cracks, crevices, and/or cavities.

    Yes

PROJECT QUESTIONNAIRE

Enter the extent of the action area (in acres) from which trees will be removed - round up to the nearest tenth of an acre. For this question, include the entire area where tree removal will take place, even if some live or dead trees will be left standing.

19.8

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the inactive (hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas

0

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the active (non-hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas

19.8

Will all potential northern long-eared bat (NLEB) roost trees (trees ≥3 inches diameter at breast height, dbh) be cut, knocked, or brought down from any portion of the action area greater than or equal to 0.1 acre? If all NLEB roost trees will be removed from multiple areas, select 'Yes' if the cumulative extent of those areas meets or exceeds 0.1 acre.

Yes

Enter the extent of the action area (in acres) from which all potential NLEB roost trees will be removed. If all NLEB roost trees will be removed from multiple areas, entire the total extent of those areas. Round up to the nearest tenth of an acre.

19.8

For the area from which all potential northern long-eared bat (NLEB) roost trees will be removed, on how many acres (round to the nearest tenth of an acre) will trees be allowed to regrow? Enter '0' if the entire area from which all potential NLEB roost trees are removed will be developed or otherwise converted to non-forest for the foreseeable future.

0

Will any snags (standing dead trees) ≥3 inches dbh be left standing in the area(s) in which all northern long-eared bat roost trees will be cut, knocked down, or otherwise brought down?

No

Will all project activities by completed by April 1, 2024?

No

IPAC USER CONTACT INFORMATION

Agency: Maryland Department of Transportation
Name: Sushmita Sarkar
Address: 707 North Calvert Street
City: Baltimore
State: MD
Zip: 21202
Email ssarkar@mdot.maryland.gov
Phone: 4105450392

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

Coordination Sheet for MD DNR Environmental Review Related to Project Locations

June 3, 2024

Jeff Gring
Team Manager/Senior Environmental Scientist
Coastal Resources, Inc.
25 Old Solomons Island Road,
Annapolis, MD 21401

Re: Environmental Review Request: Rare, Threatened, and/or Endangered Species - Key Bridge Rebuild Project, Baltimore City, Baltimore County, and Anne Arundel County, Maryland

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The Maryland Department of Natural Resources (MDNR) completed the environmental review request from Coastal Resources, Inc on behalf of the Maryland Transportation Authority (MDTA) for the Francis Scott Key Bridge Rebuild Project in Baltimore City, Baltimore County, and Anne Arundel County Maryland.

To ensure that impacts to natural and living resources on the project site and vicinity are first avoided and then if unavoidable, minimized to the maximum extent possible, the Department requests that the following concerns and recommendations be fully incorporated into the review of the proposed activities:

Waterways
The prominent waterway in the project area is the tidal portion of the Patapsco River (Use Class II) which flows directly into the Chesapeake Bay. Adjacent to the project site, the Patapsco River forms confluences with Bear Creek (Use II) and Curtis Creek (Use II) and tributaries.

Avifauna
Historic Waterfowl Concentration Areas protected under Critical Area Law are present along the shorelines and in the open water of the Patapsco River around the Francis Scott Key Bridge. Generally, to minimize disturbance to wintering and staging waterfowl, no water dependent work should be conducted from November 15 through March 1 of any year. However, this time of year restriction may be waived when time of year restrictions related to other resource concerns are present and if threats to human health and safety exist.

There is potential presence of a multitude of migratory birds in the project area. The Patapsco River harbors various colonial nesting waterbirds including herons, cormorants, and gulls. These species can be seen nesting on the piers and other structures of the bridge.

Submerged Aquatic Vegetation (SAV)

In 2022, 176.8 acres of SAV were mapped in the Patapsco River (VIMS annual aerial SAV survey). This represents 45% of the 389-acre SAV restoration target for the Patapsco River. SAV in the Patapsco has been trending upward in acreage in the past decade, as seen in Fig. 1 below. SAV is located primarily in Old Road Bay and Bear, Swan, Cox, Stony, Nabbs, Rock, Back, Main, Bodkin, and Wharf Creeks and Boyd Pond (Fig. 2). SAV species composition is composed of several freshwater to mesohaline species, including *Zannichellia palustris* (Horned pondweed), *Elodea canadensis* (Common waterweed), *Ceratophylum demersum* (Coontail), *Vallisneria americana* (Wild celery), *Potamogeton perfoliatus* (Redhead grass), *Ruppia maritima* (Widgeongrass), *Potamogeton crispus* (Curly pondweed), *Myriophyllum spicatum* (Eurasian watermilfoil), *and Hydrilla verticillata* (Hydrilla) (https://www.vims.edu/research/units/programs/sav/access/maps/).

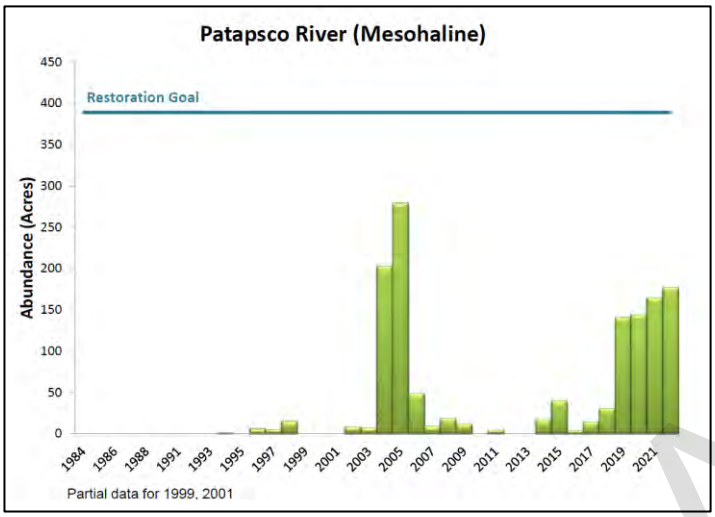

Figure 1. SAV Acres over

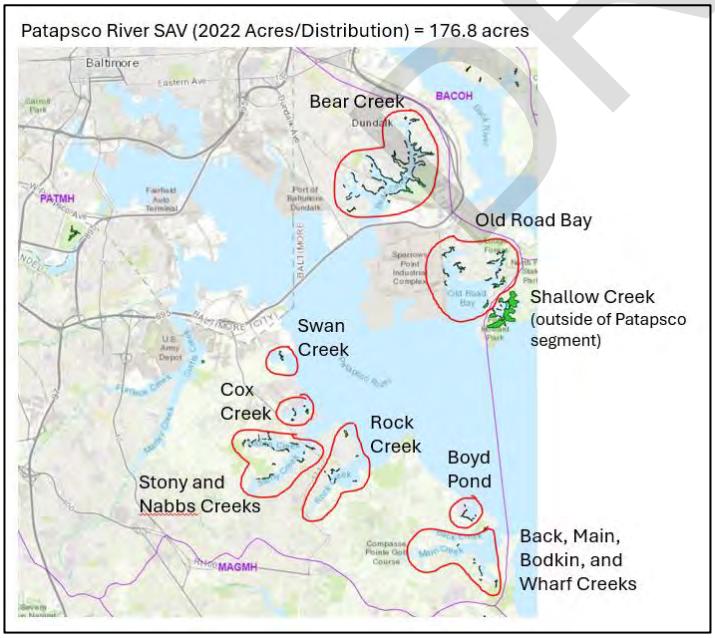

Figure 2. SAV Distribution

Key Bridge demolition, removal, and reconstruction has the potential to resuspend the thick layer of sediment on the bottom of the Patapsco River. This resuspension of sediments will create turbidity that reduces the light and conditions necessary for SAV survival, recruitment, and expansion and will limit our ability to progress toward the segment SAV restoration target of 389 acres.

To avoid impacts to SAV, all reasonable efforts should be made to reduce the resuspension of sediments during reconstruction and block the inevitable turbidity plumes from entering the creeks and bays where SAV is abundant. Time of year restrictions to ensure the majority of construction occurs outside of the SAV growing period from April 15 through October 15 will reduce impacts. Recognizing that this is an emergency situation where impacts to SAV will be inevitable, we recommend pro-actively planning to directly restore SAV (at a 3:1 ratio for acreage) when bridge reconstruction is complete in areas where distribution, density, or diversity is lost. The recommended species for restoration at this location would be *Vallisneria americana* (Wild celery).

Rare, Threated, and Endangered Species
Two Sensitive Species Project Review Areas (SSPRAs) have been documented in the project vicinity. At Fort Carroll there's a nesting colony of the State Rare (S3B) Black-crowned Night Herons (*Nycticorax nycticorax*). Additionally, there are nest records of the American Peregrine Falcon (*Falco peregrinus anatum*), a species with In Need of Conservation status in Maryland, documented on this site. The DNR Wildlife and Heritage Service will provide additional information on these RT&E species under separate cover.

Diadromous Fish
Anadromous fish species, including yellow perch, herring species, and white perch have been documented near this project site. The Patapsco River supports various resident warmwater species typical of the region as well. Where presence of yellow perch has been documented in the vicinity of an instream project area, generally no instream work is permitted in Use I and certain Use II waters during the period of February 15 through June 15, inclusive, during any year.

Important fisheries resources in this area include American Eel presence. American Eels migrate upstream through this region to smaller streams where they grow to adult stages. Some eels may reside within the project study area long term. Their spawning runs then take them back through this area as they migrate downstream as adults to a specific region of the Atlantic Ocean to spawn. Special attention has been given to American Eel management in recent years, due to their ecological and economic importance, and their declining numbers.

The project should be designed to maintain or enhance fish passage through the project area, particularly during low flow periods. Agencies will likely request a zone of safe passage for anadromous fish species be maintained for the project duration to ensure fish may travel to their preferred spawning areas further upstream in the Patapsco River and adjacent tributaries.

Recreational and Commercial Fisheries
DNR anticipates potential impacts to recreational and commercial fisheries and boating. Please coordinate with DNR Recreational and Commercial Fisheries to minimize any potential impacts from the removal and reconstruction of the Francis Scott Key Bridge.

The Patapsco River in recent years has harbored large schools of striped bass. It may be assumed most fishing activity is going to avoid the work area and will by default establish enough of a buffer for the bridge work. Lack of access to the Patapsco River near the project site for recreational fishing of striped bass and other recreationally important fish species could potentially impact the recreational sector**.**

DNR anticipates there could be impacts to the various organizations based on the Patapsco River that either fish from their property or take individuals out fishing. There are reef balls placed around Fort Carroll and it is common for companies to take trips out to fish in these areas. There are three designated license free fishing areas in Baltimore City located at Canton Recreation Pier, Broening Park, and Canton Waterfront Park. Retailers (i.e. Tochterman's) and fishing clubs are also present in this area. It is possible these groups could be impacted by this project.

Recreational crabbers use trotlines and traps around the Francis Scott Key Bridge, particularly on the north side near Sollers Point where there is an oyster bar. There are also concerns regarding the timing of boat passage for crabbers transiting in and out of the harbor.
.

Oysters
A designated oyster sanctuary surrounds Fort Carroll. This oyster bar was utilized to provide stability for Fort Carroll when it was first built and is the most upstream bar in the Patapsco River. The viable bottom in this oyster sanctuary is focused on the northwestern side of Fort Carroll facing the bridge. This area contains shell habitat and a minimal amount of natural oyster from spatset that only occurs during extreme droughts when salinity offers the possibility of reproduction. This bar has been planted with hatchery spat for many years by local participants in the Marylanders Grow Oysters Program and others. Additionally, the oysters are sampled by environmental education groups during their field trips.

Additional Comments on BMPs:
The project area may be within or adjacent to mapped wetland areas, impacts from the use of heavy equipment, disposal of excavated material, or other construction activities should be avoided to the extent possible. When there is no reasonable alternative to the adverse effects on wetlands or other aquatic or terrestrial habitat, the applicant shall be required to provide measures to mitigate, replace, or minimize the loss of habitat.

This project is located in the Chesapeake Bay Critical Area and will need to conform to Critical Area laws and policies.

Best Management Practices should be stringently managed and maintained during bridge construction and demolition to prevent runoff and debris from entering surface waters and protect stream resources, given the presence of numerous sensitive species in the watershed.

The fisheries resources in the above area should be adequately protected by the instream work restrictions referenced above, stringent sediment and erosion control methods, and other Best Management Practices typically used for protection of stream resources.

Thank you for the opportunity to review and comment on this project. Please continue to coordinate with MDNR as this project progresses. If you have any questions concerning these comments, please feel free to contact Ms. Gwen Gibson of my staff at gwendolyn.gibson@maryland.gov.

Sincerely,

Tony Redman, Director
Environmental Review Program
Department of Natural Resources
Tawes State Office Building, B-3
Annapolis, MD 21401

June 3, 2024

Mr. Jeff Gring
Coastal Resources, Inc.
25 Old Solomons Island Road
Annapolis, MD 21401

RE: Environmental Review for Key Bridge Rebuild Project, Maryland Transportation Authority, I-695 over Patapsco River, Baltimore County, Anne Arundel County and Baltimore City, Maryland.

Dear Mr. Gring:

The Wildlife and Heritage Service has the following areas of potential concern for impacts to rare, threatened or endangered species and protected habitats in regard to this project:

The former Key Bridge supported a nesting structure used by a pair of American Peregrine Falcons (*Falco peregrinus anatum*), a species with In Need of Conservation status in Maryland. It is possible that individuals of this species could return to nest on structures here in the future. We generally recommend protecting any active nest sites for the American Peregrine Falcon by limiting work with a ¼-mile buffer around the nest site during the breeding season which is generally considered to be March 1 through June 30 of any given year.

The open waters of the Patapsco River shoreline that are adjacent to or part of the site are known historic waterfowl concentration and staging areas. Waterfowl concentration and staging areas are recognized areas of open water and wetlands adjacent to land that are utilized by significant numbers of ducks, geese, and swans for feeding and resting during the winter months. These areas in close proximity to the shore are vital, as they provide submerged aquatic vegetation (SAV), clams and other invertebrates that serve as primary food sources for many of these birds. A variety of waterfowl species can be found in such areas, building energy reserves for their upcoming migrations. If there is to be any construction of water-dependent facilities please contact Josh Homyack of the Wildlife and Heritage Service at (410) 827-8612 x100 or josh.homyack@maryland.gov for further technical assistance regarding waterfowl.

While it does not appear to fall within the study area as shown on your map, Fort Carroll Island is in close proximity to the proposed site and is known to support a colony of waterbirds of mixed species. Waterbird colonies are a rare resource that should be protected. Conservation of waterbird colonies that are located in the Chesapeake Bay Critical Area is required by state law. Significant mortality of chicks or eggs resulting from disturbance of the colony during the breeding season is a violation of the U.S. Migratory Bird Treaty Act. Disturbance includes actions such as cutting nest trees, cutting nearby trees or nearby construction that causes abandonment of chicks by the adults. Whenever possible, waterbird colony sites should be conserved as part of responsible land stewardship.

To protect waterbird colonies we use the following guidelines:

1. Establish a protection area of ¼ mile radius from the colony's outer boundary, and within that establish a 300' foot boundary (Zone 1).
2. During the breeding season, all human entry into the colony and Zone 1 should be restricted to only that essential for protection of the colony. Human disturbance of colony sites that results in significant mortality of eggs and/or chicks is considered a prohibited taking under various state and federal regulations.
3. No land use changes, including development or tree removal, should occur in Zone 1.
4. Construction activities, including clearing, grading, building, etc., should not occur within Zone 1.
5. No construction or similar disturbance should occur within the ¼ mile protection area during the breeding season. The breeding season varies for each different waterbird species, but for the species known to nest at Fort Carroll Island, it is cumulatively from February 15 through 15 August of any given year.

The Wildlife and Heritage Service provides assistance to those interested in protecting these resources. The above guidelines are usually suitable for protection in most cases. Specific protection measures depend upon many factors. We look forward to continued coordination with you as this project moves forward.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at lori.byrne@maryland.gov or at (410) 260-8573.

Sincerely,

Lori A. Byrne

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER# 2024.0810.ba/aa/bc
Cc: D. Brinker, DNR
J. Homyack, DNR
K. Harvey, DNR
G. Gibson, MES/SHA
L. Sestak, DNR
C. Jones, CAC

EFH Mapper Report

EFH Data Notice

Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional fishery management councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

Greater Atlantic Regional Office
Atlantic Highly Migratory Species Management Division

*** W A R N I N G ***

Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all life stages of that species share the same map and are designated at the queried location.

EFH

Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
		Atlantic Butterfish	Adult, Eggs, Larvae	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
		Atlantic Herring	Adult, Juvenile	New England	Amendment 3 to the Atlantic Herring FMP
		Black Sea Bass	Adult, Juvenile	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Bluefish	Adult, Juvenile	Mid-Atlantic	Bluefish
		Clearnose Skate	Adult, Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
		Red Hake	Adult, Eggs/Larvae/Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
		Scup	Adult, Juvenile	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Summer Flounder	Adult, Juvenile, Larvae	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
		Windowpane Flounder	Adult, Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP

Pacific Salmon EFH

No Pacific Salmon Essential Fish Habitat (EFH) were identified at the report location.

Atlantic Salmon

No Atlantic Salmon were identified at the report location.

HAPCs

Link	Data Caveats	HAPC Name	Management Council
		Summer Flounder SAV	Mid-Atlantic Fishery Management Council

EFH Areas Protected from Fishing

No EFH Areas Protected from Fishing (EFHA) were identified at the report location.

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data.
****For links to all EFH text descriptions see the complete data inventory: open data inventory -->**

All EFH species have been mapped for the Greater Atlantic region,
Atlantic Highly Migratory Species EFH,
Bigeye Sand Tiger Shark,
Bigeye Sixgill Shark,
Caribbean Sharpnose Shark,
Galapagos Shark,
Narrowtooth Shark,
Sevengill Shark,
Sixgill Shark,
Smooth Hammerhead Shark,
Smalltail Shark

APPENDIX F
PRE-FILING MEETING REQUEST FORM

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Water and Science Administration ● Wetlands and Waterways Program
1800 Washington Boulevard ● Suite 430 ● Baltimore, Maryland 21230
410-537-3745 ● 800-633-6101 ● www.mde.maryland.gov

Pre-Filing Meeting Request

All fields with an asterisk * are required unless noted otherwise.
Use the *SUBMIT by EMAIL* button to send your request. READ the sending instructions.
Optionally, save this form, attach it to an email, and return it to: *wetlandspreap.mde@maryland.gov*

Project Location

Complete all of the following project location fields

http://www. latlong.net

Site Address

If a site address is not available, be sure to describe the project location in the available field below.

House, lot, or location number: N/A
Street name: I-695
* City: Baltimore/Dundalk
* State: MD
* Zip: 21226/21222
* Latitude / * Longitude: 39°13'00.6"N / 76°31'43.2"W
*County: Select a county: Baltimore County
*ADC Map

Map#	Alpha	Number	Edition
4940	G	5	

(ADC map coordinates not required for Allegany, Garrett or Somerset counties)

Describe project location
(eg.,200 yards NE of Rte 50 / Tempo Road)
Not needed if exact address is shown above.

Francis Scott Key Bridge and approaches, I-695 between Baltimore Co. and Baltimore City

Property Owner

Mailing address may be different from Project location address.

**** At least one telephone***

* Full name: MDTA, Representative: Melissa Williams
* Mailing address: 2310 Broening Highway
* City, State Zip: Baltimore, MD 21224
Telephone Home: n/a
Work: 410-802-9684
Cell: n/a
Email: mwilliams9@mdta.maryland.gov

Primary Contact

**** At least one telephone***

* Full name: Justin Reel
Company: RK&K
* Mailing address: 700 East Pratt Street, Suite 500
* City, State Zip: Baltimore, MD 21202
Telephone Work: 703-338-4139
Cell: 703-338-4139
Email: Jreel@rkk.com

Project

* This project request is:
(Place an 'x' in the box for WQC)

Water Quality Certification (WQC) X

Description of Project
Include the following (if known): ACOE Category, ACOE reviewer, Tracking # and AI #

Reconstruction of the Francis Scott Key Bridge which requires a ACOE NWP (23) with anticipated impacts of greater than ½ acre, ACOE contact Joe DaVia

By submitting this form, the property owner grants permission to the representatives of the Maryland Department of the Environment to enter the property during business hours for the purpose of making observations of the proposed project site. If this form is being submitted by the primary contact and not the property owner, the primary contact certifies that he or she is the agent authorized to act on behalf of the property owner and, as the agent, has obtained the property owner's permission for the representatives of the Maryland Department of the Environment to enter the property during business hours for the purpose of making observations of the proposed project site.

Submit by Email | Print Form | Clear Form

MARYLAND DEPARTMENT OF THE ENVIRONMENT
Water and Science Administration ● Wetlands and Waterways Program
1800 Washington Boulevard ● Suite 430 ● Baltimore, Maryland 21230
410-537-3745 ● 800-633-6101 ● www.mde.maryland.gov

Pre-Filing Meeting Request

All fields with an asterisk * are required unless noted otherwise.
Use the *SUBMIT by EMAIL* button to send your request. READ the sending instructions.
Optionally, save this form, attach it to an email, and return it to: *wetlandspreap.mde@maryland.gov*

Project Location

Complete all of the following project location fields

http://www. latlong.net

Site Address

If a site address is not available, be sure to describe the project location in the available field below.

House, lot, or location number: N/A
Street name: I-695
* City: Baltimore/Dundalk
* State: MD
* Zip: 21226/21222
* Latitude / * Longitude: 39°13'00.6"N / 76°31'43.2"W
*County: Select a county: Baltimore County
*ADC Map

Map#	Alpha	Number	Edition
4940	G	5	

(ADC map coordinates not required for Allegany, Garrett or Somerset counties)

Describe project location
(eg.,200 yards NE of Rte 50 / Tempo Road)
Not needed if exact address is shown above.

Francis Scott Key Bridge and approaches, I-695 between Baltimore Co. and Baltimore City

Property Owner

Mailing address may be different from Project location address.

**** At least one telephone***

* Full name	MDTA, Representative: Melissa Williams
* Mailing address	2310 Broening Highway
* City, State Zip	Baltimore, MD 21224
Telephone Home	n/a
Work	410-802-9684
Cell	n/a
Email	mwilliams9@mdta.maryland.gov

Primary Contact

**** At least one telephone***

* Full name	Justin Reel
Company	RK&K
* Mailing address	700 East Pratt Street, Suite 500
* City, State Zip	Baltimore, MD 21202
Telephone Work	703-338-4139
Cell	703-338-4139
Email	Jreel@rkk.com

Project

* **This project request is:**
(Place an 'x' in the box for WQC)

Water Quality Certification (WQC) X

Description of Project
Include the following (if known): ACOE Category, ACOE reviewer, Tracking # and AI #

Reconstruction of the Francis Scott Key Bridge which requires a USCG Bridge Permit, USCG contact Mr. Hal Pitts

By submitting this form, the property owner grants permission to the representatives of the Maryland Department of the Environment to enter the property during business hours for the purpose of making observations of the proposed project site. If this form is being submitted by the primary contact and not the property owner, the primary contact certifies that he or she is the agent authorized to act on behalf of the property owner and, as the agent, has obtained the property owner's permission for the representatives of the Maryland Department of the Environment to enter the property during business hours for the purpose of making observations of the proposed project site.

Submit by Emai | Print Form | Clear Form

APPENDIX G
BRIDGE PERMIT APPLICATION

July 1, 2024

Mr. Hal R. Pitts
Bridge Program Manager
USCG-Fifth CG District
431 Crawford Street
Portsmouth, VA 23704-5004

Subject: **US Coast Guard Bridge Permit Application** for the proposed Francis Scott Key Bridge Rebuild Project along I-695 (Baltimore Beltway) over the Patapsco River in Baltimore City, Baltimore County, and Anne Arundel County, Maryland.

Dear Mr. Pitts,

Application is hereby made for a Coast Guard bridge permit.

ADMINISTRATIVE AND NAVIGATION INFORMATION

Application Date: July 1, 2024

Applicant information:

1) *Name:* Maryland Transportation Authority (MDTA), Melissa Williams
2) *Address:* 2310 Broening Highway
3) *Telephone number:* (410) 537-5650
4) *Email address:* mwilliams9@mdta.state.md.us

Consultant/Agent information (if employed):

1) *Name (company or individual):* RK&K, Justin Reel
2) *Address:* 700 East Pratt Street, Baltimore, MD 21202
3) *Telephone number:* (703) 338-4139
4) *Email address:* jreel@rkk.com

5) *Letter authorizing a consultant/agent to obtain permits on behalf of the applicant included:* ☒ Yes ☐ No

Name of Proposed Bridge(s): Francis Scott Key Bridge on I-695 (Baltimore Beltway) over Patapsco River, Mile Point 4.8. Baltimore City, Baltimore & Anne Arundel Counties, Maryland.

1) *Name of the waterway that the bridge(s) would cross:* Patapsco River

2) *Number of miles above the mouth of the waterway where the bridge(s) would be located and provide latitude and longitude coordinates (degree/minute/second) at centerline of navigation channel (contact the local Coast Guard Bridge Office for guidance):* 4.8 NM above the mouth of the Patapsco River; 39°13'1.561,"-76°31'42.079"

3) *City or town, county/parish, and state where the bridge(s) would be located at, near, or between:* Baltimore City, Baltimore & Anne Arundel Counties, Maryland.

4) *Brief description of project to include type of bridge(s) proposed [fixed or movable (drawbridge, bascule, vertical lift, swing span, pontoon), highway, railway, pedestrian, pipeline] and existing bridge(s) at project site, if applicable:* The fixed highway structure will carry I-695 (Baltimore Beltway) from Hawkins Point to Sollers Point, to be constructed within the collapsed structure's existing right-of-way.

5) *Drawbridge Regulations (if applicable):* N/A. The proposed bridge will be a fixed structure.

6) *Date of plans and number of plan sheets:* TBD

7) *Estimated cost of bridge(s) and approaches:*

Provide the estimated cost of the bridge(s) as proposed, with vertical and horizontal navigational clearances: The current estimated cost is $1.7 billion.

Provide the estimated cost of a low-level bridge(s) on the same alignment with only sufficient clearance to pass high water while meeting the intended purpose and need: A low-level bridge would not meet the vertical clearance necessary for prospective reasonable needs for navigation; therefore, no cost was estimated.

8) *Type and source of project funding (federal, state, private, etc.):* Funding will be provided via cost sharing utilizing federal and state funds.

Proposed project timeline:

August 26, 2024	Submit USCG Bridge Permit and other permit applications
October 28, 2024	Public Notice advertised by USCG
December 4, 2024	Receive USCG authorizations
January, 2025	Construction commences
October, 2028	Construction complete

9) *Other Federal actions (e.g., permits, approvals, funding, etc.) associated with the proposal:*

Issuing Agency	Regulation/Jurisdiction	Action
FHWA	NEPA	Categorical Exclusion
US Army Corps of Engineers	Clean Water Act (CWA)	Section 404, NWP 3
US Army Corps of Engineers	Rivers and Harbors Act	Section 408 authorization
USFWS/NOAA Fisheries	Endangered Species Act, Migratory Bird Treaty Act	Section 7 consultation

Legal authority for proposed action:

1) *Cite appropriate Bridge Act:* General Bridge Act of 1946

2) *If not the owner of the existing bridge(s) that is being replaced or modified, include a signed statement from the bridge owner authorizing the removal or modification work and cite its location:* N/A. MDTA is the owner of the bridge.

3) *For privately owned bridges, cite authorization for right to build (e.g. deed or easement from the property owner authorizing the proposed construction or modification work):* N/A. MDTA is the owner of the bridge.

International bridges (if applicable):

1) *Cite the International Bridge Act of 1972, or a copy of the Special Act of Congress if constructed prior to 1972, as the legislative authority for international bridge construction:* N/A. The proposed bridge is not an international bridge.

2) *For permits issued under the International Bridge Act of 1972, cite Presidential approval, via the State Department, included with the application as required:* N/A. The proposed bridge is not an international bridge.

<u>NOTE</u>: Please include a copy of State Department approval for international bridges in the application package for a Coast Guard bridge permit.

Dimensions of the proposed bridge(s):

1) Vertical clearance as indicated on plan sheets: 230 ft (MHW) at the main navigation span

2) *Horizontal clearance as indicated on plan sheets:* 1,100 ft at the main navigation span

3) *Length of bridge(s) project:* The total project length is approximately 2.4 miles.

   If no prior permit exists, and this is a modification or replacement project, is the length the same as the old bridge: N/A. The previous structure was permitted.

   If not, what is the difference: The total project length is approximately 0.7 miles longer than the previous bridge.

4) *Width of bridge(s) project:* The proposed out to out width is 82 ft.

   If no prior permit exists, and this is a modification or replacement project, is the width the same as the old bridge: N/A. The previous structure was permitted.

   If not, what is the difference: The proposed out to out width is 28 ft. wider than the previous bridge.

5) *Depth of the waterway at project site at MHW if tidal or OHW if non-tidal, using the appropriate elevation and datum (e.g., NGVD 1929, NAVD 1988, etc.):* The depth of the USACE maintained navigational channel at this location is 50 ft. The depths under the remainder of the bridge range from 11 ft. to 25 ft. NAVD88.

6) *Width of waterway at project site at MHW if tidal or OHW if non-tidal:* The width of the waterway is 5,167 ft. The width of the USACE navigational channel is permitted to 800 ft, though the USACE currently maintains a 700 ft width.

7) *Significant effect on flood heights and associated drift, if any, that could cause a navigation hazard:* The proposed structure will not create a significant effect on flood heights and any associated drift.

Temporary Bridge(s) dimensions (vertical clearance, horizontal clearance, length and width), if applicable: TBD

If a navigation impact report was conducted please cite location(s) in the case file, list title and date of document as appropriate: Navigation Impact Report for the Francis Scott Key Bridge dated May 17, 2024

Existing bridge(s) if applicable:

1) *Name of bridge(s):* Francis Scott Key Bridge on Baltimore Beltway over Patapsco

River. Baltimore City, Baltimore & Anne Arundel Counties, Maryland.

2) *Type of bridge(s) and number of lanes (e.g., fixed or moveable (drawbridge, bascule, vertical lift, swing span, pontoon, etc.); highway, railway, pedestrian, pipeline):* Prior to the collapse, fixed highway structure had two lanes in each direction.

3) *For movable spans identify the existing drawbridge operating regulation governing the structure (e.g. 33 CFR 117.XXX, if applicable):* N/A. The new structure will be a fixed bridge.

4) *When applicable, identify if the local Coast Guard Bridge Office identified that modification of an existing drawbridge requires revision or removal of the existing regulation (e.g. if the bridge project involves replacing the existing drawbridge with a fixed bridge):* N/A. The new structure will be a fixed bridge.

NOTE: If the waterway is not already identified in 117 Subpart B, please note if an operating schedule other than open on demand is being considered.

4) *Latitude and longitude coordinates (degree/minute/second) at centerline of the bridge(s):* 39°13'1.561,"-76°31'42.079"

5) Dimensions of the existing bridge(s):

Vertical clearance(s) as indicated on previous plan sheets (include both the open and closed-to-navigation clearances for movable spans). [The proposed and existing vertical clearances must be compared using the same datums. This may require surveying the existing bridge]: The previous structure had a vertical clearance of 185 ft (MHW) at the main navigation span.

Horizontal clearance as indicated on previous plan sheets: The previous structure had a horizontal clearance of 1,100 ft.

Length of existing bridge(s): The previous structure had a total length of 1.7 miles.

Width of existing bridge(s): The previous structure had an out to out width of 54 ft.

6) *Owner of the existing bridge(s):* MDTA is the owner of the previous bridge

Discuss construction methodology, if known, and removal of existing bridge(s), as applicable:

1) *Discuss proposed construction methodology and restrictions*: TBD

2) *Discuss maintenance of land traffic during construction activities:* Following the collapse, vehicular traffic began utilizing I-95, I-895, I-695 as well as local routes.

It is anticipated that these alternatives will remain options during construction of the new structure.

3) *Discuss extent of removal of existing bridge(s) (e.g. in its entirety, two feet below the mud line, down to or below the natural bottom of the waterway or to a specific elevation), time needed for removal, etc.:* Remaining components of the previous structure will be removed down to or below two feet below the mudline, as required by the USCG in a letter dated June 14, 2024.

4) *Discuss demolition methodology:* Due to the emergency conditions caused by the collapse, FHWA Emergency Relief Program funds were triggered for necessary debris removal actions to clear the navigation channel. The remaining standing stable structure will be removed in four distinct demolition activities as follows:

1. Removal of parapet, median, and deck over land and water mechanically – working from the end of the existing structures towards the land, the parapet, median, and decking will be saw cut into manageable pieces, loaded onto trucks and trucked down the structure to an upland processing site.
2. Removal of existing girders on the six (6) remaining water spans mechanically – using barge mounted cranes, the existing girders will be cut into manageable pieces, lowered onto a barge, and transported to an existing marine terminal for off-loading and processing.
3. Removal of existing land spans and land piers using explosives – explosives will be used to demolish the piers over land, allowing the girders to fall to the ground, concrete and steel will be processed in place and loaded onto trucks for recycling.
4. Removal of water piers and dolphins using explosives - portions of piers located both above water and below water will be demolished with explosives and allowed to fall into the water, portions of dolphins located above water will be mechanically demolished and the portions below water will be demolished with explosives, following demolition all debris will be removed from the river bottom with excavators and clamshell dredge and the river bottom will be restored.

The project may also involve additional temporary impacts associated with the removal of buried piers. During the collapse, piers 19, 20, and 21 snapped at various elevations at or above the waterline. The snapped portions of the piers fell to the river bottom and sunk up to 30 feet below the mudline due to their significant size and weight. Portions or all of these buried pier segments may need to be removed from the river bottom to allow construction of the new bridge or as required by the regulatory agencies.

This application includes temporary impacts associated with the installation and subsequent removal of up to 100 temporary piles with a diameter no greater than 36 inches. These temporary piles may be required to secure barges or facilitate demolition activities in other ways.

All demolition activities will be undertaken with minimal disruption to the federal navigation channel. Temporary piles will not be located within the navigation channel, and construction

barges will not obstruct the federal navigation channel. There may be short duration closures of the navigation channel that may be necessary to maintain a safety zone around a blasting event. These short duration closures will be coordinated with the USCG to minimize disruptions to navigation and ensure the safety of the commercial and recreational river users.

NOTE: In the interest of navigational safety, the Coast Guard must make the final decision concerning the extent of bridge(s) removal.

Other agencies with jurisdiction over the proposed project:

Agency	Permit/Approval	Regulation/Jurisdiction
FHWA	Categorical Exclusion	NEPA
US Army Corps of Engineers	Section 404, NWP 3	Clean Water Act (CWA)
US Army Corps of Engineers	Section 408 authorization	Rivers and Harbors Act
USFWS/NOAA Fisheries	Section 7 consultation	Endangered Species Act, Migratory Bird Treaty Act
Maryland Department of the Environment (MDE)	Section 401 Water Quality Certification	CWA
MDE	Section 402 National Pollutant Discharge Elimination System	CWA
MDE	CZM Consistency Review	Coastal Zone Management Act
MDE	Tidal Wetlands License	Tidal Wetlands Act
MDE	Non-Tidal Wetlands Permit	Non-Tidal Wetlands Act
DNR	CA Approval	Chesapeake Bay Critical Area Protection Program
DNR	Ref Law and RTP approvals	Reforestation Law and Roadside Tree Law
MD Historical Trust	Section 106 consultation	National Historic Preservation Act, Section 106

ENVIRONMENTAL INFORMATION:

National Environmental Policy Act

Lead Federal Agency: Federal Highway Administration (FHWA)

List Cooperating Agencies for project: MDTA, Maryland State Highway Administration (SHA)

a. *Type of environmental document.*

☐ *Environmental Impact Statement/Record of Decision (EIS/ROD)*

Cite location(s) in the application package:

☐ *Environmental Assessment/Finding of No Significant Impact (EA/FONSI)*

Cite location(s) in the application package:

☒ *Categorical Exclusion (CE)*-Currently in review by FHWA

Cite location(s) in the application package: Appendix A

b. *Has the environmental document been modified, reevaluated, supplemented or rescinded for the proposed action?*

☐ Yes ☒ No

If yes, cite location(s) in the application package:

Environmental Effects Abroad

a. *Does the proposed project involve a bridge connection to Canada or Mexico?*

☐ Yes ☒ No

If yes, cite location(s) in NEPA document where environmental effects abroad are described:

Clean Water Act

a. *Has a Water Quality Certification (WQC), waiver or statement that the WQC is not required been obtained from the appropriate federal, interstate, or state agency?*

☐ Yes ☒ No

If yes, cite location(s) in the application package: An Individual Water Quality Certification Request was submitted to MDE on July 1, 2024. See Appendix B for copy of the application.

NOTE: The USCG will not accept an application package as complete if a WQC, waiver, or statement from the appropriate regulatory body has not been obtained.

b. *Name of the Federal, State or Tribal certifying agency and point of contact with phone and email address, if available:*

Danielle Spendiff, Chief, Regulatory & Customer Service Division
Federal Consistency Coordinator
MDE/Water and Science Administration
(410) 537-4023
danielle.spendiff1@maryland.gov

c. *If the WQC is granted under a Programmatic Agreement (e.g., U.S. Army Corps of Engineers (USACE) Nationwide Permit (NWP) include the date of the NWP, the type of NWP (14, 15, etc.) and the NWP number and title:* A Section 401 Individual WQC will be required from MDE.

d. *For permit amendment actions, include a new WQC or a written confirmation from the certifying agency that the existing WQC has been reissued/renewed or is still valid for the proposed action.*

☐ *New WQC Attached*

☐ *Written Confirmation of WQC validity attached*

Wetlands

a. *Is the proposed project located in or adjacent to a wetland?*

☒ Yes ☐ No

b. *If yes, what is the acreage of wetlands that will be permanently and temporarily impacted by the proposed project?* TBD

Include USACE permit (nationwide authorization or individual), if required, and cite where wetland mitigation measures are described in the application package: The USACE intends to authorize construction under NWP 3. A JPA was submitted to MDE and USACE on 7/17/24. See Appendix C for copy of the application. Section 4 of the JPA includes measures taken or considered to avoid or minimize wetland losses.

Coastal Zone Management Act - The Coastal Zone Management Act **(**CZMA**)** of 1972 (16 U.S.C. § 1451), as amended, and its implementing regulations (15 CFR Part 930), requires all projects located within the designated coastal zone of a state to be consistent with the State's federally approved CZM plan (CZMP).

a. *Is the project located in a state that has an approved Coastal Zone Management Act Plan (CZMP)?*

☒ Yes ☐ No

b. *If yes, is the project within an area included in the federally approved CZMP?*

☒ Yes ☐ No

c. *If yes, has the State specifically excluded this activity from its federally approved CZMP?*
☐ Yes ☒ No

Include State CZM concurrence/with consistency certification and cite location(s) in the application package: A Joint Federal/State Application (JPA) was submitted to MDE and USACE on 7/17/24. See Appendix C for copy of the application.

Floodplains

a. *Is the proposed project located in the base floodplain? An encroachment into the base floodplain does not exist when only the piers, pilings, or pile bents are located in the floodplain.*

☒ Yes ☐ No

b. *Is there a significant encroachment (constituting a considerable probability of loss of human life; likely future damage associated with the encroachment that could be substantial in cost or extent; or a notable adverse impact on natural and beneficial floodplain values) into the floodplain?*
☐ Yes ☒ No

c. *If yes, provide documentation and cite location(s) in the application package:*

Wild and Scenic Rivers

a. Is the river involved in the proposed bridge project a designated Wild and Scenic River?

☐ Yes ☒ No

b. *If yes, attach correspondence with the river-administering agency and cite location(s) in the application package:*

Coastal Barrier Resources Act

a. *Does the proposed project connect to a unit of the Coastal Barrier Resources System?*

☐ Yes ☒ No

b. *If yes, and the project is federally funded, cite location of Section 6 exception in the application package and any correspondence with the FWS:*

Land and Water Conservation Fund Act

a. *Does the proposed project involve a conversion of land or facilities funded under Section 6(f) of the Land and Water Conservation Fund Act?*

☐ Yes ☒ No

b. *If yes, include correspondence with the NPS and authorization from the Secretary of the Interior for that conversion and cite location(s) in the application package:*

National Marine Sanctuaries Act

a. *Is the proposed project in or adjacent to a National Marine Sanctuary?*

☐ Yes ☒ No

b. *Is the proposed bridge(s) likely to destroy, cause loss of, or injure a resource of a National Marine Sanctuary? (If no, provide evidence)*
☐ Yes ☒ No

c. *If yes, include evidence of consultation with Office of National Marine Sanctuaries and the agency's findings/conditions and cite location(s) in the application package:*

Marine Protected Areas

a. *Is the proposed project in or adjacent to a Marine Protected Area (MPA) as defined in section 4(d) of Executive Order 13158?*
☐ Yes ☒ No

b. *If yes, will the proposed project affect the natural or cultural resources that are protected by the MPA? (If no, provide evidence)*
☐ Yes ☒ No

c. *If yes, include evidence of correspondence with MPA Center, if applicable, and cite location(s) in the application package:*

Endangered Species Act

a. *Are there federally designated threatened or endangered species and/or critical habitat in the area that the proposed project is located? (If no, provide evidence)*
☒ Yes ☐ No

b. *May the proposed project affect federally designated threatened or endangered species and/or critical habitat? (If no, provide evidence)*

☒ Yes ☐ No

c. *If yes, was there formal or informal consultation with the United States Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS)?*

☐ Formal consultation

☒ Informal consultation

d. *If formal, provide date(s) and attach biological assessment, biological opinion, and any other relevant correspondence and cite location(s) in application package:*

e. *If informal, provide dates and include correspondence or documented phone conversations with and from USFWS/NMFS and cite location(s) in the application package:* See Appendix D for Endangered Species Act-Section 7 Informal Concurrence from USFWS and NMFS.

f. *Include Biological Assessment/Biological Evaluation, as appropriate.*

Fish and Wildlife Coordination Act

a. *Include any correspondence with USFWS and the relevant state wildlife agency regarding Fish and Wildlife Coordination Act coordination and cite location(s) in the application package:* See Appendix E for coordination with USFWS and DNR Wildlife and Heritage Service.

Magnuson-Stevens Fishery Conservation and Management Act

Will the proposed project likely adversely affect designated Essential Fish Habitats (EFH) as defined in the Magnuson-Stevens Act? (If no, provide evidence)

☐ Yes ☒ No

b. *Identify location of EFH assessment and relevant correspondence with NMFS in the application package:* See Appendix F for the EFH Mapper Report and coordination with NMFS.

Marine Mammal Protection Act

a. *Does the proposed project involve a "take" of marine mammals as defined in the Marine Mammal Protection Act?*
☐ Yes ☒ No

b. *If yes, include the incidental harassment authorization or letter of authorization from NMFS and any relevant correspondence and cite location(s) in the application package:*

Migratory Bird Treaty Act

a. *Does the proposed project involve a potential take of migratory birds as defined in the Migratory Bird Treaty Act? (If no, provide evidence)*
☐ Yes ☒ No

Due to the collapse of the structure as well as the critical need to restore this vital

connection, much of the previous potential nesting habitat has already been removed. Coordination with the USFWS and DNR related to MBTA is ongoing and will continue throughout the remaining phases of demolition.

b. *If yes, is a permit required?*

☐ Yes ☒ No

c. *If a permit is required, include it and any correspondence with USFWS and cite location(s) in the application package:*

Bald and Golden Eagle Protection Act

a. *May the proposed project take or disturb bald or golden eagles (including nests) as defined in the Bald and Golden Eagle Protection Act? (If no, provide evidence)*
☐ Yes ☒ No

Coordination with the USFWS related to the BGPA is ongoing and will continue throughout the remaining phases of demolition and construction.

b. *If yes, is a permit required?*
☐ Yes ☒ No

c. *If a permit is required, include it and any correspondence with USFWS and cite location(s) in the application package.*

Invasive Species

a. *Does the proposed project have potential to introduce or foster the spread of invasive species?*

☐ Yes ☒ No

b. *If yes, cite the document that describes measures that will be taken to minimize this risk and location(s) in the application package:*

Section 106

a. *Does the proposed project have potential to impact properties (including submerged abandoned shipwrecks) listed in or eligible for inclusion in the National Register of Historic Places?*

☒ Yes ☐ No

b. *If yes, provide evidence of consultation with the State Historic Preservation Officer (and the Advisory Council on Historic Preservation, if applicable) and cite location (s) in the application package. Include:*

☒ Copies of the correspondence

☒ Memorandum of Agreement

☒ No effect determination

See Appendix G for the Review Request to the MD Historical Trust and corresponding Programmatic Agreement

c. *For projects involving Federal lands only provide:*
☐ Archeological clearances

☐ Archeological reports

Clean Air Act

a. *Does the proposed project occur in an area of nonattainment or maintenance for any criteria pollutant?*

☒ Yes ☐ No

b. *If project occurs in a nonattainment or maintenance area, do the transportation or general conformity regulations, or both, apply?*

☐ General ☒ Transportation

c. *Is the project exempt from a transportation conformity analysis for any of the reasons listed in 40 CFR § 93.126? Which reason?*
☒ Yes ☐ No Reason: Safety– reconstructing bridges (no added travel lanes)

d. *Is the project exempt from a general conformity analysis for any of the reasons listed in 40 CFR § 93.153(c)?*
☐ Yes ☒ No

e. *If general conformity applies, is the project listed in a conforming State Implementation Plan (SIP)?*

☐ Yes ☒ No

f. *If a general conformity determination was prepared, include the draft and final determinations and any relevant correspondence and cite their location(s) in the application package:*

g. *If transportation conformity applies, is the project listed in a conforming SIP, Transportation Improvement Program (TIP), Regional Transportation Plan (RTP), or Federal Implementation Plan (FIP)?*

☐ Yes ☒ No

h. *If yes, cite location of information regarding listing in the application package:*

i. *If transportation conformity applies, does the project contribute to any new localized CO, PM_{10}, or $PM_{2.5}$ violations or increase the frequency or severity or any existing violations of the same?*
☐ Yes ☒ No

j. *If yes, cite location of information in the application package:*

Actions to Address Environmental Justice in Minority or Low-Income Populations

a. *Does the proposed project involve disproportionate adverse impacts to minority and/or low-income populations as defined in Executive Order 12898?*

☐ Yes ☒ No

Environmental Justice (EJ) communities are present within the project area, but outside the limits of disturbance. The replacement structure would restore community mobility and connectivity to the area benefiting all users, including EJ communities. No disproportionate and adverse effects are anticipated to minority and low income populations.

b. *If yes, include the analysis describing the impacts and cite location(s) in the application package:*

c. *If yes, cite the location in the application package that describes measures to be taken to reduce those impacts:*

Hazardous Materials, Substances or Wastes

a. *Does the proposed project involve or is it located near a Superfund site or any site regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA) or State law regulating hazardous materials, substances or wastes?*

☒ Yes ☐ No

b. *If yes, cite the location(s) in the NEPA document where hazardous materials, substances or wastes are discussed:* See page 22 of the CE, Appendix XXXX

See Enclosure 1 for plan sheets.
See Enclosure 2 for Waterway Data Requirements

The Maryland Transportation Authority appreciates the continued support of the US Coast Guard in the reconstruction of this vital infrastructure to the State of Maryland and Mid-Atlantic Region.

If you have questions or comments about this matter, please feel free to contact me at

(410) 802-9684 or mwilliams9@mdta.state.md.us.

Sincerely,

Melissa Williams

Director, Planning and Program Development

cc: Jitesh Parikh, FHWA