

**PROGRAMMATIC AGREEMENT BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS
AND THE
PUERTO RICO STATE HISTORIC PRESERVATION OFFICER REGARDING THE RÍO PUERTO NUEVO
FLOOD CONTROL PROJECT SAN JUAN, PUERTO RICO**

WHEREAS, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is constructing the Río Puerto Nuevo Flood Control Project (Project) in San Juan, Puerto Rico, as authorized in Section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662) and funded through the Bipartisan Budget Act of 2018 (Public Law 115-123); and

WHEREAS, the Corps has determined that the Project constitutes an undertaking, as defined in 36 C.F.R. § 800.16(y), and therefore, is subject to Section 106 of the National Historic Preservation Act of 1966 (Section 106 of the NHPA), 54 U.S.C. § 306108; and

WHEREAS, the non-Federal sponsor for the undertaking is the Puerto Rico Department of Natural and Environmental Resources (DNER) and has been invited to be a Concurring party to this Programmatic Agreement (Agreement) and DNER has declined to participate in the consultation as a Concurring Party; and

WHEREAS, a portion of the Río Puerto Nuevo Project, Contracts 1, 1A, 2A, 2AR, 2AA, 2C1, 2D, and 2D1 are complete and constructed and the La Chuleta disposal area is located on man-made lands; therefore, the Corps has previously determined that these portions of the Project have no potential to effect historic properties; and

WHEREAS, the remainder of the Project consists of seven (7) contracts in various stages of engineering and design as shown in Attachment A and described in Attachment B; and

WHEREAS, the Corps has determined that the area of potential effects (APE) for the Project includes the construction footprint of channel improvements, bridge replacements, structure demolition, disposal areas, utility relocation, the construction of a debris basin and stilling basin, other related construction staging and access areas, and the viewshed of these features as depicted in Attachment C; and

WHEREAS, the APE may be revised as a result of further hydrological and engineering analyses to determine the most effective methods, designs, and footprints of the Project features, including disposal areas, structure demolition, and debris basin, which may require additional evaluation of historic properties and determination of Project effects; and

WHEREAS, the Corps has determined that the Project will have an adverse effect on historic properties listed or eligible for listing in the National Register of Historic Places (NRHP), as detailed in Attachment C, and has consulted with the Puerto Rico State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the Corps previously conducted a cultural resources survey of the APE documented in the report *Río Puerto Nuevo Flood Damage Reduction Project, San Juan, Puerto Rico Phase I Cultural*

Resources Survey (SEARCH, Inc. 2022); and

WHEREAS, the Corps, with the concurrence of SHPO, will comply with Section 106 of the NHPA for the undertaking through the execution and implementation of this Agreement, 36 C.F.R § 800.14(b); and

WHEREAS, the Corps invited Ms. Liliana Taboas, Dr. Reniel Rodríguez Ramos, and the *Consejo para la Protección del Patrimonio Arqueológico Terrestre de Puerto Rico* to consult on the effects of the undertaking on historic properties and has invited them to sign this Agreement as Concurring Parties, and these parties have declined to sign; and

WHEREAS, the Municipality of San Juan has been invited to participate in this Agreement as a Concurring Party and has declined to participate; and

WHEREAS, in accordance with 36 C.F.R § 800.14(b), the Corps notified the Advisory Council on Historic Preservation (ACHP) to participate in this Agreement as a Signatory and the ACHP has declined to participate as a Signatory; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(4) and 36 C.F.R. § 800.14(b)(2)(ii), the Corps contacted known interested parties and issued a public notice through social media for review of this Agreement on May 15, 2023. No comments were received; and

NOW, THEREFORE, the Corps and SHPO (hereinafter referred to as Signatories) agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The Corps shall ensure that the following measures are carried out:

I. TIME FRAMES AND REVIEW PROCEDURES

A. DOCUMENT AND DELIVERABLE REVIEW

For all documents and deliverables produced in compliance with this Agreement, the Corps shall provide electronic draft documents via e-mail to the Signatories for review and concurrence. Upon request, a hardcopy of a draft document shall be provided via mail. An electronic and hard copy of all final reports will be provided via mail. Any written comments provided by the Signatories within 30 calendar days from the date of receipt shall be considered in the revision of the document or deliverable. If no comments are received from the Signatories within the 30 calendar-day review period, the Corps may assume that the non-responsive party has no comment. The Corps shall document and report any written comments received for the document or deliverable and how comments were addressed. If comments were received and incorporated into the final document or deliverable, the Corps shall provide a revised final to the Signatories for concurrence. Signatories shall have 30 calendar days to respond. Failure of the Signatories to respond within 30 calendar days of receipt of any document or deliverable shall not preclude the Corps from moving to the next step in this Agreement. A copy of the final document shall be provided to the Signatories, subject to the limitations in Stipulation VIII (Confidentiality).

B. SCHEDULE

There are seven (7) supplemental construction contracts that will be designed and constructed separately through the year 2032. The schedule for design, contract award, and construction of each supplemental contract is detailed in Attachment B. As of January 2023, design has been finalized for supplemental contracts 1, 2, 3, and 5A and will not require an additional effects determination; however, due to various design timelines for supplemental contracts 4, 5B, 6 and 7, additional APE, evaluation of historic properties, determination of effects, identification of appropriate avoidance, minimization or mitigation, and/or related consultation may occur over a period of multiple years as the design for each Project construction feature is finalized as detailed in Stipulation II (Area of Potential Effects) and Stipulation III (Treatment of Historic Properties).

II. AREA OF POTENTIAL EFFECTS

- A. The APE for the Project was determined by the Corps based on various levels of Project engineering and design and in consultation with the SHPO. The APE is comprised of Project features and corresponding viewsheds to include direct, indirect, and cumulative effects and depicted in Attachment C to this Agreement. Design and construction of the project will occur in seven (7) contracts as described in Stipulation I.B (Schedule) and in Attachment B. Should project features change beyond those depicted in Attachment C, the Corps shall refine and consult on a revised APE as designs are developed for each supplemental contract to include direct and indirect areas of effect.
- B. If the Corps revises the APE, the Corps shall consult on that revision in accordance with Stipulation I (Timeframes and Review Procedures). After consultation with the Signatories, the new amended APE will be appended to this Agreement in Attachment C. Revisions to the APE will not necessitate an amendment to this Agreement.
- C. The Corps shall determine the potential for the Project to affect potential historic properties in the revised APE pursuant to 36 C.F.R. § 800.3 - 800.5. If the Corps determines that changes to the APE will affect historic properties, the Corps shall consult on this finding of effect in accordance with Stipulation I (Timeframes and Review Procedures) and Stipulation III.B (Determination of Effects).

III. TREATMENT OF HISTORIC PROPERTIES

A. IDENTIFICATION AND EVALUATION

The Corps has completed cultural resources surveys for the APE as depicted in Attachment C; however, the undertaking consists of seven (7) contracts in various stages of engineering and design as show in Attachment A and described in Attachment B. The Corps does not anticipate APE revisions to supplemental contracts 1, 2, 3, or 5A; however, the APE may be revised as a result of further hydrological and engineering analyses for supplemental contracts 4, 5B, 6 and 7. Should a revised APE result in the need for additional cultural resources surveys as described in Stipulation II (Area of Potential Effects), the Corps shall complete any identification and evaluation of historic properties in consultation with the Signatories prior to beginning construction. Construction is defined as ground-disturbing or demolition activities associated with the undertaking

1. Identification of historic properties.

An inventory of properties within a revised APE, agreed to under Stipulation II (Area of

Potential Effects), consistent with the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716–44740) will be initiated.

- a. All cultural resources surveys and associated reporting will comply with all applicable SHPO guidelines (*Guía para Preparar Informes Arqueológicos, Fases I, II, III*). Survey recordation shall include above-ground historic and architectural resources older than 45 years from the date of survey commencement, archaeological features, isolates, and re-recordation of previously recorded sites, as necessary. The survey shall ensure that historic properties such as historical structures and buildings, historical engineering features, landscapes, viewsheds, and traditional cultural properties (TCPs), are recorded in addition to archaeological sites. Recordation of, archaeological sites shall be prepared using the SHPO Site File forms (*Hoja de Registro de Yacimientos Arqueológicos*) and above ground and architectural resources shall be recorded on the SHPO General Inventory forms (*Inventario general*).
 - b. The Corps shall submit cultural resources identification and evaluation reports to SHPO for review and comment consistent with Stipulation I (Timeframes and Review Procedures).
2. Determinations of Eligibility.
- The Corps shall review or determine NHRP eligibility based on identification and evaluation efforts and consult with the Signatories regarding these determinations in accordance with 36 C.F.R. § 800.4(c). Should the Signatories disagree with the determination of eligibility, the Corps shall either:
- a. Elect to consult further with the objecting party until the objection is resolved; or
 - b. Obtain a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be final in accordance with 36 C.F.R. § 63.4.

B. DETERMINATION OF EFFECTS

The Corps has determined that the Project will have an adverse effect on historic properties listed or eligible for listing in the NRHP as detailed in Attachment C; however, the undertaking consists of seven (7) contracts in various stages of engineering and design as show in Attachment A and described in Attachment B. The Corps does not anticipate APE revisions to supplemental contracts 1, 2, 3, or 5A; however, the APE may be revised as a result of further hydrological and engineering analyses for supplemental contracts 4, 5B, 6 and 7. Should a revised APE result in additional cultural resources surveys as detailed in Stipulation III.A (Identification and Evaluation), effects of the Project changes will be evaluated as described below and through consultation in accordance with Stipulation I (Timeframes and Review Procedures).

1. Findings of No Historic Properties Affected:

- a. Basis for Finding. The Corps shall make a finding of “no historic properties affected” under the following circumstances:
 - i. If no historic properties are present in the APE; or
 - ii. The undertaking shall avoid effects to historic properties (including cumulative effects).
- b. The Corps shall notify the Signatories of this finding and provide supporting documentation in accordance with 36 C.F.R § 800.11(d). Unless the Signatories object to the finding within 30 days, the review of the undertaking will have concluded.
- c. If the Signatories object to a finding of “no historic properties affected,” the Corps shall consult with the objecting party to resolve the disagreement.
 - i. If the objection is resolved, the Corps either may proceed with the undertaking in

accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to 36 C.F.R § 800.5(a)(1).

- ii. If the Corps is unable to resolve the disagreement, it will forward the finding and supporting documentation to ACHP and request that ACHP review the Corps' finding in accordance with the process described Section IX (Dispute Resolution). After receipt and consideration of the ACHP's opinion, the Corps shall prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP's opinion and provide this to the Signatories. If the Corps' final determination is to reaffirm its "no historic properties affected" finding, the Section 106 review of the undertaking will have concluded. If the Corps revises its finding, then it shall proceed to Stipulation III.B.2 (Findings of No Adverse Effect) or Stipulation III.B.3 (Determination of Adverse Effects) below.

2. **Findings of No Adverse Effect:**

- a. If the Corps determines that the undertaking does not meet the adverse effect criteria, the Corps shall propose a finding of "no adverse effect" and consult with the Signatories in accordance with 36 C.F.R § 800.5(b) and following steps i-iii below.
 - i. The Corps shall notify the Signatories of its finding; describe any project specific conditions and/or modifications required to the undertaking to avoid or minimize effects to historic properties; and provide supporting documentation pursuant to 36 C.F.R § 800.11(e).
 - ii. Unless a Signatory objects within 30 days, the Corps will proceed with its "no adverse effect" determination and conclude the review.
 - iii. If a Signatory objects to a finding of "no adverse effect," the Corps will consult with the objecting party to resolve the disagreement.
 - a) If the objection is resolved, the Corps shall proceed with the undertaking in accordance with the resolution; or
 - b) If the objection cannot be resolved, the Corps shall request that ACHP review the findings in accordance with 36 C.F.R § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. The Corps shall, pursuant 36 C.F.R § 800.5(c)(3)(ii)(B), prepare a summary of its decision that contains the rationale for the decision and evidence of consideration of the ACHP's opinion, and provide this to the Signatories. If the Corps' final determination is to reaffirm its "no adverse effect" finding, the review of the undertaking will have concluded. If the Corps will revise its finding, then it shall proceed to Stipulation III.B.3 below.
- b. Avoidance and Minimization of Adverse Effects: Avoidance of adverse effects to historic properties is the preferred treatment approach. The Corps will consider redesign of elements of the undertaking in order to avoid and/or minimize historic properties and Project effects that may be adverse. If the Corps determines that the undertaking cannot be modified to avoid or minimize effects, the Corps will make a determination of Adverse Effect.

3. **Determination of Adverse Effects:**

If the Corps determines that an undertaking may adversely affect a historic property, it shall notify Signatories of the determination and consult to resolve the adverse effects as outlined in Stipulation III.C (Historic Properties Treatment Plan).

C. **HISTORIC PROPERTIES TREATMENT PLAN**

1. **Specific Mitigation Action**

- a. The Corps has determined that the Project will have an adverse effect on historic

properties listed or eligible for listing in the NRHP, to include alteration of Resource 001/Margarita Channel Canal, and the physical destruction of bridges 021451/Notre Dame Bridge, 021231/Fourth Street Bridge, 012021/PR-17, 021261/Andalucía Street Bridge, 021041/Américo Miranda Street Bridge, 021441/42nd SE Street Bridge, 021391/21st SE Street Bridge, 021311/9th SE Street Bridge, 021051/Américo Miranda Street Bridge, 021431/29th Street SE Bridge, 021411/21st SE Street Bridge, 021061/Avenida José de Diego Avenue Bridge, 005862/PR-23 Eastbound, 005872/PR-23 Westbound, 010061/ PR-18 to PR-17 Ramp, 012042/PR-17 Westbound, 012032/PR-17 Eastbound, 010091/PR-18 to PR-17 Ramp, and the 54th SE Street Bridge over Doña Ana Creek Canal (Attachment C). Should a revised APE result in additional adverse effects determinations during the processes outlined in Stipulation III.A (Identification and Evaluation) and Stipulation III.B (Determination of Effects) above, the Corps, in consultation with SHPO shall develop a Historic Properties Treatment Plan (HPTP) to resolve any additional adverse effects resulting from the Project as detailed in Stipulation III.C.2 (Historic Properties Treatment Plan) below.

- b. Adverse effects to those historic properties detailed in Attachment C will be mitigated through the development of a historic context for the Gobernador Piñero Ward and the communities within the ward.
 - i. The goal of this mitigation measure is to archive and document the development and local history of the Río Puerto Nuevo basin. This includes identifying significant themes within the local history, documenting the conditions which brought population movement into the area, identifying how the neighborhoods developed, and specifically documenting the history and development of the Parque Las Américas.
 - ii. The historic context shall be a comprehensive documentation of the history, conditions, and communities associated with the Gobernador Piñero Ward and Parque Las Américas. This historic context study will focus on the twentieth-century urban development of the Río Puerto Nuevo basin, with a focus on the communities that make up the Gobernador Piñero Ward. The scope includes, as appropriate, collection of primary sources through archival research and collection of oral histories, and the integration of secondary sources to detail the local history. A resulting technical report will provide a synthesis with explicit examples and citations to document the conditions leading to the rapid urbanization, the methods and materials used to construct the communities, the distinctive architectural forms and landscape features, themes and gaps in research, and an identification of potential criteria for listing buildings, structures, and districts on the NRHP. The technical report and collected materials will assist future recording of resources in these communities and situate the broader historical and social context for these resources. Deliverables for this measure will include a scope of work, in-progress updates, and draft and final reports.
 - iii. Once collected and compiled, research materials, oral interview transcripts, and oral interview recordings shall be housed as a permanent collection in a public repository such as the site files at the SHPO, the Biblioteca Digital Puertorriqueña at the University of Puerto Rico Río Piedras, and/or other facilities as appropriate. The location of final disposition of materials will be identified by the Corps, in consultation with the Signatories. The Corps will obtain the necessary agreement(s) to house the collection from the selected repository. Deliverables for this measure will include in-progress updates, a catalog of materials to be curated, and copies of the final

deliverables.

- c. The in-filling of the artificial lake within Parque Las Américas is a proposed project feature; however, this feature has not been subject to review under the National Environmental Policy Act and will require further coordination with SHPO, the public, and other state and local agencies. As a character defining feature of the Parque las Américas design, the in-filling of the artificial lake would constitute an adverse effect to the NRHP-eligible Parque las Américas. Should the proposed in-filling be approved, the Corps will consult with SHPO to minimize adverse effects in accordance with 36 C.F.R § 800.6 prior to developing a HPTP as detailed in Stipulation III.C.2 (Historic Properties Treatment Plan) below.

2. Historic Properties Treatment Plan

- a. If the Corps determines that the Project will result in additional adverse effects to historic properties, beyond those described in Stipulation III.C.1.a and Attachment C, the Corps, in consultation with the Signatories, shall develop a HPTP or Plans to resolve adverse effects resulting from the Project.
- b. A HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to historic properties. Development of appropriate measures shall include consideration of historic property types and provisions for avoidance or protection of historic properties where necessary. Proposed mitigation measures may include, but are not limited to, data recovery, HABS/HAER/HALS documentation, educational programs, informative websites, donation of preservation easements, contributions to preservation funds, historic markers, interpretive brochures, publications, and other forms of creative mitigation or combinations of these measures depending on the historic property's criterion for eligibility.
- c. If it is determined that archaeological monitoring is appropriate, the HPTP shall include a Monitoring Plan. Should the Signatories be unable to agree on a HPTP, the Signatories shall proceed in accordance with Stipulation IX (Dispute Resolution).
- d. The Corps shall ensure that the provisions of a HPTP, as developed in the consultation with the Signatories, are documented in writing and implemented. A HPTP shall be appended to this Agreement in Attachment D without amending the Agreement. The use of a HPTP to resolve adverse effects resulting from the Project shall not require the execution of an individual Memorandum of Agreement or Programmatic Agreement and follow the provisions below (i-v).
 - i Development: The Corps shall develop a HPTP in consultation with the Signatories after a determination of adverse effect is made in accordance with Stipulation III.B.3 (Determination of Adverse Effect).
 - ii Review: The Corps shall submit the Draft HPTP to the Signatories for review and comment pursuant to Stipulation I (Timeframes and Review Procedures).
 - iii Reporting: Reports and other data pertaining to the treatment of effects to historic properties will be distributed to Signatories and other members of the public, consistent with Stipulation VIII (Confidentiality) of this Agreement, unless a Signatory(s) have indicated through consultation that they do not want to receive a report or data. Reports will be consistent with the procedures outlined in the *Guía para Preparar Informes Arqueológicos, Fases I, II, III*.
 - iv Amendments/Addendums/Revisions: If a historic property that is not covered by the existing HPTP is discovered within the APE subsequent to the initial inventory effort, or if there are previously unexpected effects to a historic property, or if the Signatories agree that a modification to the HPTP is necessary, the Corps shall prepare an addendum to the HPTP. If necessary, the Corps shall then submit the addendum

to the Signatories and follow the provisions of Stipulation I (Timeframes and Review Procedures). The HPTP may cover multiple discoveries for the same property type.

- v Final Report Documenting Implementation of the HPTP(s): Within one (1) year after the completion of all work for the Project, the Corps shall submit to the Signatories a Final Report documenting the results of all work prepared under the HPTP, and the information learned from each of the historic properties. The submittal of the Final Report shall be in accordance with Stipulation I (Timeframes and Review Procedures).

IV. INADVERTENT DISCOVERIES AND UNANTICIPATED EFFECTS

- A. If historic properties are inadvertently discovered or if unanticipated adverse effects to known historic properties are made during implementation of the Project, the Corps will ensure that the following stipulations are met, and that the following provisions will be included in all construction, operations, and maintenance plans.
- B. When a previously unidentified cultural resource, including but not limited to, archaeological sites, shipwrecks and the remains of ships and/or boats, standing structures, and traditional cultural properties, are discovered during the execution of the Project, the Project contractor or personnel who made the discovery shall immediately notify the Corps and the undertakings' Contracting Officer (KO), secure the vicinity, make a reasonable effort to avoid or minimize harm to the resource and comply with the following:
 - 1. All ground-disturbing activities shall cease within a minimum of 15 meters from the inadvertent discovery
 - 2. The Corps will notify the Signatories by email or telephone within 48 hours of the discovery or unanticipated effect.
 - 3. The Corps will consult with the Signatories by email, virtual meeting, or telephone to determine whether additional investigations are needed to determine if the resource is a historic property or if the available information is sufficient to make such a determination.
 - a. If the Corps determines through consultation that the resource does not warrant further investigation, they will provide written notification by email to the Signatories, outlining the Corps' justification and requesting concurrence. If no comments are received within 72 business hours of acknowledged receipt, construction may resume.
 - b. If the Corps determines through consultation that the site warrants further investigation, a scope of work will be developed.
 - i The scope of work will be submitted to the Signatories for review and comment within a timeframe established in the scope of work. If no comments are received within this period, work shall be implemented in accordance with the scope. If comments are received, the Corps shall take them into account and carry out the scope of work. A report of the investigations will be completed within the timeframe established by the scope of work and copies provided to the Signatories. Should any party object to the proposed work plan or results, the Corps will proceed in accordance with Stipulation IX (Dispute Resolution), except that the calendar day periods in the timeframe for resolution in IX.A, shall be reduced from 30 calendar days to a period which shall not exceed 10 business days.
 - ii If the resources are found to be ineligible for listing in the NRHP, construction may proceed as planned.
 - iii If the resources are determined to be eligible for listing in the NRHP, the Corps shall then initiate communication with the Project design team to determine if alternative

design or construction methods can be implemented to avoid, protect, or minimize adverse effects to the resource. If the resources cannot be avoided by construction activities, then a mitigation/treatment plan or other measures will be adopted in accordance with Stipulation III.C.2 (Historic Properties Treatment Plan). Undertaking activities in the 15-meter buffer, or other appropriate distance determined by the Corps, will remain suspended until the Corps resolves the adverse effect.

- iv Inadvertent discovery and the treatment of human remains is governed by Stipulation VI (Treatment of Human Remains).

V. Qualifications

A. PROFESSIONAL QUALIFICATIONS

All technical work required for historic preservation activities implemented pursuant to this Agreement shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Historic Preservation Professional Qualification Standards* for archeology, history, or architecture as appropriate (48 FR 44738). "Technical work" here means all efforts to inventory, evaluate, and perform subsequent treatment such as data recovery excavation or recordation of potential historic properties that is required under this Agreement. This stipulation shall not be construed to limit peer review, guidance, or editing of documents by SHPO and associated Project consultants.

B. HISTORIC PRESERVATION STANDARDS

Historic preservation activities carried out pursuant to this Agreement shall meet the *Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740, September 29, 1983), as well as standards and guidelines for historic preservation activities established by the SHPO. The Corps shall ensure that all reports prepared pursuant to this Agreement will be provided to the Signatories, and are distributed in accordance with Stipulation VIII (Confidentiality), and meet published standards of the Puerto Rico State Historic Preservation Office, specifically, the Puerto Rico SHPO's *Guía para Preparar Informes Arqueológicos, Fases I, II, III*.

VI. TREATMENT OF HUMAN REMAINS

Human remains and grave goods encountered during the undertaking that are located on non-federal lands will be treated in accordance with the February 23, 2007 ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects*.

VII. PUBLIC CONSULTATION AND PUBLIC NOTICE

The interested public will be invited to provide input during the implementation of this Agreement. The Corps shall carry this out through letters of notification, public meetings, environmental assessment/environmental impact statements, site visits and/or other appropriate methods. The Corps shall ensure that any comments received from members of the public are taken under consideration and incorporated where appropriate. Review periods shall be consistent with Stipulation I (Timeframes and Review Procedures). In seeking input from the interested public, locations of historic properties will be handled in accordance with Stipulation VIII (Confidentiality). In cases where the release of location information may cause harm to the historic property, this information will be withheld from the public in accordance with Section 304 of the NHPA (54 U.S.C § 307103).

VIII. CONFIDENTIALITY

The Signatories to this Agreement acknowledge that historic properties are subject to the provisions of Section 304 of the NHPA (54 U.S.C § 307103) and 36 C.F.R § 800.11(c), relating to the disclosure of information about the location, character or ownership of a historic property, and will ensure that any disclosure of information under this Agreement is consistent with the terms of this Agreement and with Section 304 of the NHPA, 36 C.F.R § 800.11(c), and the Freedom of Information Act (5 U.S.C. § 552), as amended. Confidentiality regarding the specific nature and location of the archaeological sites and any other cultural resources discussed in this Agreement shall be maintained to the extent allowable by law. Dissemination of such information shall be limited to appropriate personnel within the Corps (including their contractors), the Signatories, and those parties involved in planning, reviewing, and implementing this Agreement. When information is provided to the Corps by SHPO or others who wish to control the dissemination of that information more than described above, the Corps will make a good faith effort to do so, to the extent permissible by federal law.

IX. DISPUTE RESOLUTION

A. OBJECTION BY A SIGNATORY

Should any Signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

1. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Signatories and provide them with a copy of this written response. The Corps will then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories to the Agreement and provide them and the ACHP with a copy of such written response.
3. The Corps' responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

B. OBJECTION BY THE PUBLIC

At any time during implementation of the measures stipulated in this Agreement, should an objection pertaining to the Agreement be raised by a member of the public, the Corps shall notify the Signatories and take the objection under consideration, consulting with the objecting party and, should the objecting party request, any of the Signatories to this Agreement, for no longer than 15 calendar days. The Corps shall consider the objection, and in reaching its decision, will consider all comments provided by the other Signatories. Within 15 calendar days following closure of the comment period, the Corps will render a decision regarding the objection and respond to the objecting party. The Corps will promptly provide written notification of its decision

to the other Signatories, including a copy of the response to the objecting party. The Corps' decision regarding resolution of the objection will be final. Following issuance of its final decision, the Corps may authorize the action that was the subject of the dispute to proceed in accordance with the terms of that decision. The Corps' responsibility to carry out all other actions under this Agreement shall remain unchanged.

C. OBJECTION ON NRHP ELIGIBILITY

Should any Signatory to this Agreement object in writing to the determination of National Register eligibility, the objection will be addressed pursuant to 36 C.F.R § 800.4(c)(2) and Stipulation III.A.2.

X. NOTICES

All notices, demands, requests, consents, approvals or communications from all parties to this Agreement to other parties to this Agreement shall be either personally delivered, sent by United States Mail, or electronic mail. All parties shall be considered in receipt of the materials on the day after it being sent by electronic mail.

If Signatories agree in advance, in writing or by electronic mail, facsimiles, copies, or electronic versions of signed documents may be used as if they bore original signatures.

If Signatories agree, hard copies and/or electronic communications may be used for formal communication amongst themselves for activities in support of Stipulation I (Time Frames and Review Procedures).

XI. AMENDMENTS AND TERMINATION

A. AMENDMENT

Any Signatory to this Agreement may propose that the Agreement be amended, whereupon the Corps shall consult with the Signatories to consider such amendment. This Agreement may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all Signatories and filed with the ACHP.

All appendices to this Agreement, and other instruments prepared pursuant to this Agreement including, but not limited to, the maps of the APE may be individually revised or updated through consultation consistent with Stipulation I (Timeframes and Review Procedures) and agreement in writing of the Signatories without requiring an amendment of this Agreement, unless the Signatories through such consultation decide otherwise. In accordance and Stipulation VII (Public Consultation and Public Notice), the Signatories and interested members of the public, will receive revisions to the Project's APE as appropriate, and copies of any amendment(s) to the Agreement.

B. TERMINATION

Any Signatory to this Agreement may terminate this Agreement. If this Agreement is not amended as provided for in Stipulation XI.A., or if any Signatory proposes termination of this Agreement, the Signatory proposing termination shall notify the other Signatories in writing, explain the reasons for proposing termination, and consult with the other Signatories to seek alternatives to termination, within 30 calendar days of the notification.

1. Should such consultation result in an agreement on an alternative to termination, the

Signatories shall proceed in accordance with that agreement and amend this Agreement as required.

2. Should such consultation fail, the Signatory proposing termination may terminate this Agreement by promptly notifying the other Signatories in writing.
3. Beginning with the date of termination, the Corps shall ensure that until and unless a new agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 C.F.R. §§ 800.4-800.6.

XII. DURATION

This Agreement shall remain in effect for a period of 10 years after the date it takes effect and shall automatically expire and have no further force or effect at the end of this period unless it is terminated prior to that time. No later than 90 calendar days prior to the expiration date of the Agreement, the Corps shall initiate consultation to determine if the Agreement should be allowed to expire automatically or whether it should be extended, with or without amendments, as the Signatories may determine. Unless the Signatories unanimously agree through such consultation on an alternative to automatic expiration of this Agreement, this Agreement shall automatically expire and have no further force or effect in accordance with the timetable stipulated herein.

XIII. EFFECTIVE DATE

This Agreement shall take effect on the date that it has been fully executed by the Signatories.

IX. EXECUTION

Execution of this Agreement by the Signatories, and the implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES TO THE RÍO PUERTO NUEVO FLOODCONTROL PROJECT, SAN JUAN, PUERTO RICO
PROGRAMMATIC AGREEMENT

U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT

BOOTH.JAMES.LAFA
YETTE.1186925935

Digitally signed by
BOOTH.JAMES.LAFAYETTE.11869
25935
Date: 2023.07.12 10:23:25 -04'00'

BY: _____

DATE: 12JUL23

James L. Booth
Colonel, U.S. Army
District Commander

SIGNATORIES TO THE RÍO PUERTO NUEVO FLOOD CONTROL PROJECT, SAN JUAN, PUERTO RICO
PROGRAMMATIC AGREEMENT

PUERTO RICO STATE HISTORIC PRESERVATION OFFICER

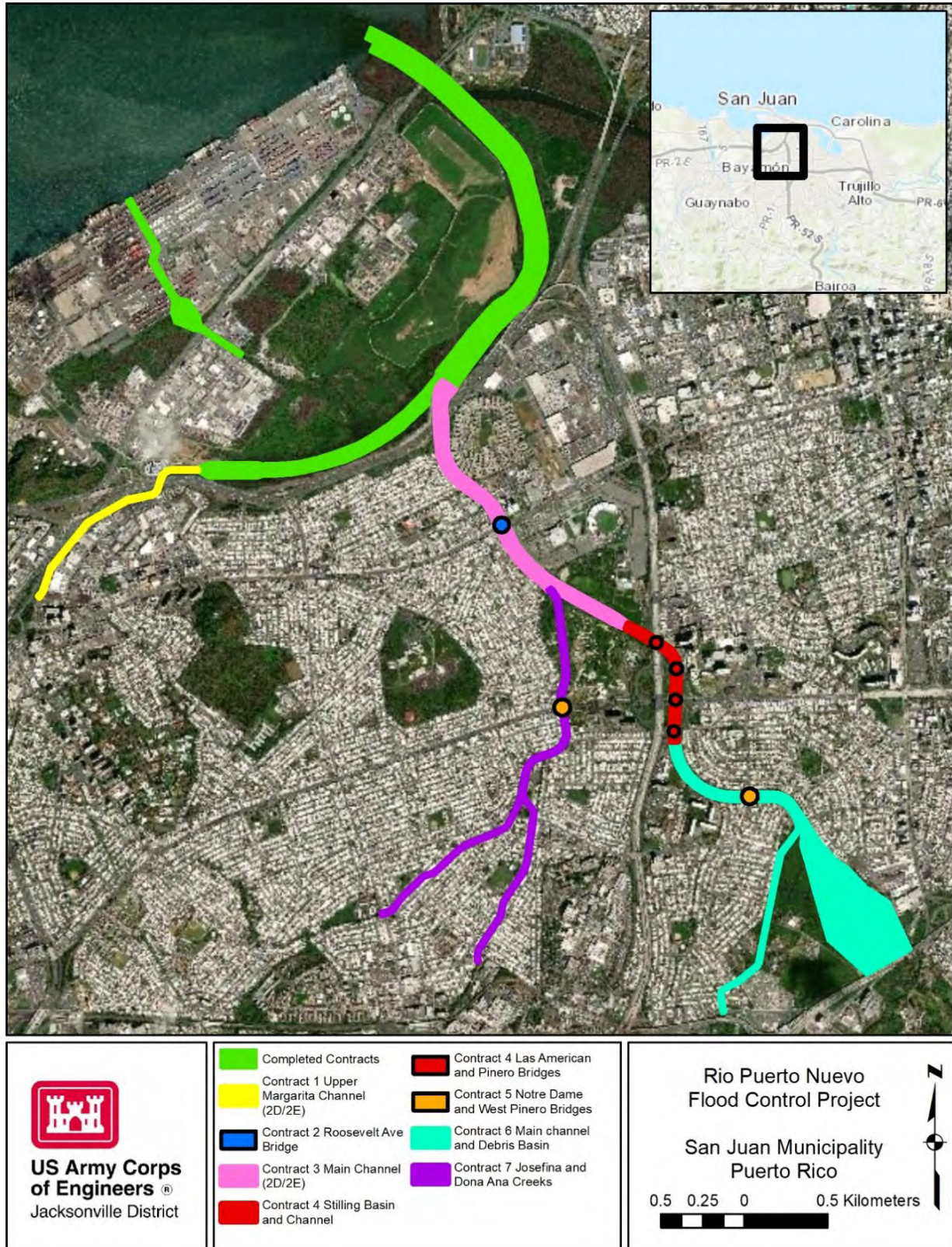
BY: 

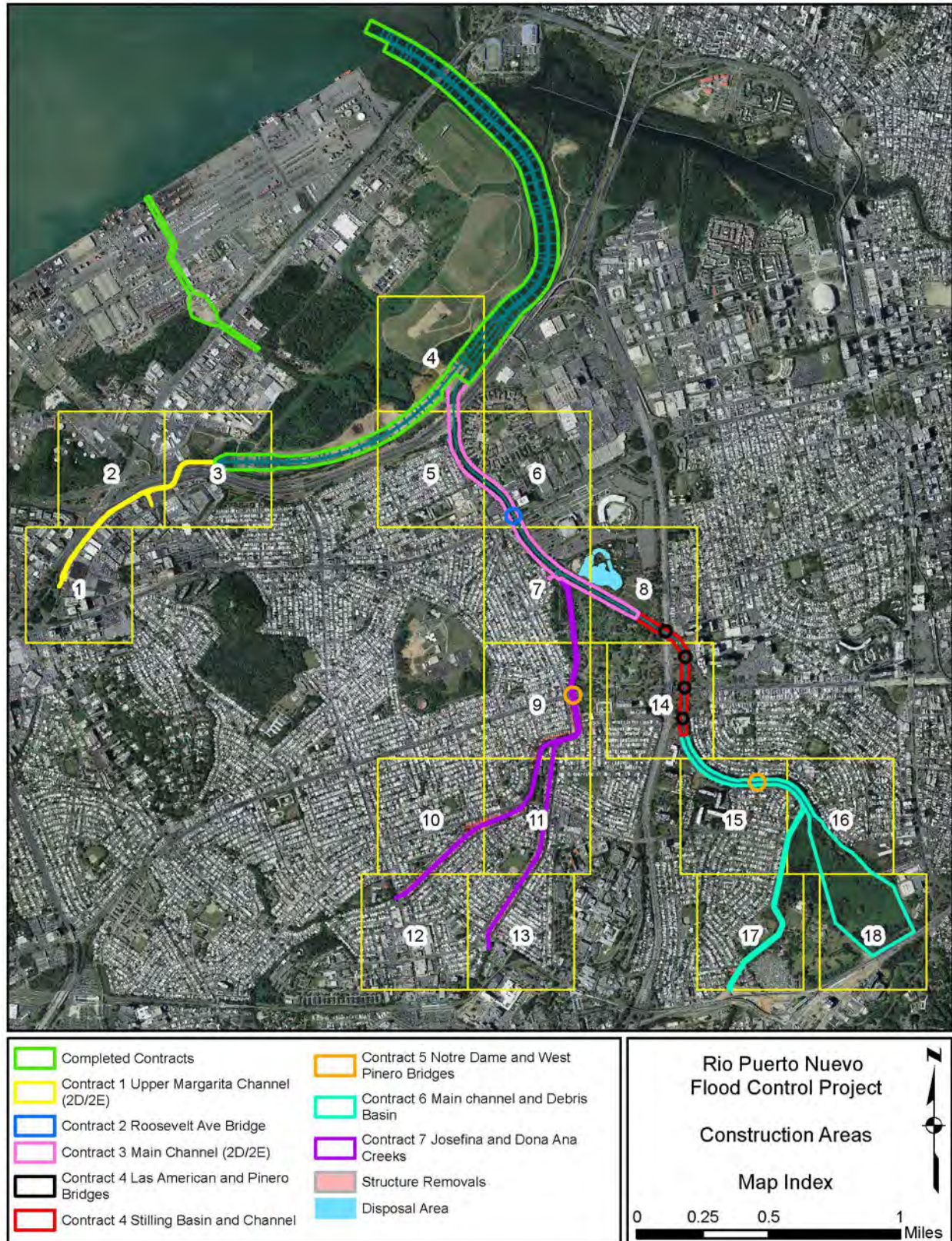
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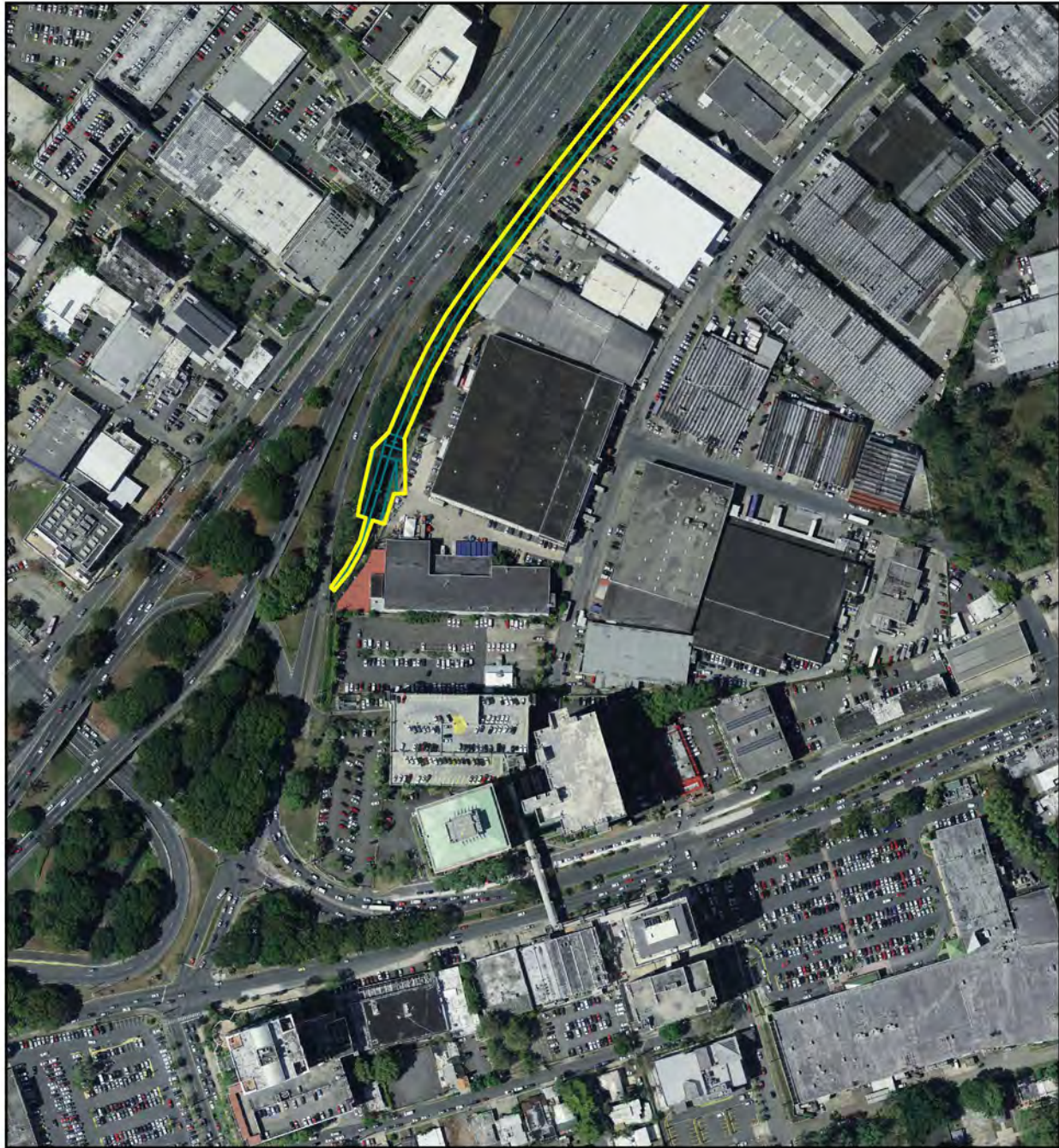
Carlos A. Rubio-Cancela
State Historic Preservation Officer

ATTACHMENT A

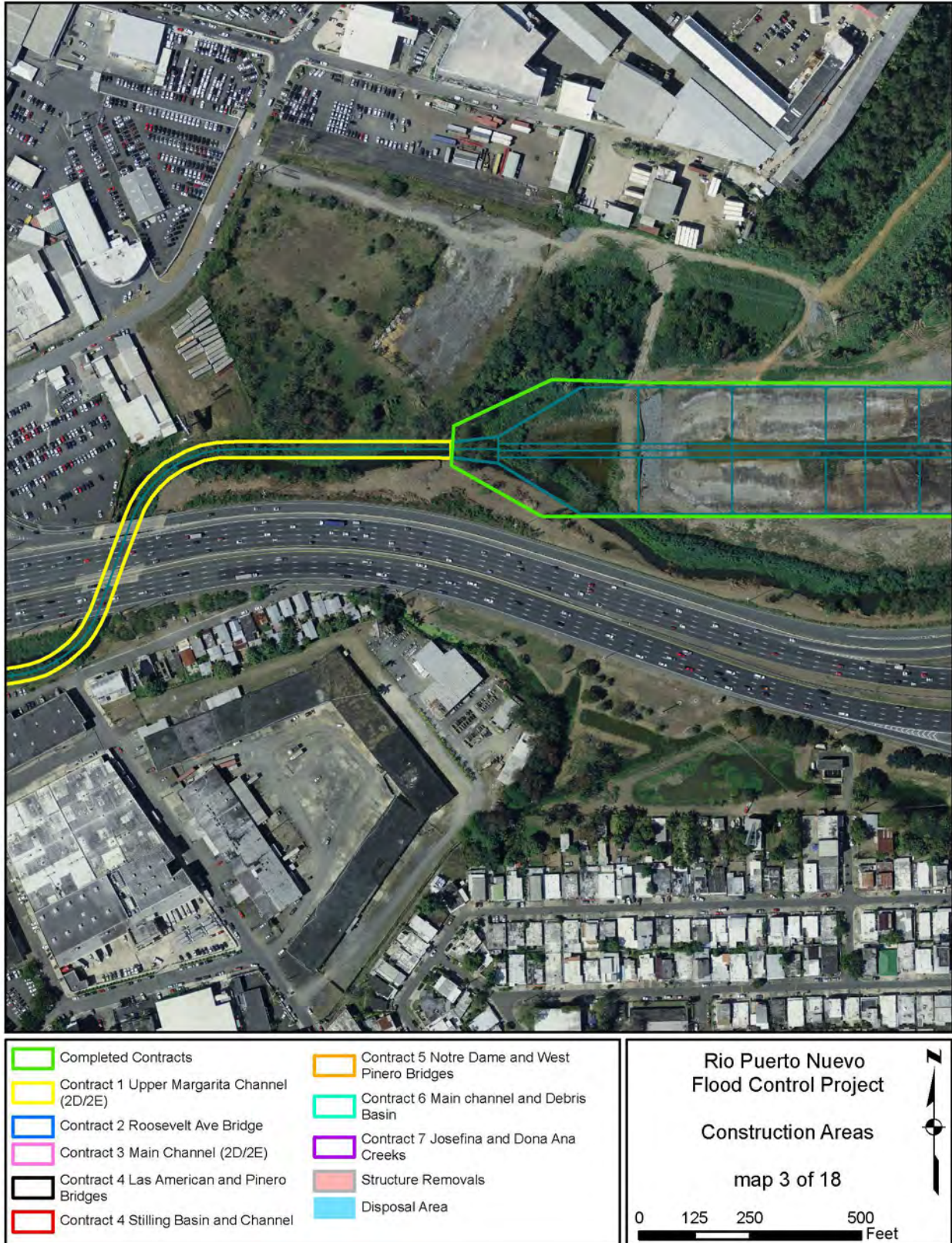
MAPS OF THE PROJECT CONTRACTS

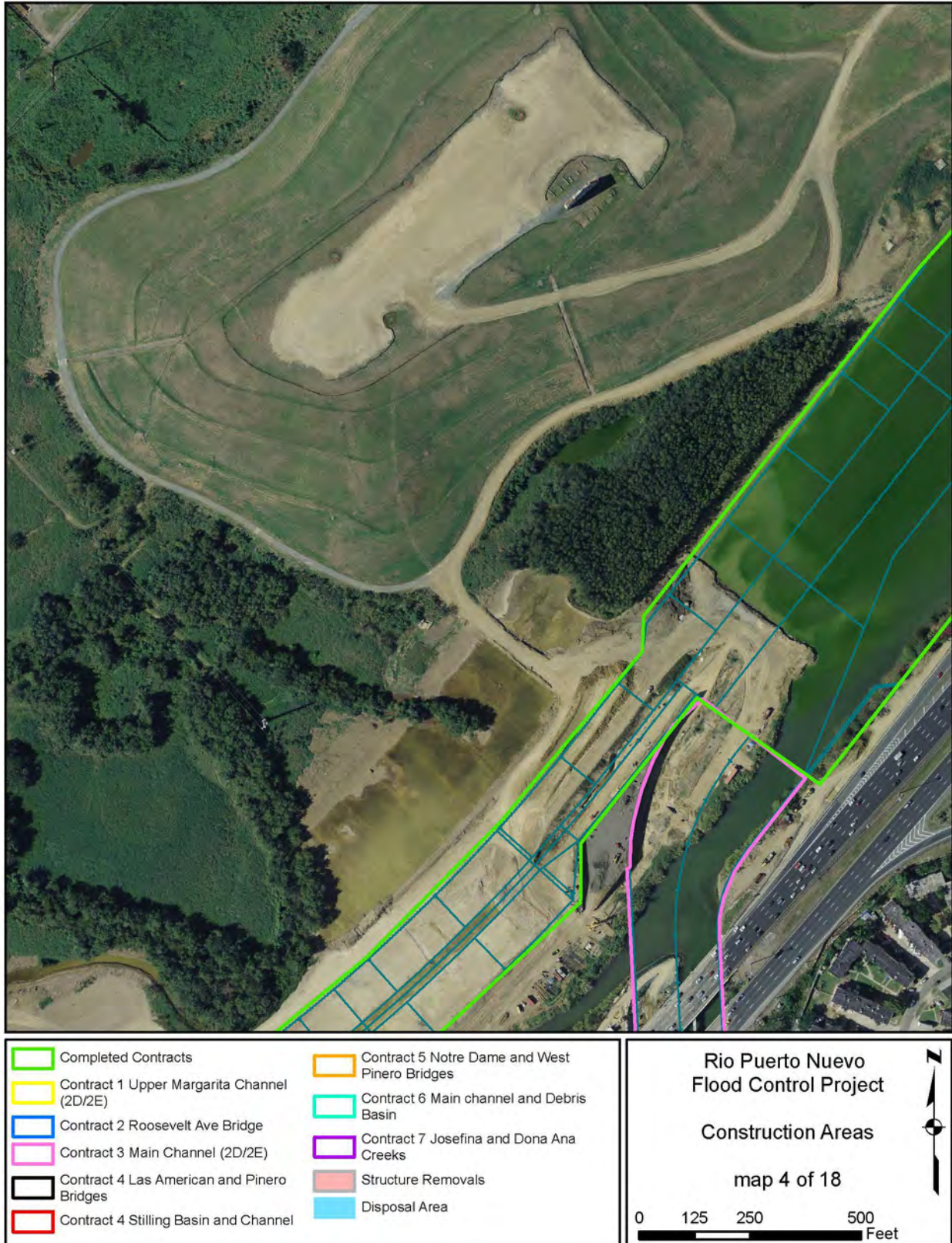


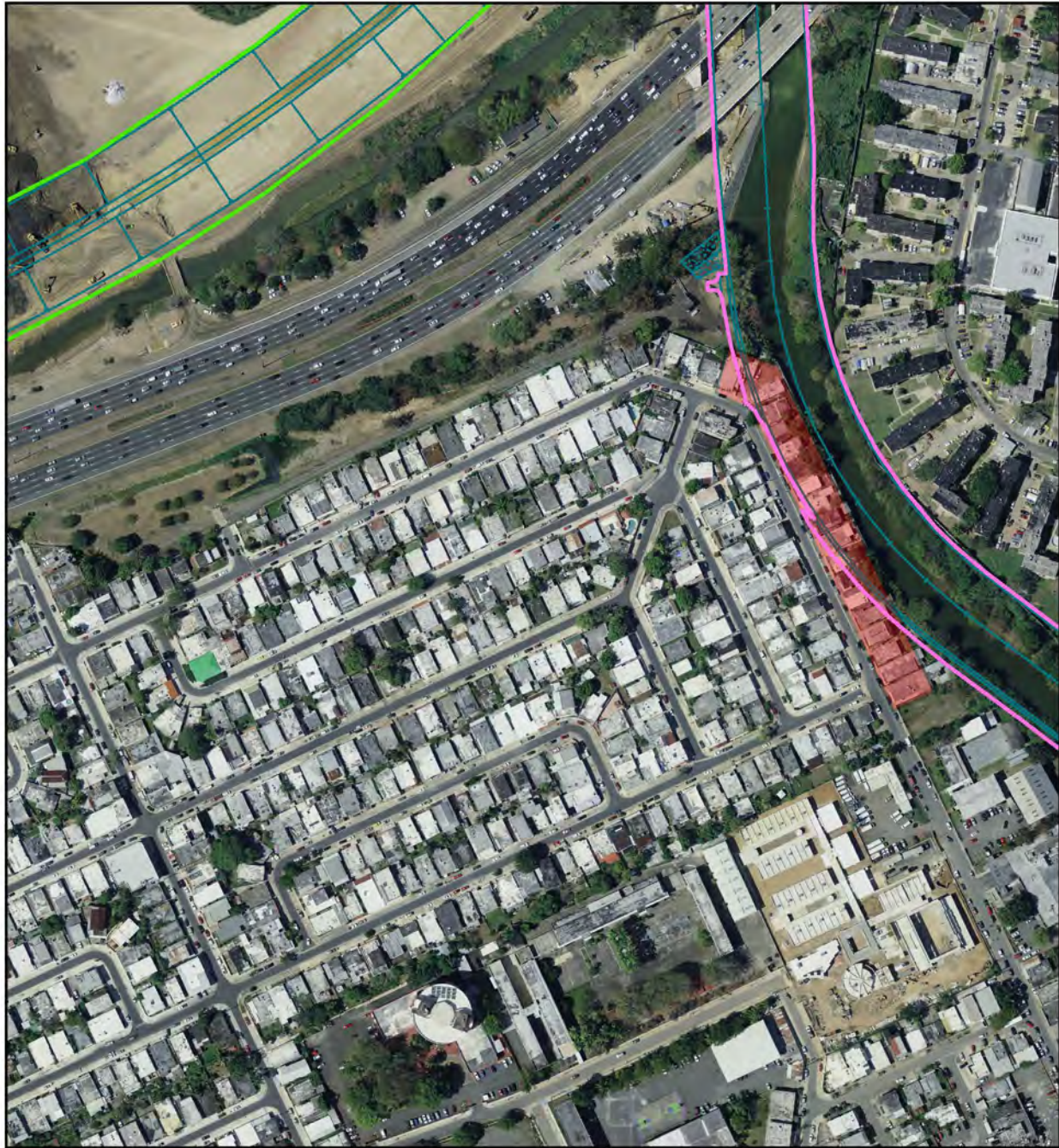


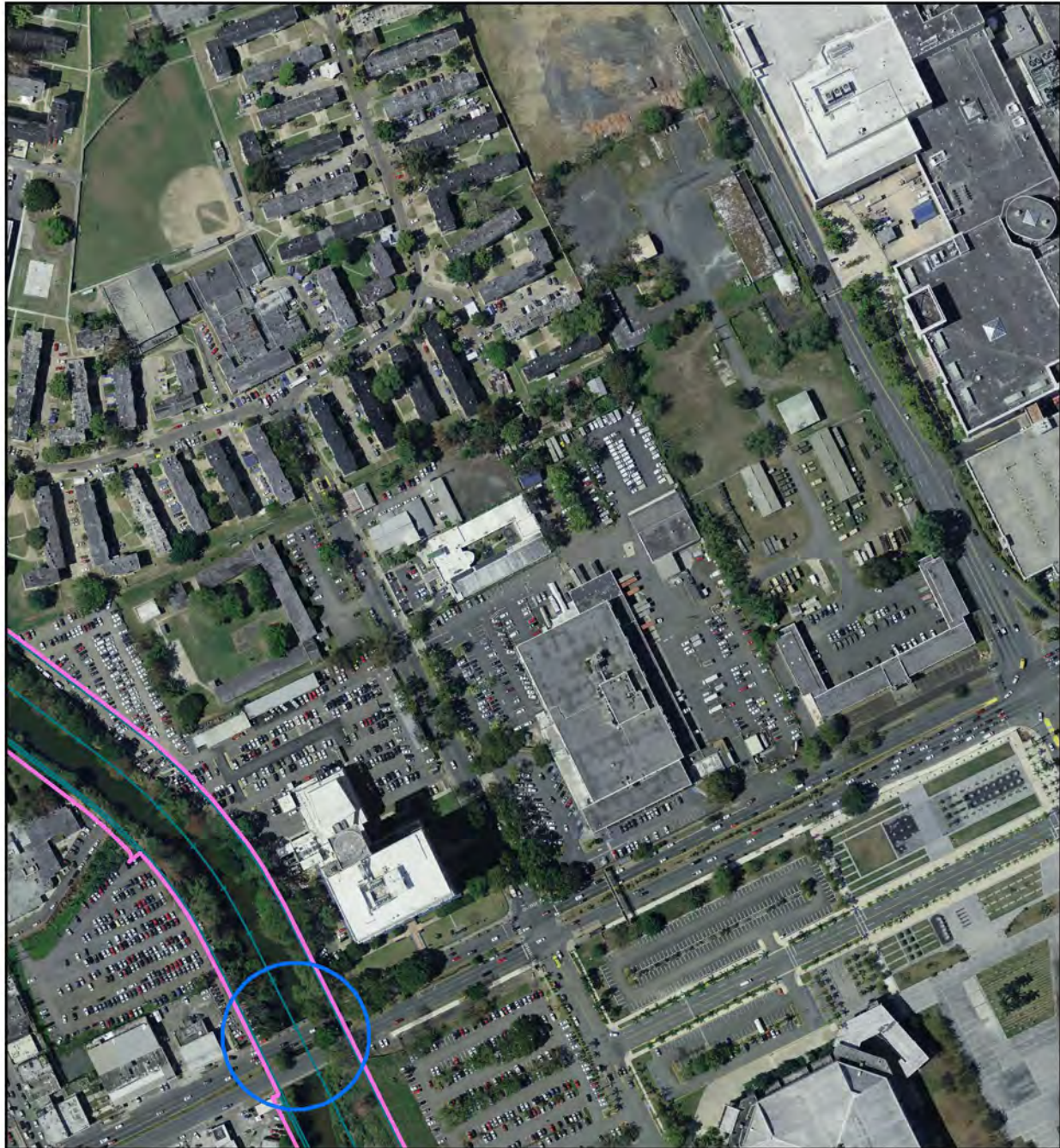


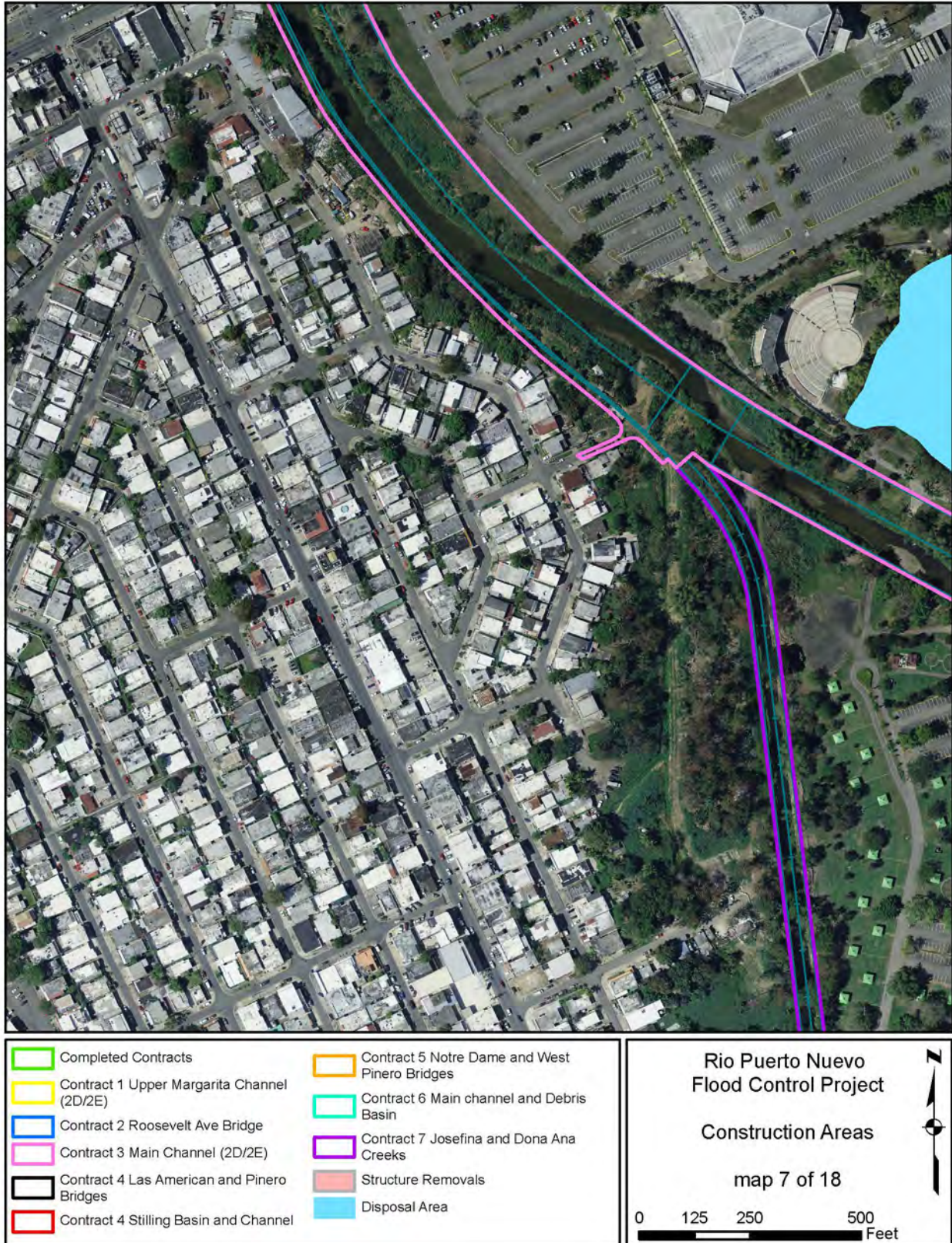




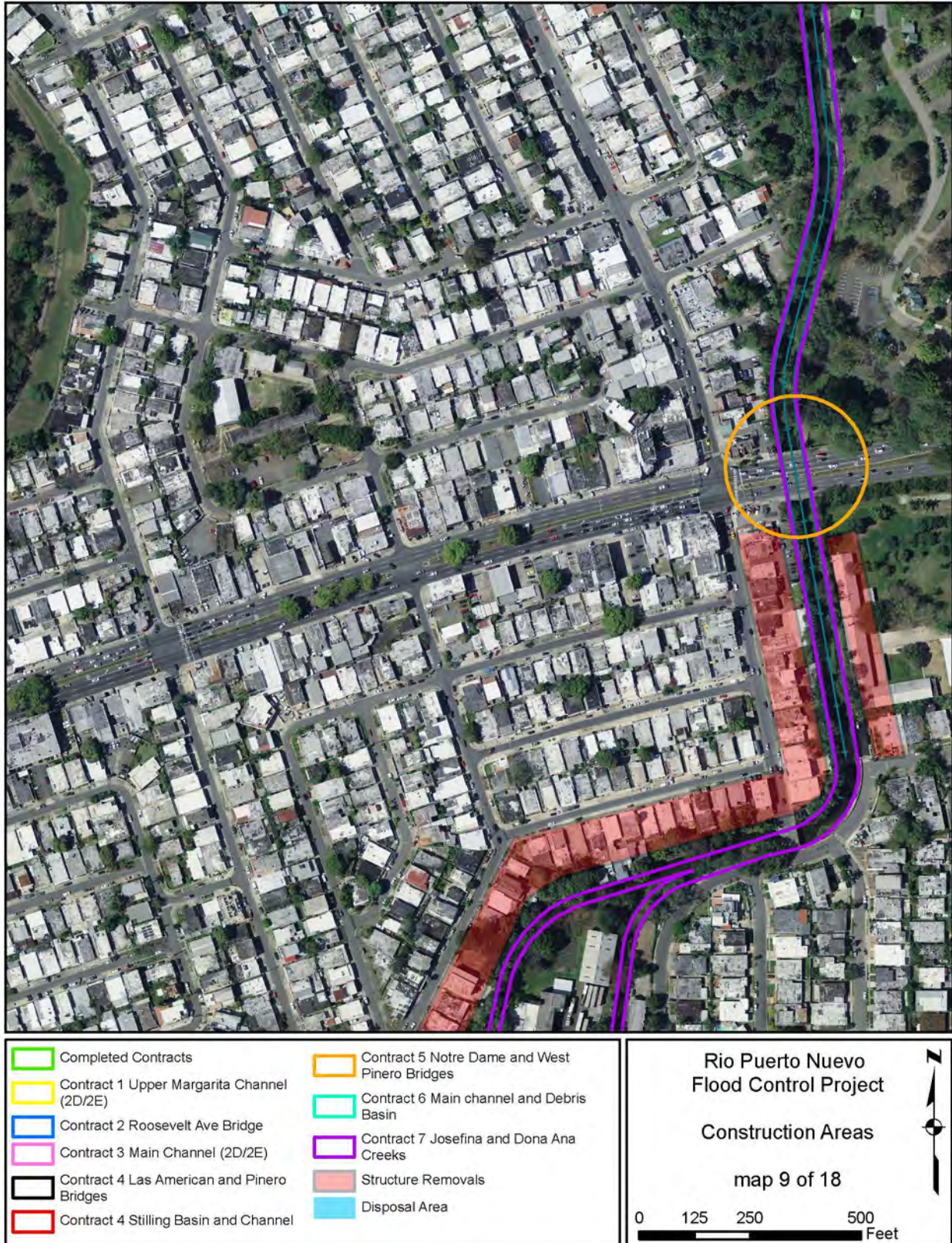


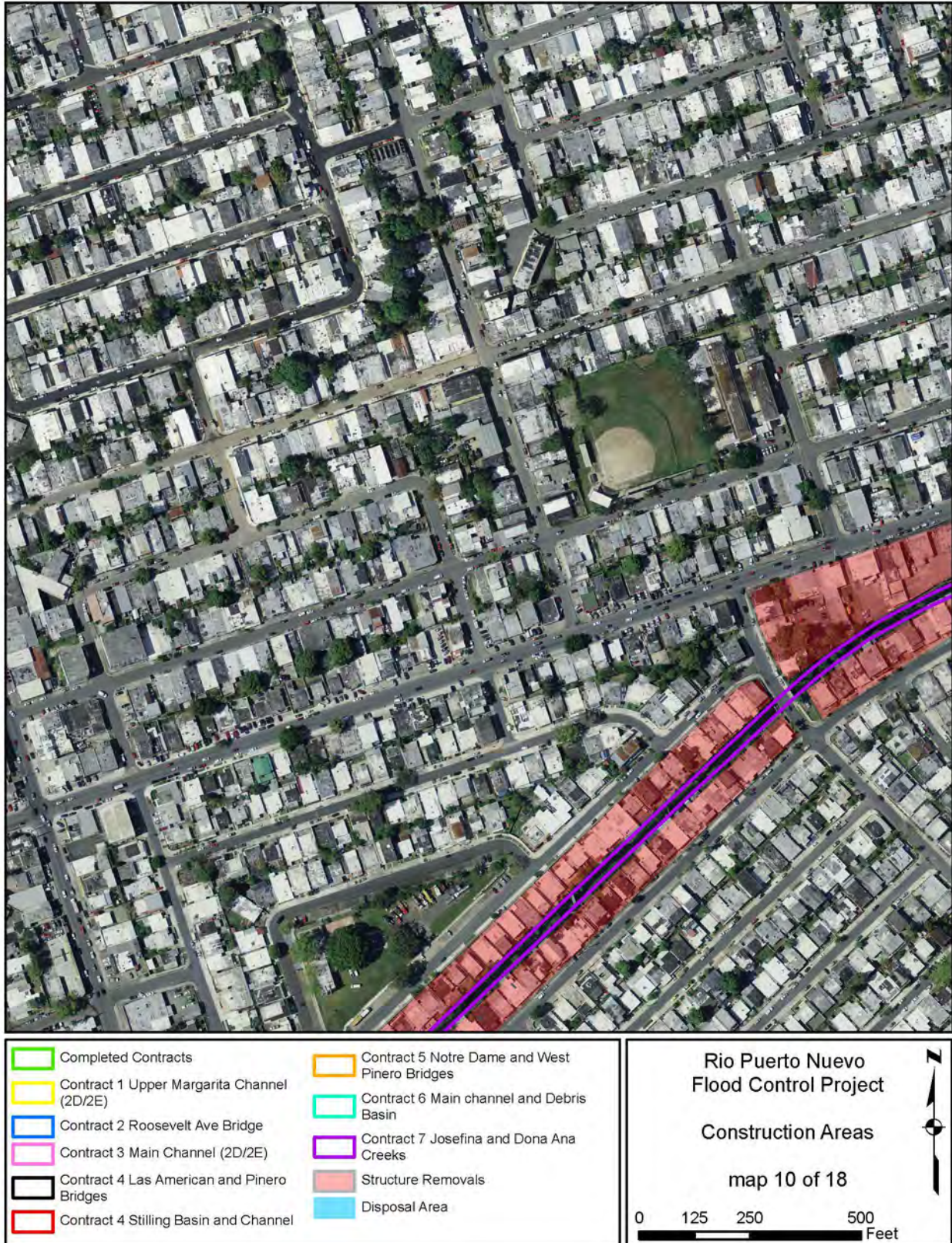


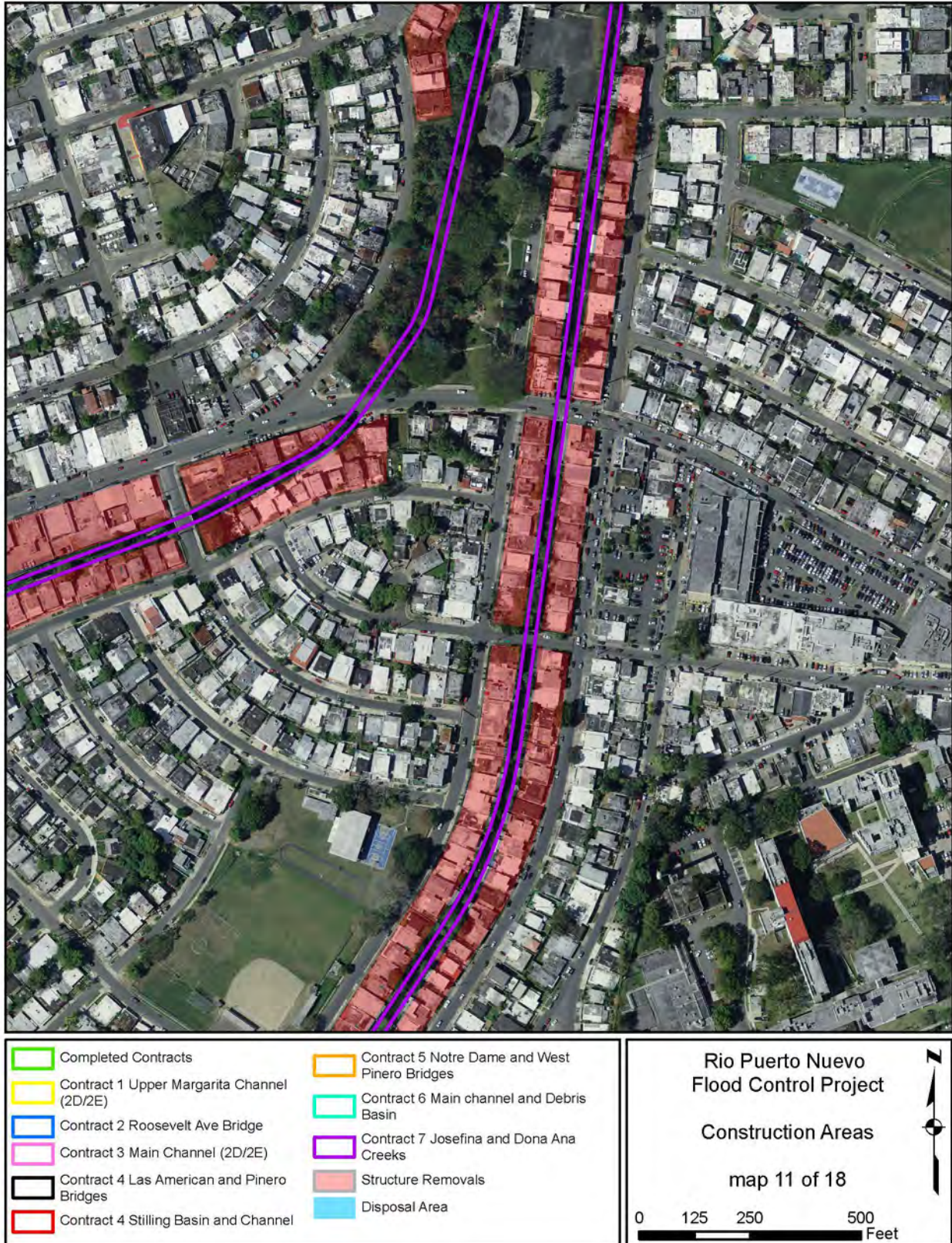




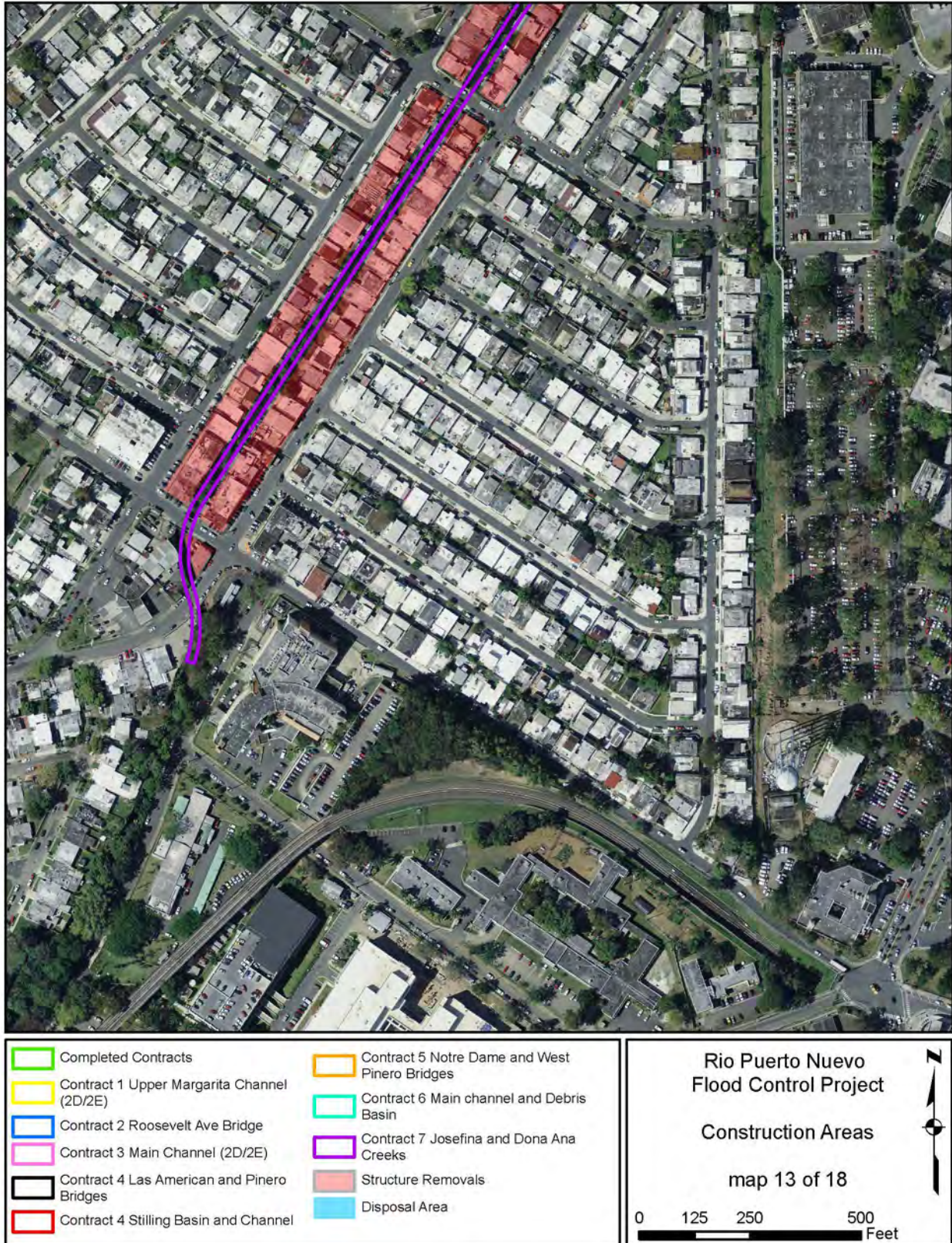


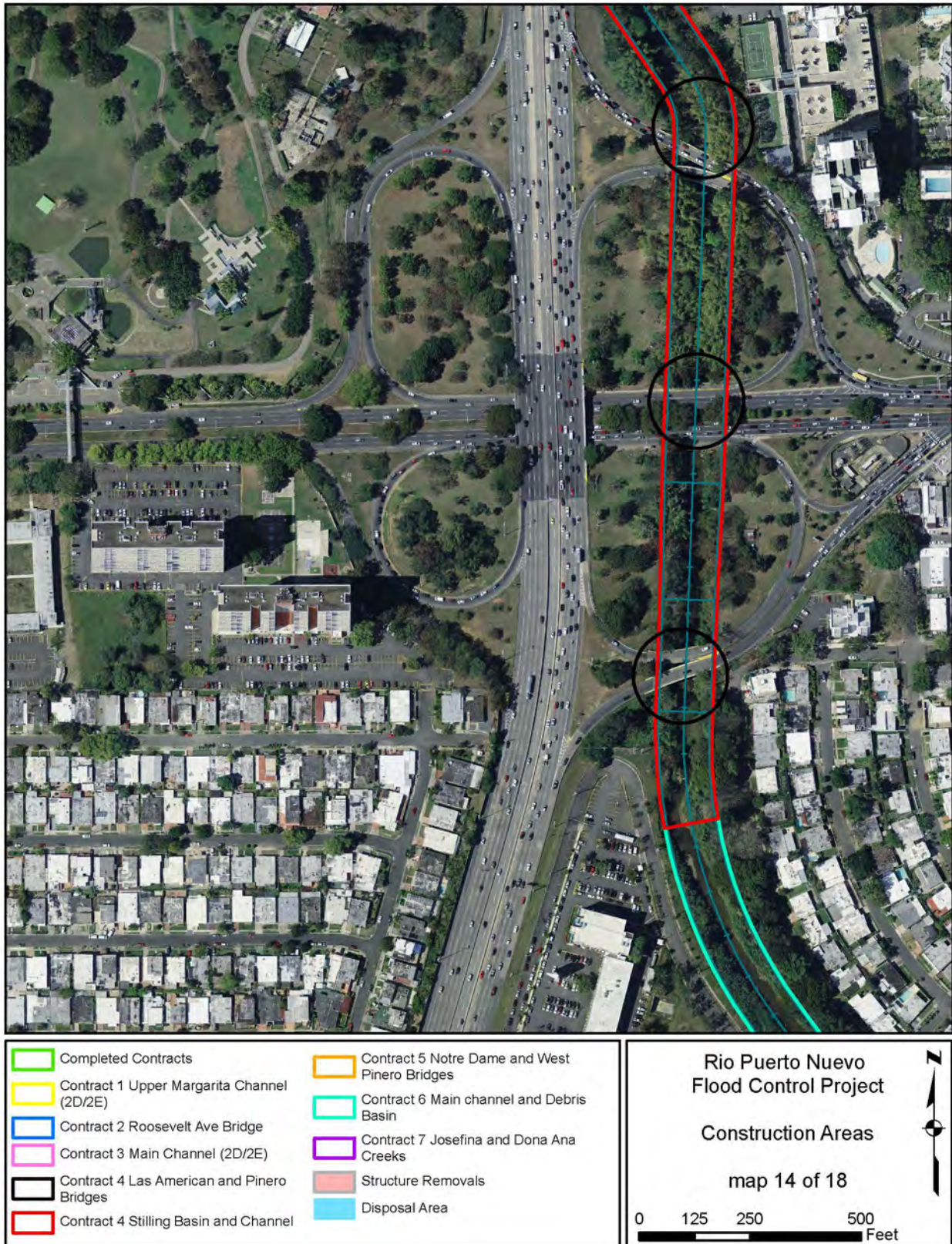


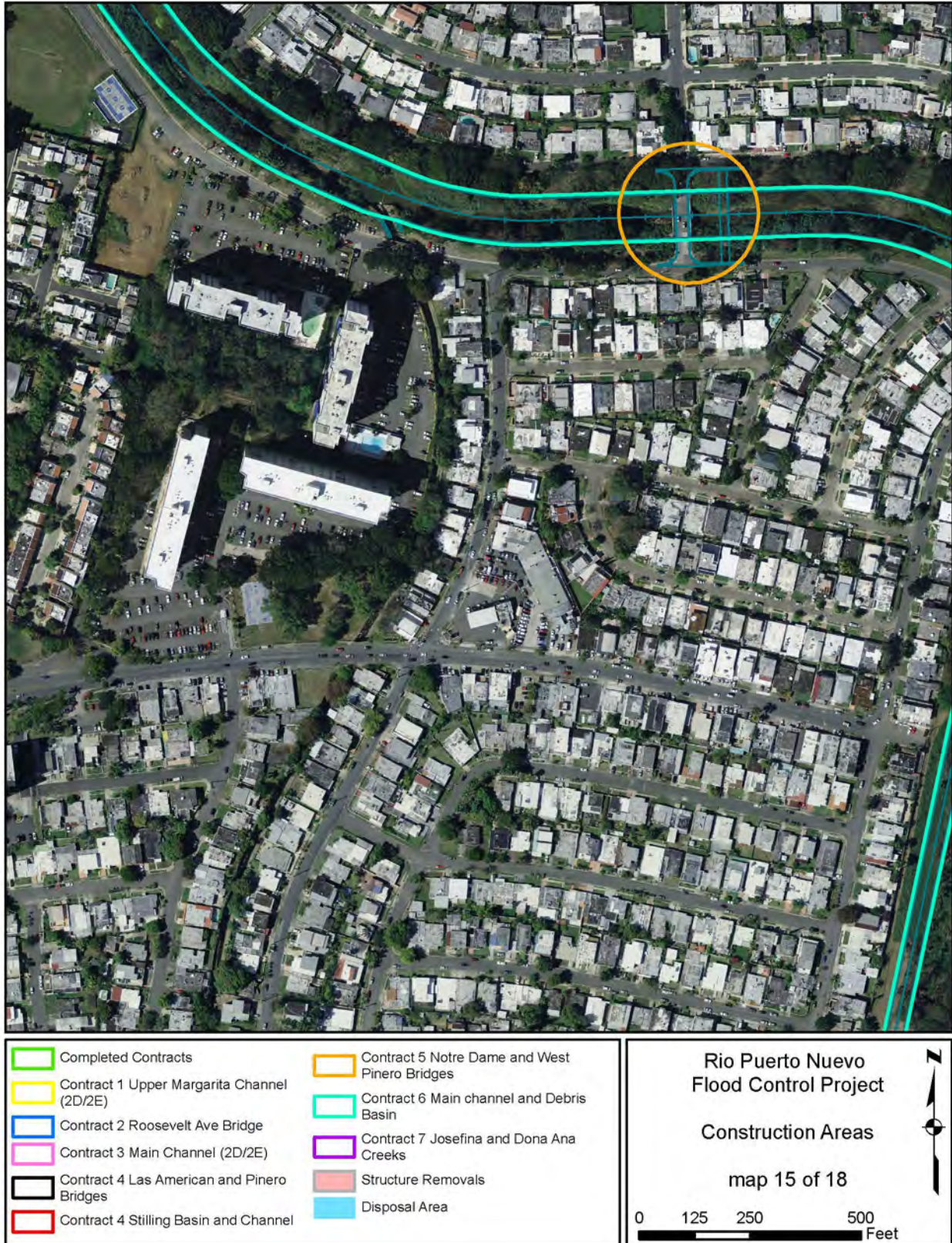




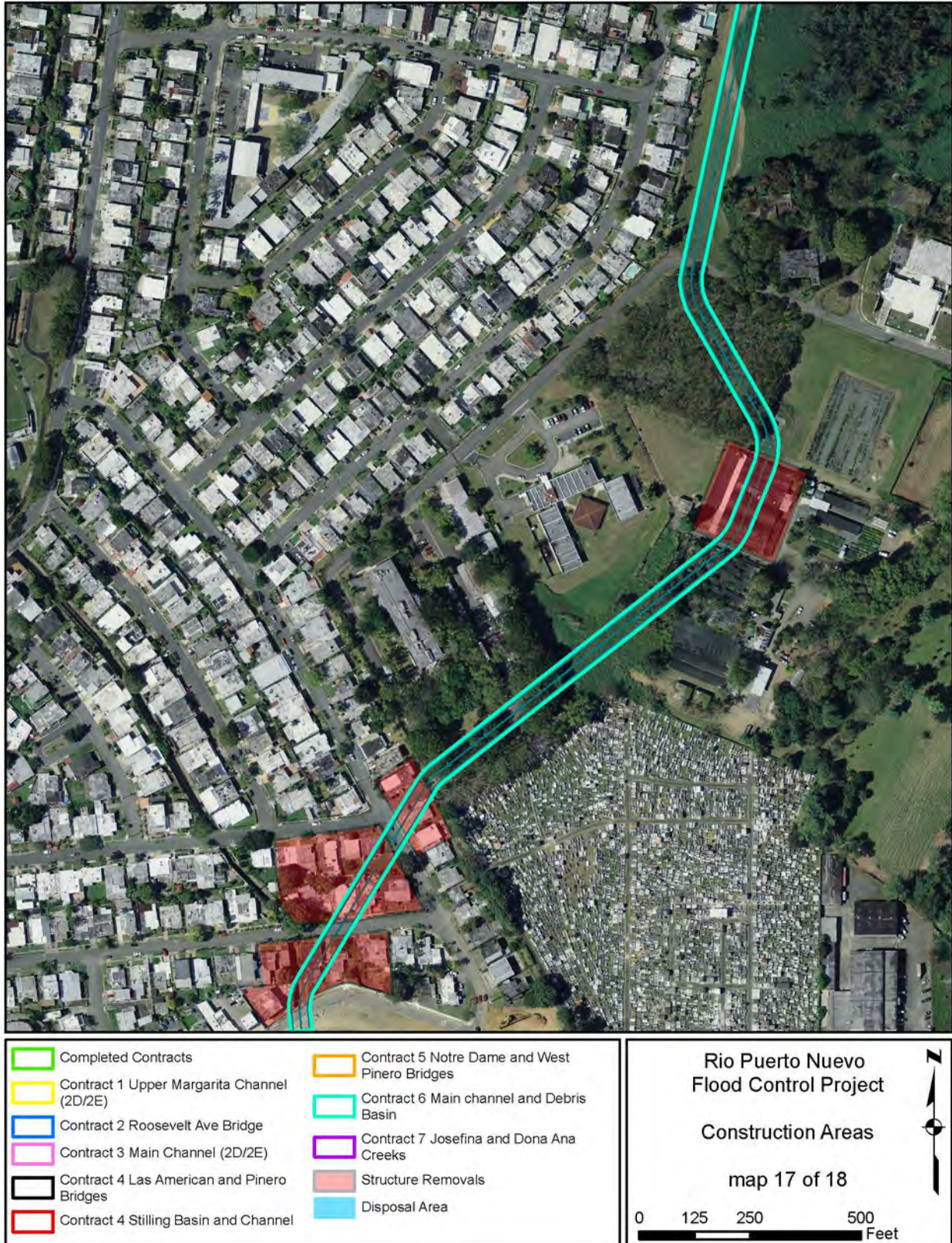














ATTACHMENT B

SUPPLEMENTAL CONTRACT DETAILS

Supplemental Contract 1 – Upper Margarita Channel: Construction of 0.63 miles of channel improvements at Upper Quebrada Margarita and sewer line relocation. The design consists of a 30-foot-wide, rectangular U-frame, concrete-lined channel. Contract 1 includes adverse effects to Resource 001/Margarita Channel Canal.

Supplemental Contract 2 – Roosevelt Avenue Bridge: Replace the existing Roosevelt Avenue Bridge with a six-lane, pre-cast concrete beam bridge to span the Río Piedras Channel configuration. A temporary three-lane bridge will be constructed to the south of the existing Roosevelt Avenue Bridge during construction. The Río Piedras channel width between the Josefina confluence and the De Diego Bridge is 160-feet wide. Contract 2 includes adverse effects to Bridge 005862/PR-23 Eastbound and Bridge 005872/PR-23 Westbound.

Supplemental Contract 3 – Río Piedras Main Channel: Construction of 1.17 miles of concrete-lined channel improvements. The Río Piedras Channel will be 160-feet wide with concrete walls and a more natural bottom to provide some ecological function.

Supplemental Contract 4 – Las Americas Bridges: Replace four major existing bridges of the Piñero Avenue Interchange to include Las American Expressway Bridge, Piñero Avenue Bridge East, the northeast access ramp bridge, and the southeast access ramp bridge. Construction of 0.5 miles of concrete-walled channel and a stilling basin. Contract 4 includes adverse effects to Bridge 010061.PR-18 to PR17 Ramp, Bridge 012042/PR-17 Westbound, Bridge 012032/PR-17 Eastbound, and Bridge 010091/PR-18 to PR-17 Ramp.

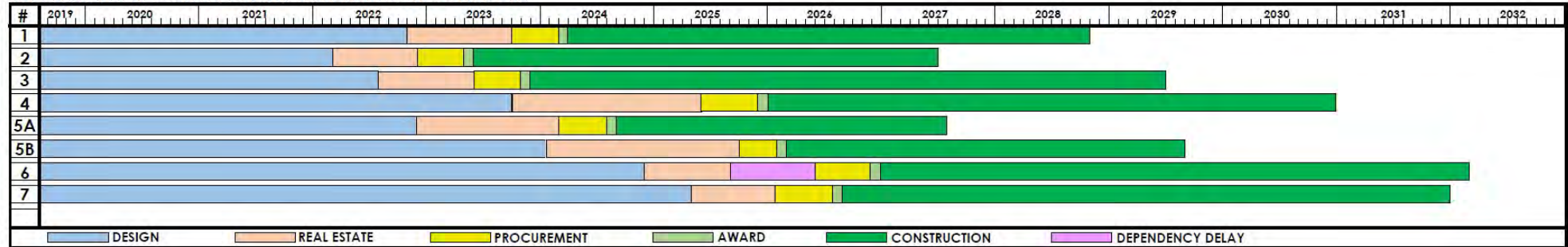
Supplemental Contract 5a – Notre Dame Bridge: Replacement of the Notre Dame Bridge will include construction of a one-lane bypass during construction that will be modified to a permanent pedestrian bridge after construction is complete. This Contract also includes the construction of 300-feet of concrete walled channel improvements. This Contract includes adverse effects to Bridge 021451/Notre Dame Bridge, Bridge 012021/PR-17, and Parque Las Américas.

Supplemental Contract 5b – West Piñero Avenue Bridge: Replacement of the West Piñero Avenue Bridge will include a temporary bypass bridge that will be removed after construction. This Contract also includes the construction of 0.45 miles of channel improvements for Josefina Channel.

Supplemental Contract 6 – Río Piedras Lower Main Channel and Buena Vista Channel: Construction of 1.5 miles of concrete-walled channel improvements for the main Río Piedras channel and Quebrada Buena Vista. This Contract includes the construction of two new bridges and replacement of two existing bridges. This Contract includes adverse effects to Bridge 021231/Fourth Street Bridge.

Supplemental Contract 7 – Doña Ana and Josefina Channel: Construction of 1.37 miles of channel improvements for Quebrada Josefina and Quebrada Dona Ana. Replacement of 10 bridges and demolition of an undetermined number of structures. The Contract includes adverse effects to Bridges 02161/Andalucía Street, 021041/Américo Miranda Street, 021441/42nd Street, 021391/21st SE Street, 021311/9th SE Street, 021051/Américo Miranda Street, 021431/29th Street, 021411/21st SE Street, 021061/Avenida José de Diego Avenue, and 54th SE Street Bridge.

SUPPLEMENTAL CONTRACT IMPLEMENTATION SCHEDULE



ATTACHMENT C

AREAS OF POTENTIAL EFFECTS AND HISTORIC PROPERTIES

PROGRAMMATIC AGREEMENT REGARDING THE REGARDING THE RIO PUERTO NUEVO CONTROL PROJECT, SAN
JUAN, PUERTO RICO

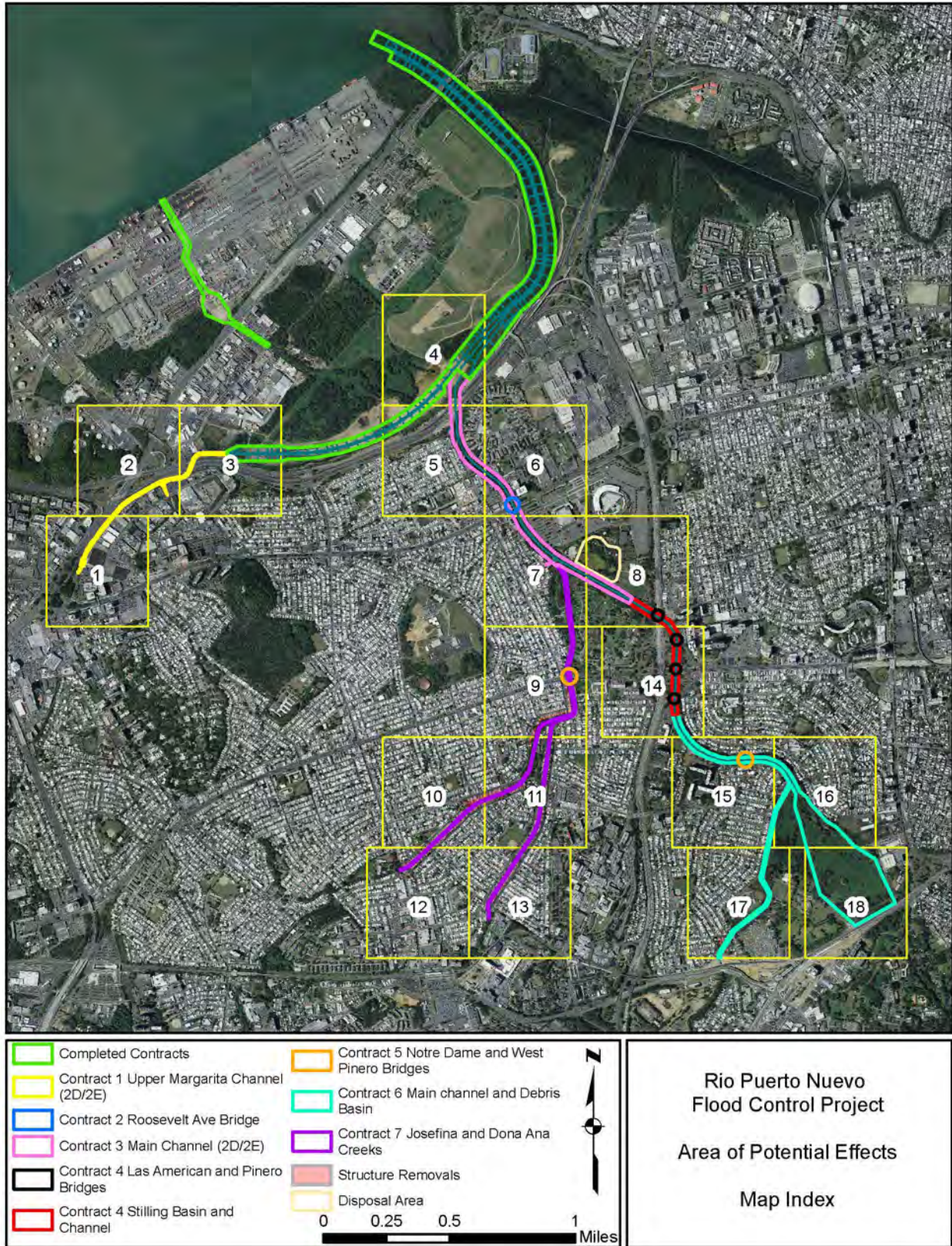
Historic Properties within the APE

Site Number/Name	Site Description	Resource Type	Date	NRHP Evaluation	Adverse Effects
SJ0200067/Experimental Rum Warehouse	Historic Structure	Modernist-style concrete building	1967	Eligible	No
SJ0200069/Seminario Mayor Arquidiocesano	Historic Structure	Modernist-style concrete building	1954	Eligible	No
Resource 001/Margarita Channel Canal	Historic Structure	Canal/Ditch-style	ca. 1941	Eligible	Yes
Resource 002/Main Channel of the Josefina Creek Canal	Historic Structure	Canal/Concrete-lined, concrete wall	ca. 1947	Eligible	No
Resource 003/Josefina Creek Branch Canal	Historic Structure	Canal/Concrete-lined, embankment, fence	ca. 1957	Eligible	No
Resource 004/Doña Ana Creek Canal	Historic Structure	Canal/Concrete-lined, embankment, fence	ca. 1957	Eligible	No
Resource 005/Buena Vista Creek Canal	Historic Structure	Canal/Concrete-lined, embankments, fence, vegetation	ca. 1970	Eligible	No
021451/Notre Dame Street Bridge over the Piedras River	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	ca. 1941	Eligible	Yes
021231/Fourth Street Bridge over Buena Vista Creek Canal	Historic Structure	Bridge/Concrete Slab	1950	Eligible	Yes
012021/PR-17 over Main Channel of Josefina Creek Canal	Historic Structure	Bridge/Concrete Slab	1950	Eligible	Yes
021261/Andalucía Street Bridge over Main Channel of Josefina Creek Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1950	Eligible	Yes
021041/Américo Miranda Street Bridge over Doña Ana Creek Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1950	Eligible	Yes
021441/42 nd SE Street Bridge over Doña Ana Creek Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1950	Eligible	Yes
021391/21 st SE Street Bridge over Josefina Creek Branch Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1964	Eligible	Yes
021311/9 th SE Street Bridge over Doña Ana Creek Canal	Historic Structure	Bridge/Concrete Tee Beam	1950	Eligible	Yes
021051/Américo Miranda Street Bridge over Josefina Creek Branch Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1950	Eligible	Yes
021431/29 th Street SE Bridge over Josefina Creek Branch Canal	Historic Structure	Bridge/Concrete Slab	1955	Eligible	Yes
021411/21 st SE Street Bridge over Doña Ana Creek Canal	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1960	Eligible	Yes
021061/Avenida José de Diego Avenue Bridge Josefina Creek	Historic Structure	Bridge/Concrete or Steel Stringer/Girder	1955	Eligible	Yes

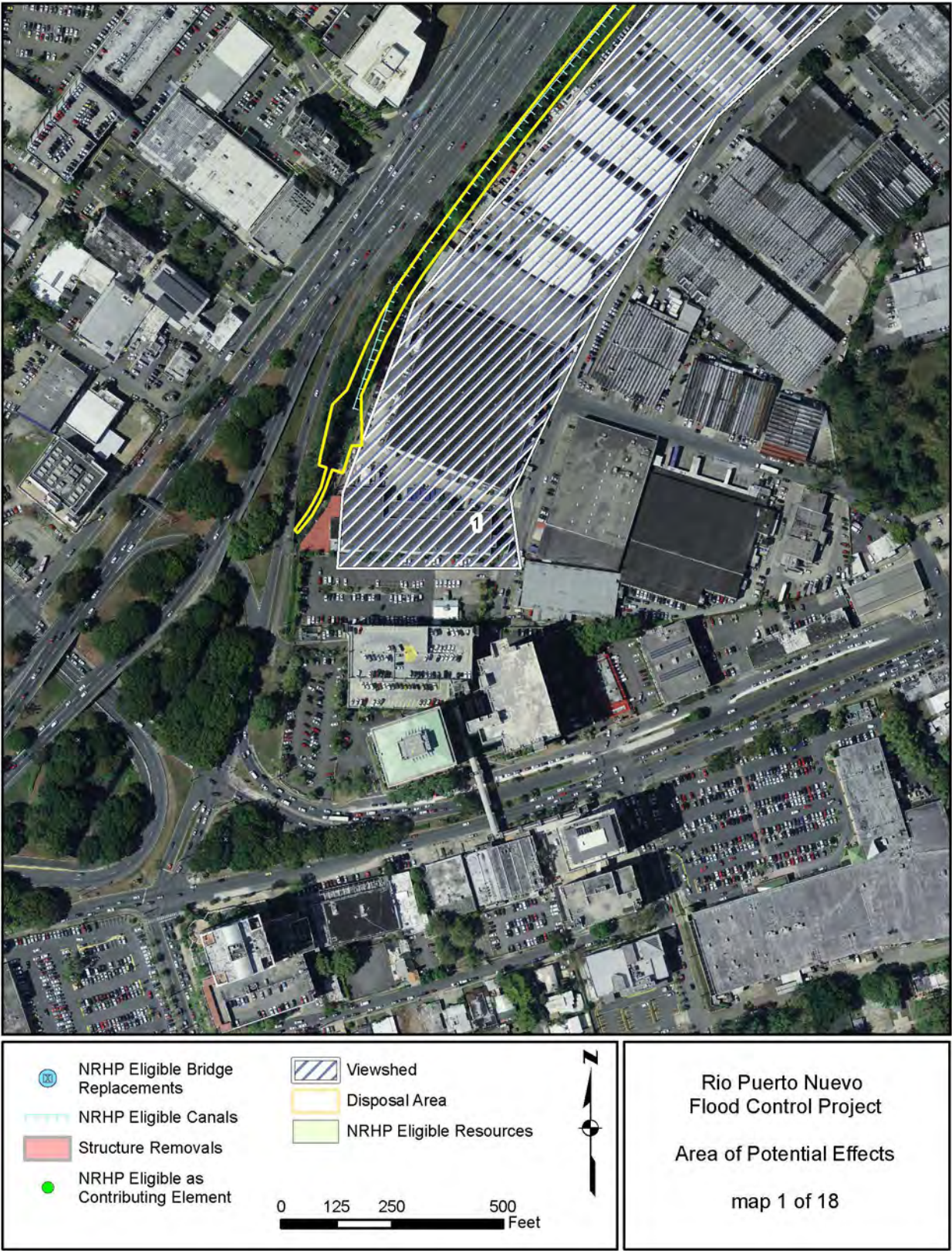
PROGRAMMATIC AGREEMENT REGARDING THE REGARDING THE RIO PUERTO NUEVO CONTROL PROJECT, SAN JUAN, PUERTO RICO

Branch Canal					
Site Number/Name	Site Description	Resource Type	Date	NRHP Evaluation	Adverse Effects
54th SE Street Bridge over Doña Ana Creek Canal	Historic Structure	Bridge/Concrete Slab	1950	Eligible	Yes
005862/PR-23 Eastbound	Historic Structure	Bridge/Concrete Slab	ca. 1949	Eligible	Yes
005872/PR-23 Westbound	Historic Structure	Bridge/Concrete Slab	ca. 1949	Eligible	Yes
010061/PR-18 to PR-17 Ramp	Historic Structure	Bridge/Concrete Tee Beam	1967	Eligible	Yes
012042/PR-17 Westbound	Historic Structure	Bridge/Concrete Slab	1963	Eligible	Yes
012032/PR-17 Eastbound	Historic Structure	Bridge/Concrete Slab	1963	Eligible	Yes
010091/PR-18 to PR-17 Ramp	Historic Structure	Bridge/Concrete Tee Beam	1967	Eligible	Yes
SJ0200009/Puente de Río Piedras (núm. 3)	Historic Structure	Spanish technology masonry arch bridge	1853	Listed	No
SJ0200058/Planta Piloto de Ron	Historic Structure	International-style reinforced concrete building	1953	Listed	No
SJ0200065/Policia de Puerto Rico- Cuartel General	Historic Structure	Brutalist-style concrete and masonry building	1974	Eligible	No
SJ0200066/Parroquia San Luis Rey	Historic Structure	International-style glass and masonry building	1964	Eligible	No
SJ0200068/Residencial Nemesio Canales Resources 458–463	Historic Public Housing	Modernist	1956	Eligible	No
SJ0200070/Cementerio Villa Nevárez	Historic Cemetery	Cemetery	1935	Eligible	No
Puerto Nuevo Resources 236 and 420–457	Historic District	Historic district comprised of residential structures	1950	Eligible as contributing	No
Parque Las Américas	Historic Park	Park/No Style	ca. 1956-1961	Eligible	Yes

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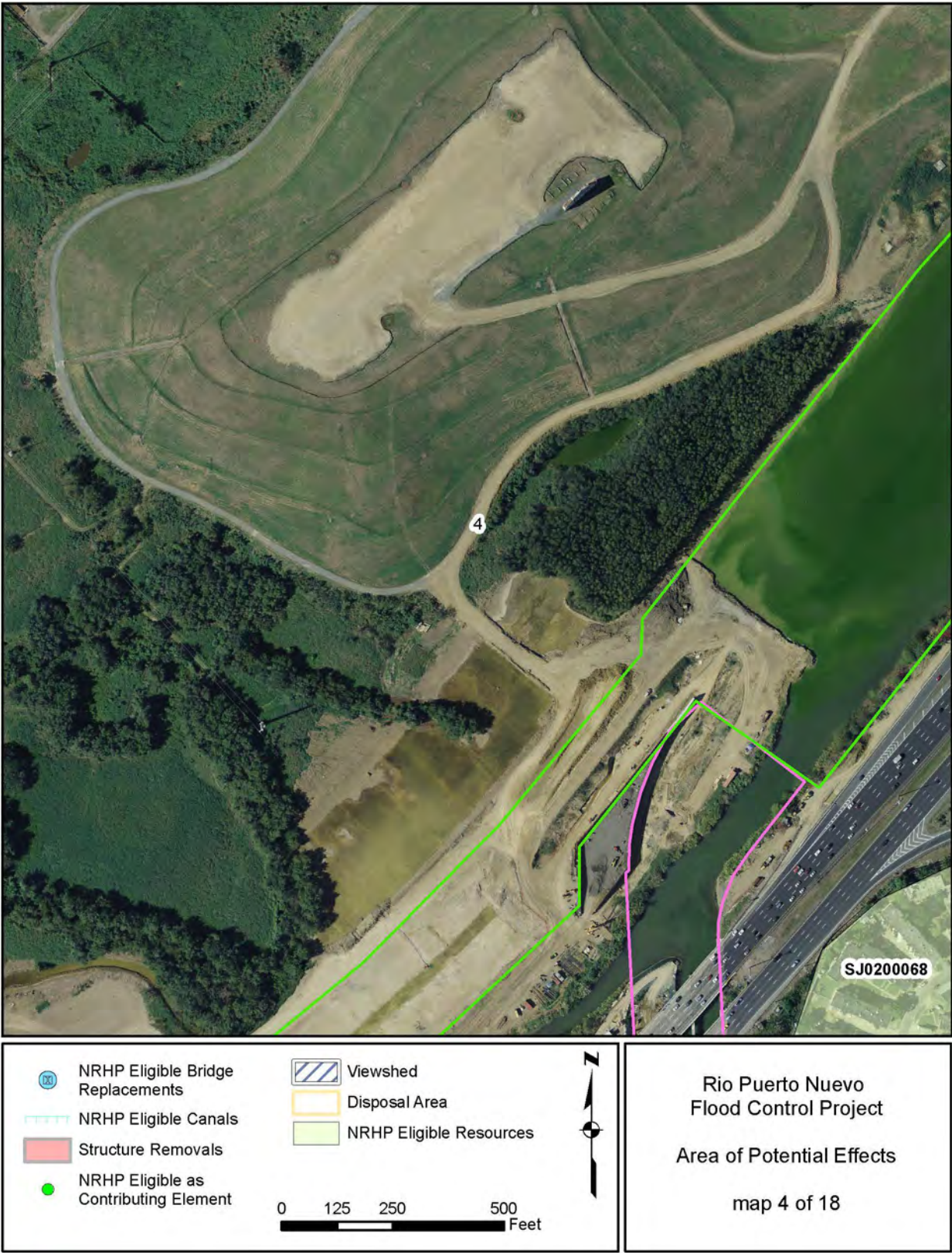
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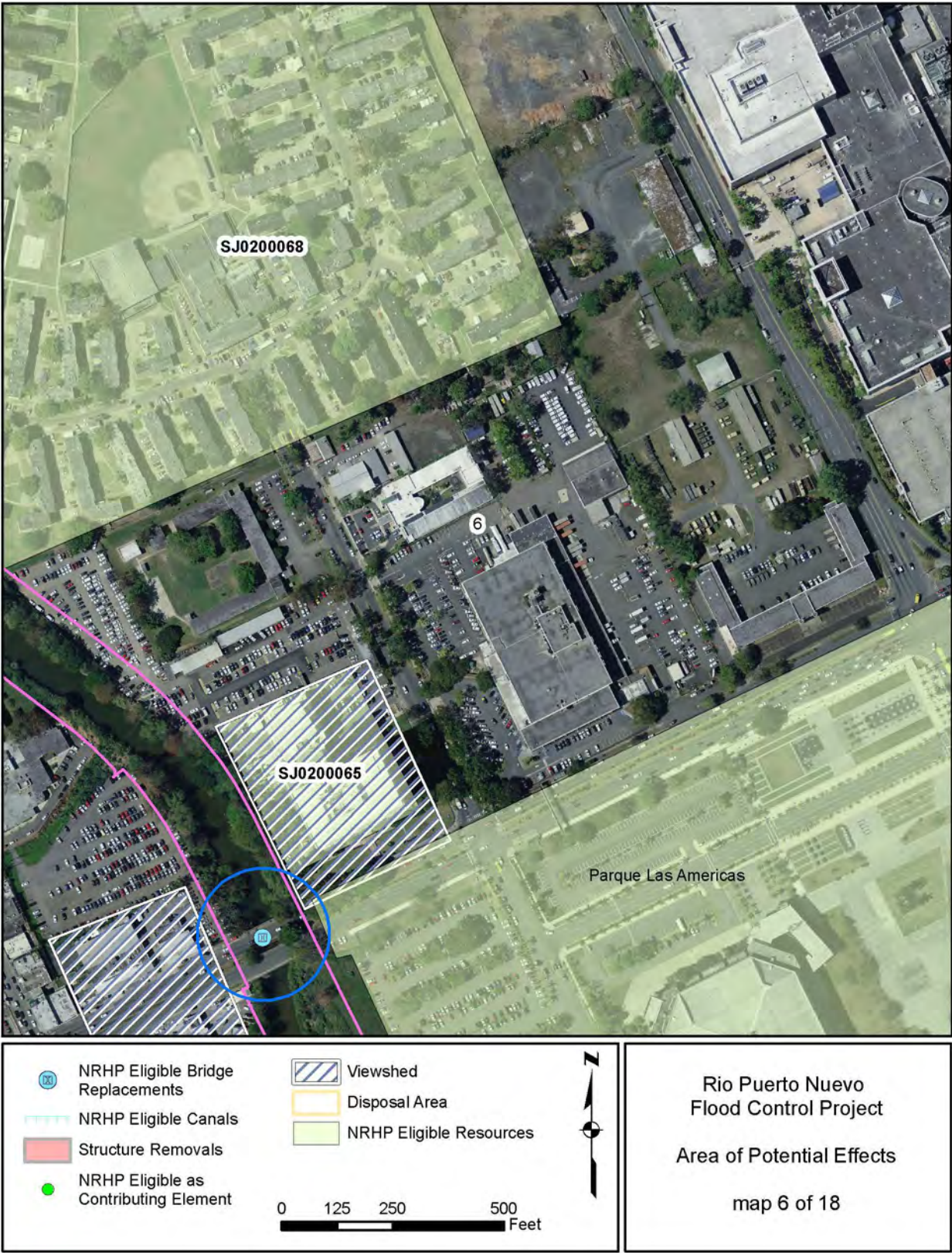
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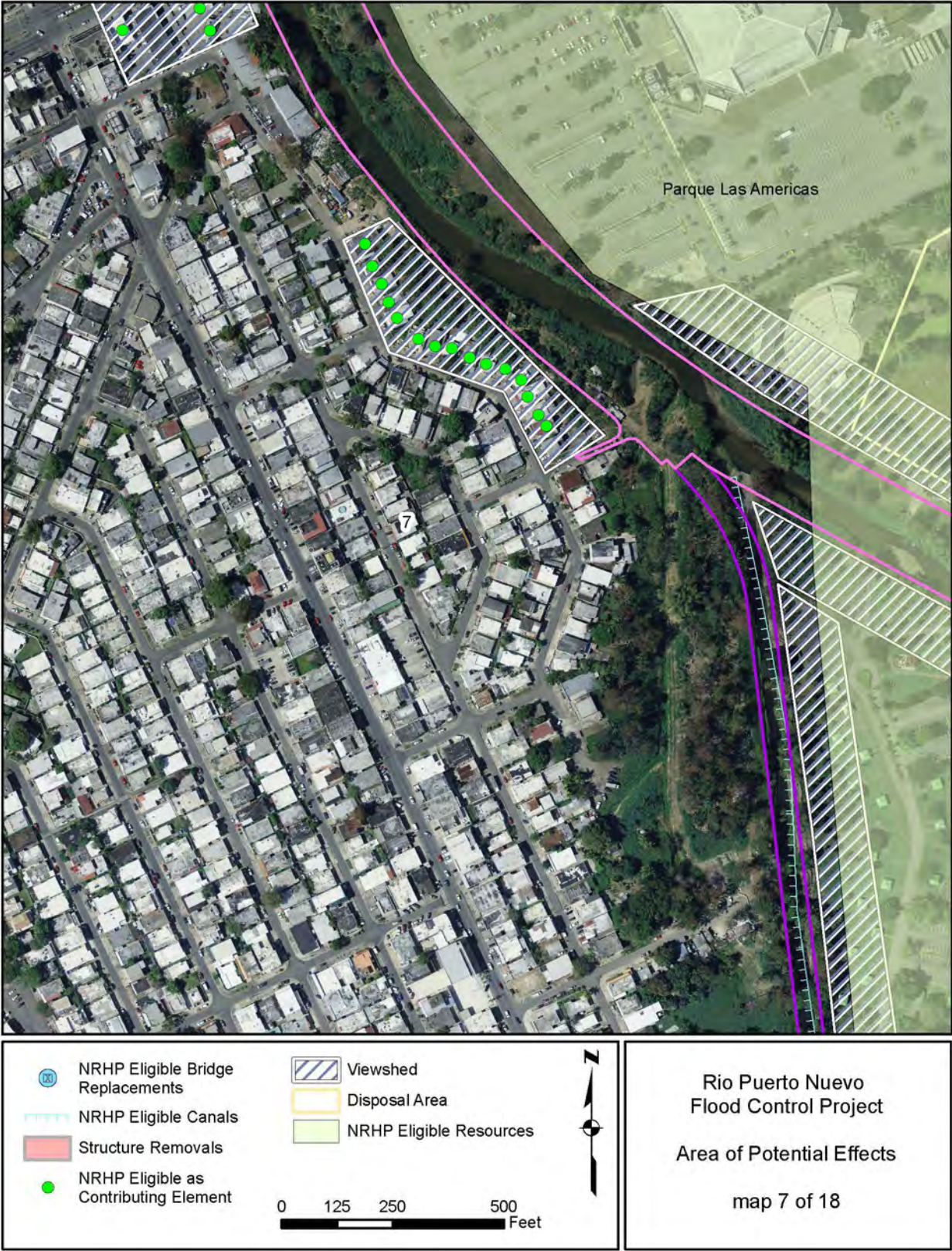
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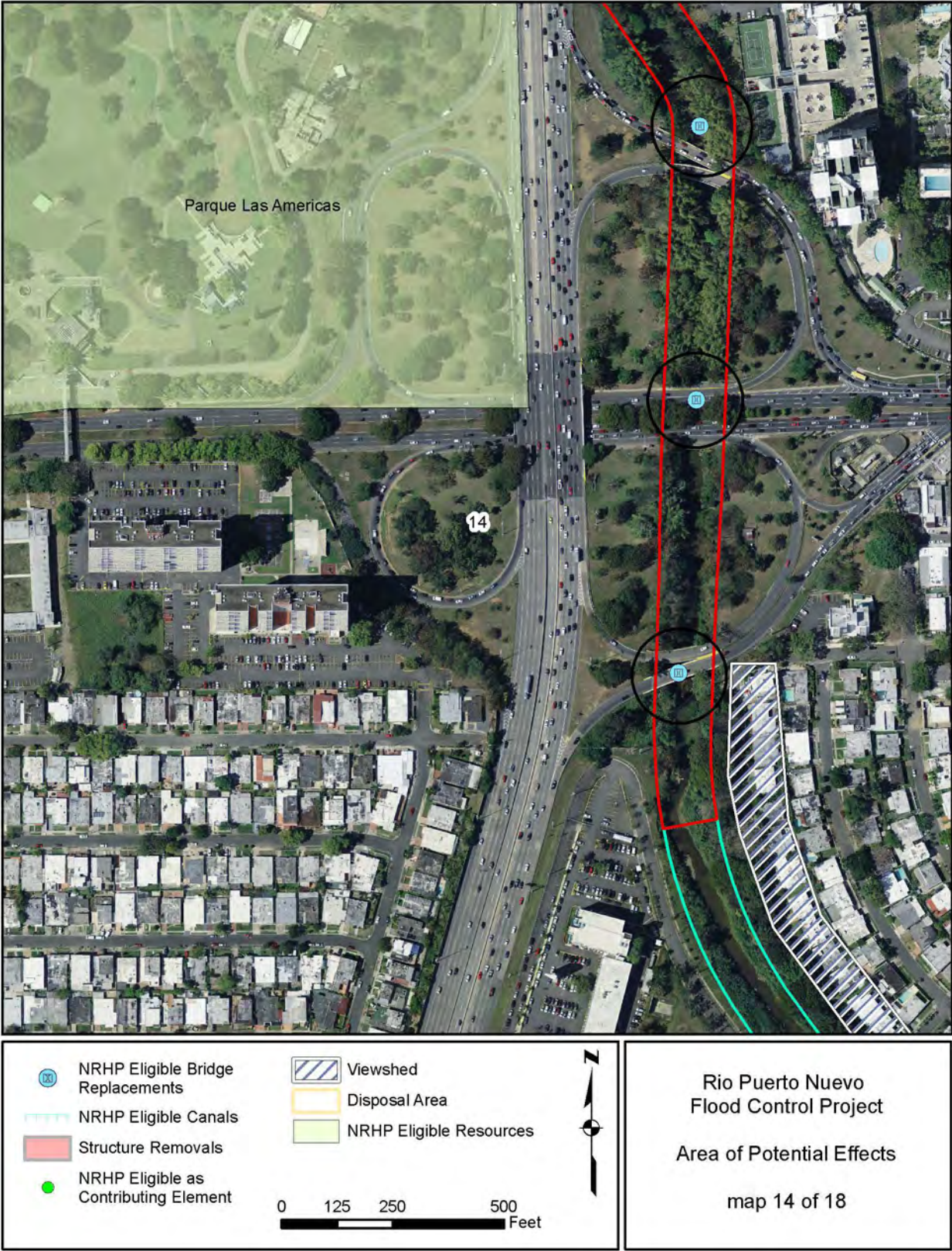
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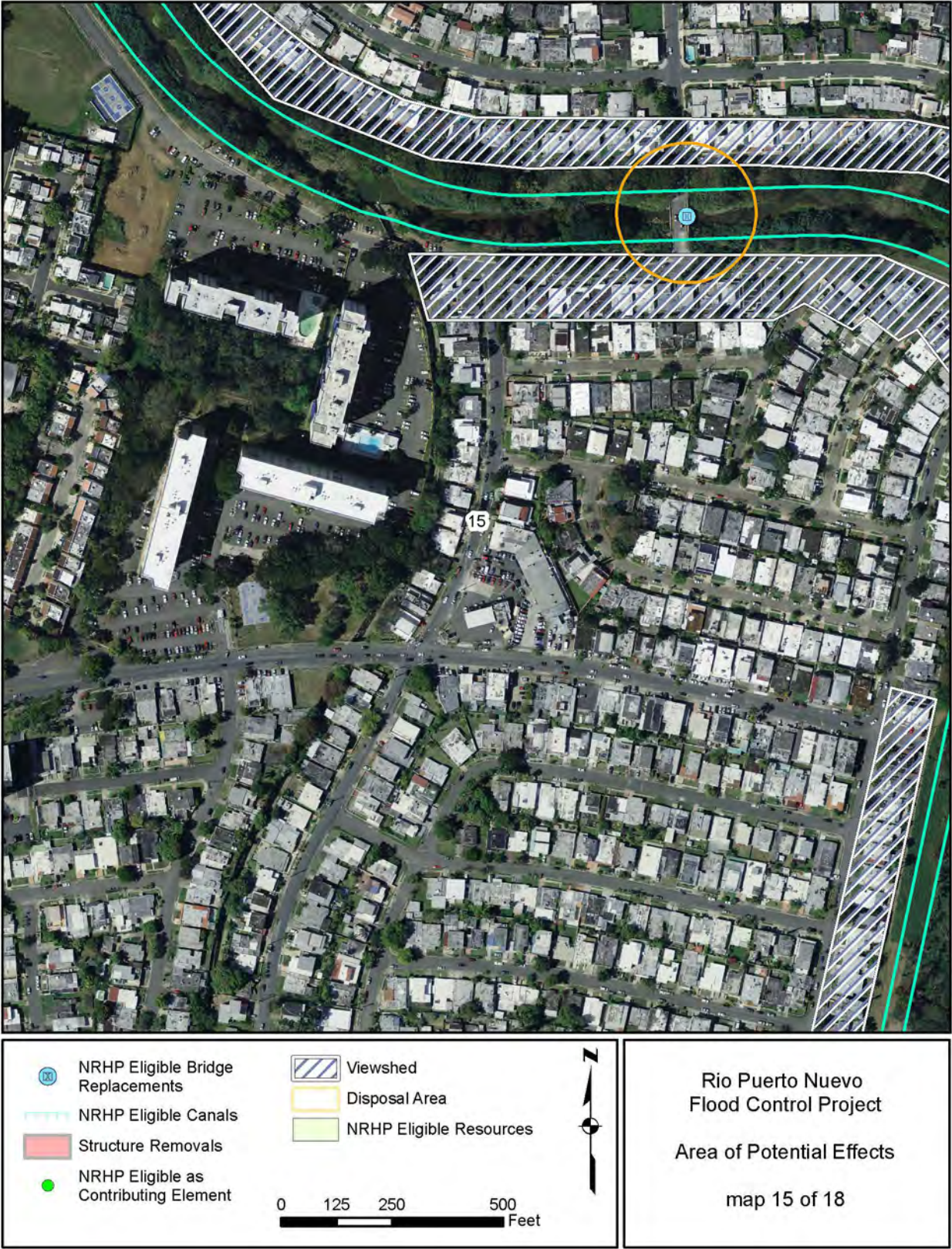
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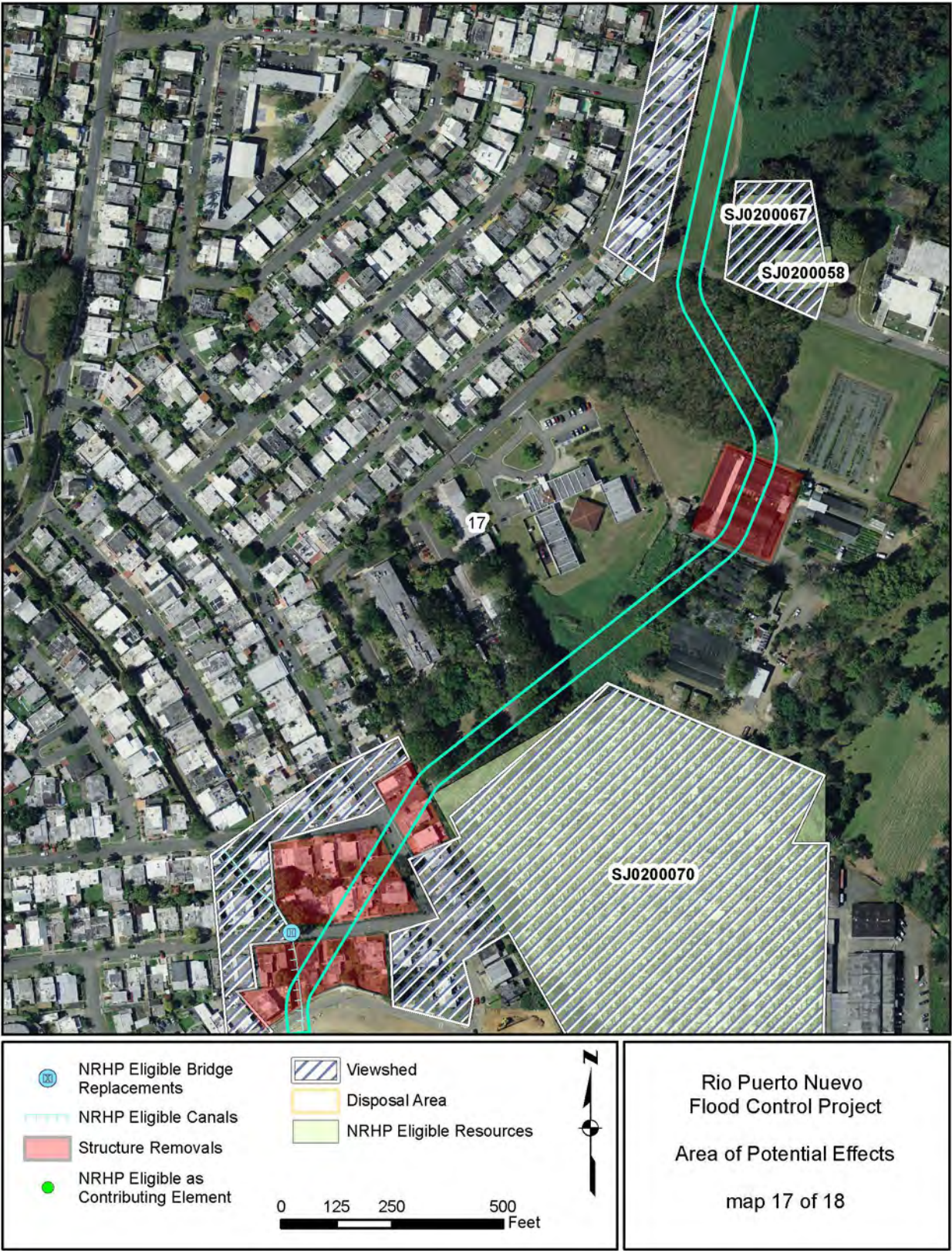
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ATTACHMENT D

HISTORIC PROPERTIES TREATMENT PLAN