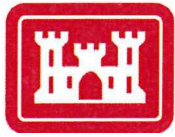


ATTACHMENT D

Corporation of Shepherdstown Letter Report



US Army Corps of Engineers®
Baltimore District

LETTER REPORT

Corporation of Shepherdstown
Shepherdstown Water Works Distribution System
Improvements Project
Shepherdstown, West Virginia
Section 571 Environmental Infrastructure Program

Prepared By:
U.S. Army Corps of Engineers
Baltimore District
February 2023

SECTION 571 ENVIRONMENTAL INFRASTRUCTURE PROGRAM

Corporation of Shepherdstown Shepherdstown Water Works Distribution System Improvements Project

AUTHORIZATION

The primary objective of the Section 571 Program is to provide design and construction assistance to non-Federal interests in carrying out water-related environmental infrastructure and resource protection and development projects in counties within northern West Virginia. This project is located in the town of Shepherdstown, Jefferson County, West Virginia.

The Northern West Virginia Environmental Infrastructure and Resource Protection and Development Program was authorized by Section 571 of the Water Resources Development Act (WRDA) of 1999 (PL 106-53), as amended by Section 5155 of WRDA 2007 (PL 110-114), Section 352(b)(13) of WRDA 2020 (PL 116-260) and Section 8373 (PL 117-263) of WRDA 2022. Reference is given to the guidance contained in the 3 December 2020 Memorandum, "Updated Section 571 Environmental Infrastructure Assistance Program Model Agreements and Delegation of Approval and Execution Authority," as signed by the US Army Corps of Engineers (USACE) Director of Civil Works.

Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in northern West Virginia, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

A. PROJECT NAME

Shepherdstown Water Works Distribution System Improvements Project.

B. NON-FEDERAL SPONSOR

Corporation of Shepherdstown.

The Sponsor point of contact is: Arthur J. Auxer III, Mayor
Corporation of Shepherdstown
104 North King Street
P.O. Box 248
Shepherdstown, WV 25443-0248
Email: jimauxer@yahoo.com

C. CONGRESSIONAL INTERESTS

Senator Joe Manchin (WV)
Senator Shelley Moore Capito (WV)
Congressman Alex Mooney (WV-02)

D. LOCATION

The Shepherdstown Water Works Distribution System Improvements project is in Jefferson County in Shepherdstown West Virginia's Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane.

E. PROJECT DESCRIPTION

Residents of the Mecklenburg Heights Community and customers of the Shepherdstown Water Works, a publicly-owned water system, requested new and upgraded waterlines and fire hydrants in October 2017 and again in September 2019. The Shepherdstown Water Works has since completed the design and engineering of the project to meet the community and system needs. The project is 100% designed by the Sponsor's Consulting Engineer, Ghosh Engineers.

The project consists of replacing existing waterlines to improve distribution and/or provide adequate fire protection in Shepherdstown's Mecklenburg Heights Subdivision, Lukens Circle, East High Street, Mill Street, Rock Springs Road, Scott Drive, and Lynmouth Lane areas as depicted in Figure 1. The project includes the construction of more than 20,000 linear feet of water lines, gate valves, fire hydrants, and other associated appurtenances. This project would have a service impact on 200 homes through improved delivery of drinking water and fire suppression.

In May of 2022, Huntington District informed the USACE, Baltimore District that this project was selected under the Section 571 Program for reimbursement and that the project is located within Baltimore District's area of responsibility. The nonfederal share of the project costs (25%) will be funded, in total, through I&R and Capacity Accounts, which are funds used for replacement of equipment and future projects. The Public Service Commission of West Virginia requires that specific funds be designated for these purposes. The federal share of the project costs (75%) will be reimbursed with appropriations made available through the USACE Section 571 Program.

F. STATUS OF ENVIRONMENTAL COMPLIANCE

National Environmental Policy Act (NEPA) compliance with all appropriate environmental regulations and coordination with the public and the appropriate local, state, and federal agencies will be conducted per 40 CFR Parts 1500-1508, NEPA Implementing Regulations, dated 20 May 2022, and 33 CFR Part 230, dated 3 February 1988. All reports and surveys will be reviewed by the USACE, Baltimore District for compliance with all appropriate environmental regulations, including necessary coordination with appropriate local, state, and federal agencies. Currently, Project Delivery Team (PDT)

members are working on these efforts and will advise the Sponsor accordingly. Prior to the conclusion of the design phase of the project, evaluations, and public documentation of the project under NEPA will be conducted. The Sponsor will not solicit the construction contract until public involvement and the NEPA decision-making process is complete.

The Sponsor is responsible for collecting environmental information and providing assistance in documenting and circulating their project plans. USACE is responsible for evaluation of the project and for circulation of the draft NEPA document for public and agency review. Upon completion of review, USACE will incorporate comments and prepare the final NEPA document, as appropriate.

The Shepherdstown Water Works Distribution System Improvements Project includes design and construction. Compliance with NEPA, National Historic Preservation Act, Clean Water Act, Endangered Species Act, Clean Air Act, Safe Drinking Water Act, and all other applicable environmental laws or regulations will be completed prior to advertisement for construction. An Environmental Assessment (EA) was determined as the appropriate level of NEPA review, as the proposed action is not likely to have significant effects. The Sponsor has initiated the coordination with relevant agencies, as summarized below:

Table 1: Environmental Compliance Status - Pending

Statute/Executive Order	Full	Partial	N/A
National Environmental Policy Act (considered partial until the FONSI is signed)		X	
Fish and Wildlife Coordination Act	X		
Endangered Species Act	X		
Clean Water Act	X		
Wild and Scenic Rivers Act			X
Clean Air Act	X		
National Historic Preservation Act	X		
Archeological Resources Protection Act	X		
Comprehensive, Environmental Response, Compensation and Liability Act	X		
Resource Conservation and Recovery Act	X		
Toxic Substances Control Act			X
Farmland Protection Act			X
Executive Order 11988 Floodplain Management	X		
Executive Order 11990 Protection of Wetlands	X		
Executive Order 12898 Environmental Justice in Minority Populations and Low-Income Populations	X		
Executive Order 13045 Protection of Children	X		

Coordination with tribal interests in the area is on-going through the Baltimore District. The Shawnee Tribe has been contacted as of 7 February 2023. Responses are pending.

USACE has reviewed National Wetland Inventory (NWI) maps for the project areas. The NWI maps indicate that wetlands are located within the project area. Wetlands were identified northwest of Spring Warbler Way, and surround the Norfolk Southern railroad tracks, adjacent to Town Run (a perennial stream that bisects the town of Shepherdstown). Although these systems were identified via desktop screening, all construction is anticipated to stay within the existing roadway and Waters of the U.S. are not expected to be impacted by the project. Project activities are not expected to result in impacts to aquatic resources.

USACE has reviewed the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) web service for potential threatened, endangered, or candidate species within the project areas. Several species including Indiana Bat (*Myotis sodalis*), Northern Long-Eared Bat (*Myotis septentrionalis*), Tricolored bat (*Perimyotis subflavus*), and Monarch butterfly (*Danaus plexippus*) were identified within the vicinity of the project area. However, project activities are not expected to result in impacts to threatened, endangered, or candidate species.

G. KNOWN POTENTIAL ENVIRONMENTAL ISSUES

There are no known potential environmental issues associated with this project. USACE will review the previous coordination and documentation provided by Shepherdstown, as well as the NEPA documentation, to ensure compliance with applicable requirements under federal laws, including parks and recreation, aesthetics, noise pollution, public health, safety, socioeconomics, and environmental justice, as well as applicable Executive Orders and coordination under the Fish and Wildlife Coordination Act. Currently, USACE does not anticipate that any of these factors are likely to constitute a significant impact on the human environment. Therefore, USACE anticipates that an EA will be adequate for compliance with NEPA.

H. PROJECT COST INFORMATION

The total Federal Funding Received is \$1,668,000.

The cost share breakdown at a 75 percent Federal / 25 percent Non-Federal is:

Federal Share (75% cost share):	\$1,668,000
<u>Non-Federal Share (25% cost share):</u>	<u>\$ 556,000</u>
Total Project Costs:	\$2,224,000

The USACE project management activities necessary to document, negotiate, execute, and carryout the terms of the agreement are included in the Total Project Costs subject to cost sharing. The remaining amount of federal funding available for reimbursement of completed design and construction is estimated to be \$1,568,000.

I. IMPLEMENTATION ROLES

USACE involvement is to develop this letter report to ensure the project meets the intent of the Section 571 authorization, prepare an EA for NEPA utilizing information from the Sponsor and complete the federal agency NEPA decision-making process, develop and execute a Project Partnership Agreement (PPA), conduct value engineering, and review the design and construction activities for program compliance.

The Sponsor is responsible for administering the design, contracting, and construction, as well as all costs associated with subsequent operation and maintenance. The Sponsor shall provide all necessary lands, easements and rights of way, relocations, disposal areas (LERRD), and necessary permits. The non-Federal sponsor shall receive credit for the value of such LERRD's and the cost of obtaining permits toward its share of project costs, but not to exceed 25 percent of the total costs of the project. All LERRD and NEPA requirements must be secured prior to the start of construction.

J. REIMBURSEMENTS

The amount of credit to be afforded to the non-Federal sponsor for design and construction work shall be based on the reasonable, allowable, allocable actual costs incurred by the non-Federal sponsor upon completing the work. In no case will the

amount of credit afforded for prior design work exceed 6 percent of total project construction costs. Costs to investigate and document the presence of hazardous substances are eligible for credit. Costs to remove or remediate CERCLA regulated substances are a non-Federal responsibility and are not creditable.

K. VALUE ENGINEERING

A value management plan (VMP) for the proposed project was prepared by the Baltimore District's Value Engineering Officer on 6 October 2022. Based on the complexity and estimated cost of the project, it was determined that a value engineering study was not required, and the value engineering requirement was best addressed through a Low Opportunity determination.

L. PROJECT SCOPE

The selected acquisition strategy is a design-bid-build contract; however, USACE is not the contracting agency. USACE and the non-Federal responsibilities are noted below.

USACE Responsibilities. USACE is responsible for ensuring compliance with applicable Federal laws and requirements and ensuring that all work performed by the sponsor is reasonable, allowable, allocable, and eligible for credit, if appropriate. USACE involvement includes, but is not limited to the following:

- Coordinate and prepare the PPA.
- Ensure that the project scope meets the definition of what is allowable, allocable, and eligible within the language of the legislation.
- Assess the non-Federal sponsor's financing plan.
- Review and approve Sponsor requests for real estate (LERRD) credit, if any.
- Maintain accounting system for USACE expenditures & non-Federal sponsor credits.
- Provide USACE project management and reporting.
- Participate in the PDT.
- Review the contractor's plans and specifications for compliance.
- Prepare the Real Estate Plan (REP).
- Ensure compliance with NEPA and other environmental compliance regulations.
- Review progress during construction to ensure that completed work is consistent with requests for reimbursement.
- Review contractor's construction schedule.
- Review contract modifications, if any.
- Confirm that turnover documents, to include operation and maintenance manuals, are provided to the sponsor upon completion of the project.

Sponsor responsibilities. The sponsor is responsible for ensuring that work meets all local, state, and Federal laws and requirements. The sponsor's responsibilities include, but are not limited to the following:

- Provide plans and specifications to USACE for review.
- Provide to USACE information necessary to complete environmental and cultural compliance.
- Obtain all permits and licenses necessary to construct, operate and maintain the project.
- Coordinate with USACE with preparation of the PPA.
- Prepare preliminary construction cost estimate.
- Arrange non-Federal financing and prepare a financing plan.
- Perform or ensure the performance of the required LERRDs.
- Participate in the PDT.
- Advertise the Contract Solicitation.
- Award the Construction Contract.
- Provide Construction Supervision.
- Provide records to USACE for all project crediting and reimbursement.
- Operate and maintain the project.

M. TENTATIVE PROJECT SCHEDULE

NOV	2022	Project Management Plan Approved (PDT level)
MAR	2023	Letter Report & PPA NAD Approval
APR	2023	PPA Executed
MAY	2023	Final Design Package for Approval by NAB
JUL	2023	LERRD Secured (if applicable)
JUL	2023	FONSI Complete/Signed*
AUG	2023	Solicitation for Bids
OCT	2023	Contract Award
OCT	2023	Construction Start
JUL	2024	Construction Complete
MAY	2025	Fiscal Project Closeout

* If the agency determines based on the NEPA EA findings not to prepare an EIS, a Finding of No Significant Impact (FONSI) will be signed to conclude the NEPA decision-making process.

N. SELF CERTIFICATION OF FINANCIAL CAPABILITY FOR DECISION DOCUMENTS

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR DECISION DOCUMENTS**

I, Arthur J. Auxer, III, do hereby certify that I am the Mayor of the Corporation of Shepherdstown (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Shepherdstown Water Works Distribution System Improvements Project; and that the Non-Federal Sponsor will have the financial capability to satisfy the Non-Federal Sponsor's obligations for that project. I understand that the Government's acceptance of this self-certification shall not be construed as obligating either the Government or the Non-Federal Sponsor to implement a project.

IN WITNESS WHEREOF, I have made and executed this certification this 19th day of January, 2023.

BY: Arthur J. Auxer III
TITLE: Mayor
DATE: January 19, 2023

O. LETTER OF INTENT (LOI)



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
P.O. BOX 248
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248
TEL: (304) 876-2312
FAX: (304) 876-1473

LETTER OF INTENT

Colonel Esther S. Pinchasin, District Engineer
Baltimore District
U.S. Army Corps of Engineers
2 Hopkins Plaza
Baltimore, MD 21201

RE: Letter of Intent/Statement of Financial Capability
Shepherdstown Water Works Distribution System
Improvements Project

Dear Colonel Pinchasin:

The Corporation of Shepherdstown has completed its review of the draft Project Partnership Agreement ("PPA") between the Corporation of Shepherdstown and the Department of the Army for design and construction of the Shepherdstown Water Works Distribution System Improvements Project in the Town of Shepherdstown, Jefferson County, West Virginia.

The Corporation of Shepherdstown understands that the proposed Section 571 Project will include design and construction of approximately 1,390 LF of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,345 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,215 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; sixteen (16) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 235 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; twelve (12) connections to existing waterline; ten (10) Blow-Off Assembly; 280 LF of Type 'A' Trench Repair; 4,510 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 9,535 SY of 2" Asphalt Pavement Overlay; 410 LF of Asphalt Driveway Restoration; 560 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three (3) EA of Existing Rip Rap Ditch Repair; Mobilization/Demobilization; Video Taping; Erosion and Sediment Control in the Town of Shepherdstown, Jefferson County, West Virginia, as generally described in the "Letter Report,



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
P.O. Box 248
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248
TEL: (304)876-2312
FAX: (304) 876-1473

Corporation of Shepherdstown, Shepherdstown Water Works Distribution System improvements Project, Shepherdstown, West Virginia, Section 571 Environmental Infrastructure Program".

Further, the Corporation of Shepherdstown understands that the PPA in Article VI states that estimated total project costs are \$2,224,000, of which the Corporation of Shepherdstown's share will be 25% or an estimated amount of \$556,000 and the Government's share will be 75% or an estimated amount of \$1,668,000. The Corporation of Shepherdstown's source of funds for its share of total project costs comes from I&R and Capacity Accounts. Operation and maintenance costs for the Project will be a 100% responsibility of the Corporation of Shepherdstown, are estimated to be \$ 168,488 annually, and will be paid through customer revenue.

The Corporation of Shepherdstown has determined that the draft PPA contains terms which are acceptable. The Corporation of Shepherdstown has the ability, the capability, and the full legal authority to fulfill all its obligations contained in the agreement as drafted. The Corporation of Shepherdstown intends to enter into the agreement with the Department of the Army for design and construction of the project.

It is understood that the purpose of this letter is to establish the Corporation of Shepherdstown's intent and ability to serve as a Non-Federal Sponsor of the Project, and does not financially or legally obligate the Corporation of Shepherdstown or the Federal Government.

Arthur J. Auxer III
Mayor
Corporation of Shepherdstown

DATE: 2-2-23

[illegible]

N. SELF CERTIFICATION OF FINANCIAL CAPABILITY FOR DECISION DOCUMENTS

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR DECISION DOCUMENTS**

I, Arthur J. Auxer, III, do hereby certify that I am the Mayor of the Corporation of Shepherdstown (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Shepherdstown Water Works Distribution System Improvements Project; and that the Non-Federal Sponsor will have the financial capability to satisfy the Non-Federal Sponsor's obligations for that project. I understand that the Government's acceptance of this self-certification shall not be construed as obligating either the Government or the Non-Federal Sponsor to implement a project.

IN WITNESS WHEREOF, I have made and executed this certification this 19th day of January, 2023.

BY: Arthur J. Auxer III
TITLE: Mayor
DATE: January 19, 2023

O. LETTER OF INTENT (LOI)



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
P.O. BOX 248
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248
TEL: (304) 876-2312
FAX: (304) 876-1473

LETTER OF INTENT

Colonel Esther S. Pinchasin, District Engineer
Baltimore District
U.S. Army Corps of Engineers
2 Hopkins Plaza
Baltimore, MD 21201

RE: Letter of Intent/Statement of Financial Capability
Shepherdstown Water Works Distribution System
Improvements Project

Dear Colonel Pinchasin:

The Corporation of Shepherdstown has completed its review of the draft Project Partnership Agreement ("PPA") between the Corporation of Shepherdstown and the Department of the Army for design and construction of the Shepherdstown Water Works Distribution System Improvements Project in the Town of Shepherdstown, Jefferson County, West Virginia.

The Corporation of Shepherdstown understands that the proposed Section 571 Project will include design and construction of approximately 1,390 LF of 8" PVC C909 PVC; 11,530 LF of 6" C909 PVC; 600 LF of 4" PVC C909; 3,345 LF of 2" PVC SDR 17; 2,780 LF of 3/4" PE service line; 1,215 LF of 3/4" PE service punch; one (1) EA 8" Gate Valve w/Valve Box; sixteen (16) EA 6" Gate Valve w/Valve Box; one (1) EA 4" Gate Valve w/Valve Box; eight (8) EA 2" Gate Valve w/Valve Box; sixteen (16) EA Fire Hydrant Assemblies; one (1) EA Fire Hydrant Assembly on existing waterline; 100 LF of 16" Steel Casing (RR Bore & Jack); 30 LF of 16" Steel Casing (Bore & Jack); 235 LF of 12" Steel Casing (Open Cut); 185 EA service reconnections; twelve (12) connections to existing waterline; ten (10) Blow-Off Assembly; 280 LF of Type 'A' Trench Repair; 4,510 LF of Type "B" Trench Repair; 785 LF of Type 'C' Trench Repair; 9,535 SY of 2" Asphalt Pavement Overlay; 410 LF of Asphalt Driveway Restoration; 560 LF of Gravel Driveway Restoration; 28 LF of Concrete Driveway Restoration; three (3) EA of Existing Rip Rap Ditch Repair; Mobilization/Demobilization; Video Taping; Erosion and Sediment Control in the Town of Shepherdstown, Jefferson County, West Virginia, as generally described in the "Letter Report,



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
P.O. Box 248
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248
TEL: (304)876-2312
FAX: (304) 876-1473

Corporation of Shepherdstown, Shepherdstown Water Works Distribution System improvements Project, Shepherdstown, West Virginia, Section 571 Environmental Infrastructure Program".

Further, the Corporation of Shepherdstown understands that the PPA in Article VI states that estimated total project costs are \$2,224,000, of which the Corporation of Shepherdstown's share will be 25% or an estimated amount of \$556,000 and the Government's share will be 75% or an estimated amount of \$1,668,000. The Corporation of Shepherdstown's source of funds for its share of total project costs comes from I&R and Capacity Accounts. Operation and maintenance costs for the Project will be a 100% responsibility of the Corporation of Shepherdstown, are estimated to be \$ 168,488 annually, and will be paid through customer revenue.

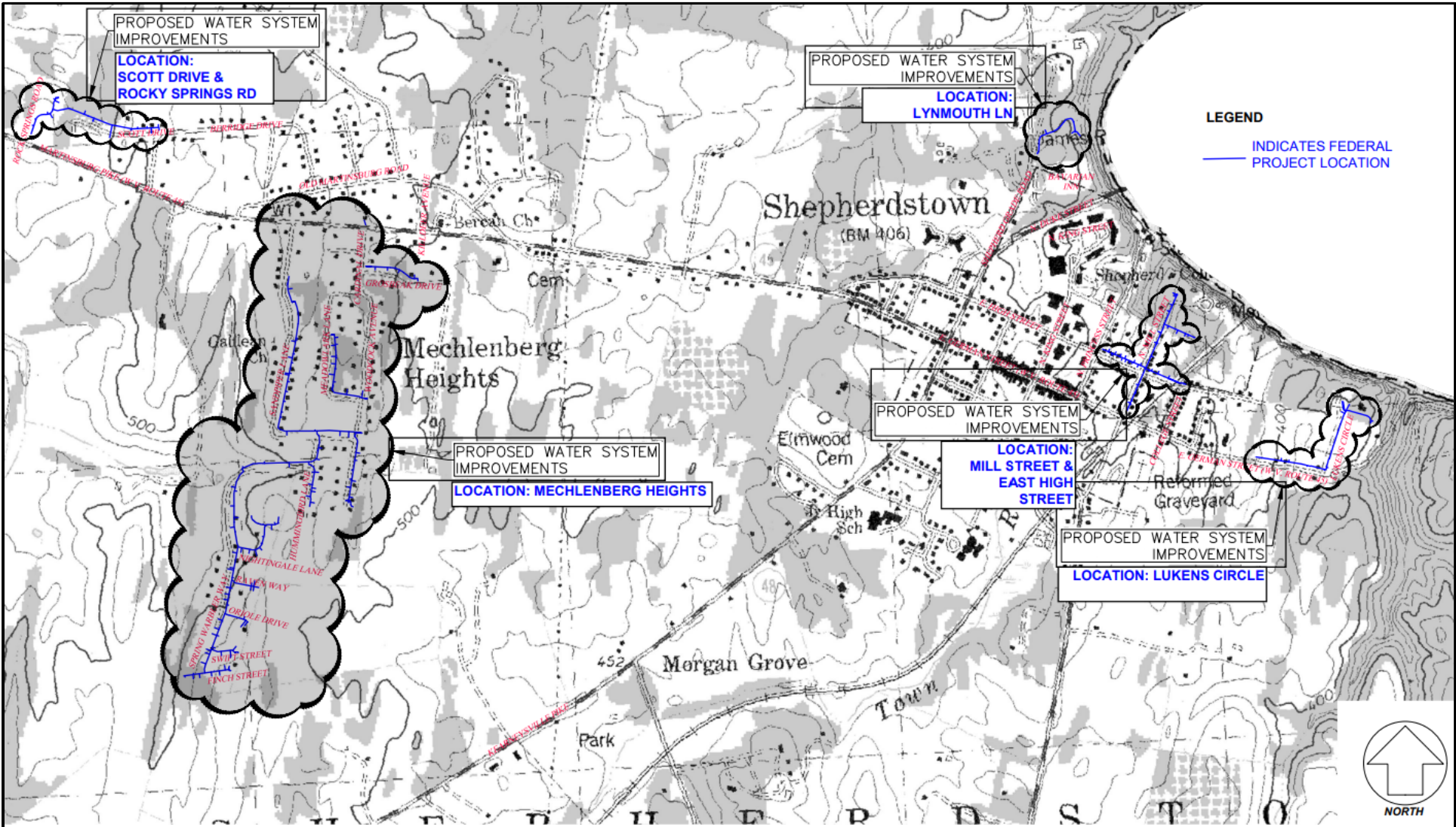
The Corporation of Shepherdstown has determined that the draft PPA contains terms which are acceptable. The Corporation of Shepherdstown has the ability, the capability, and the full legal authority to fulfill all its obligations contained in the agreement as drafted. The Corporation of Shepherdstown intends to enter into the agreement with the Department of the Army for design and construction of the project.

It is understood that the purpose of this letter is to establish the Corporation of Shepherdstown's intent and ability to serve as a Non-Federal Sponsor of the Project, and does not financially or legally obligate the Corporation of Shepherdstown or the Federal Government.

Arthur J. Auxer III
Mayor
Corporation of Shepherdstown

DATE: 2-2-23

FIGURE 1 – WATER DISTRIBUTION PROJECT AREA MAP



DQC CERTIFICATION STATEMENT
Shepherdstown Water Works Distribution System Improvements Project

As the lead preparer for the Shepherdstown Water Works Distribution System Improvements Project February 2023 Letter Report, I certify the following work shown herein was completed using the appropriate USACE guidance or industry standard if applicable. I certify the work is based on:

- Appropriate assumptions, methods, procedures, computations and materials used in the analyses;
- Evaluation of alternative designs, if applicable;
- Appropriate data and level of data; and
- Reasonable results that meet the customer's needs consistent with law and existing USACE policy.

I certify that the write-up meets the requirements shown herein.

Shepherdstown Water Works Distribution System Improvements Project list of preparers and reviewers:

Letter Document Preparers

Chris Johnson	Biologist/Lead preparer	CENAB-PL-P
Christine Danaher	Project Manager	CENAB-PP-C

Letter Report Reviewers

As the Reviewer, I have performed DQC and concur with the findings of the lead planner for the Shepherdstown Water Works Distribution System Improvements Project.

Charles Leasure	Environmental Policy Advisor	CENAB-PL-P
-----------------	------------------------------	------------

LEASURE.CHARLES.W.1571491474
S.W.1571491474

Digitally signed by
LEASURE.CHARLES.W.1571491474
Date: 2023.02.09 09:03:21 -05'00'

Dan Bierly, P.E.	Chief, Civil Projects Development Branch	CENAB-PL-P
------------------	--	------------

BIERLY.DANIEL.MARLOWE.1228904089
LOWE.1228904089

Digitally signed by
BIERLY.DANIEL.MARLOWE.1228904089
Date: 2023.02.09 09:53:19 -05'00'

As noted above, all concerns resulting from the quality control review of the project have been appropriately addressed or noted.