

1 **NATIONAL HISTORIC PRESERVATION ACT SECTION 106**

2 **PROGRAMMATIC AGREEMENT**

3 **AMONG THE**

4 **DEPARTMENT OF TRANSPORTATION**
5 **FEDERAL HIGHWAY ADMINISTRATION;**

6
7 **U.S. ARMY GARRISON, FORT BELVOIR;**

8 **COUNTY OF FAIRFAX, VA;**

9 **COMMONWEALTH OF VIRGINIA**
10 **VIRGINIA DEPARTMENT OF TRANSPORTATION;**

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12 **DEPARTMENT OF DEFENSE OFFICE OF ECONOMIC ADJUSTMENT;**

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14 **CATAWBA INDIAN NATION;**

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16 **NATIONAL TRUST FOR HISTORIC PRESERVATION;**

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18 **ADVISORY COUNCIL ON HISTORIC PRESERVATION;**

19
20 **And**

21 **VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

22 **REGARDING CONSTRUCTION OF**
23 **ROUTE 1 IMPROVEMENTS PROJECT**
24 **IN FAIRFAX COUNTY, VIRGINIA**

25
26 **DHR File No. 2001-0007**
27

RECITALS

1. **WHEREAS**, the Federal Highway Administration, Eastern Federal Lands Highway Division (herein “FHWA”), serves as the lead Federal agency for the National Environmental Policy Act (herein “NEPA”) and for National Historic Preservation Act (16 U.S.C. § 470; herein “NHPA”) Section 106 compliance for the construction of proposed improvements to the Richmond Highway (U.S. Route 1) corridor between Telegraph Road (Route 611) and Mount Vernon Memorial Highway (Route 235) (herein “Undertaking”) in Fairfax County, Virginia; and
2. **WHEREAS**, FHWA, the U.S. Army Garrison Fort Belvoir (herein “the Army”), the County of Fairfax, Virginia (herein “the County”) and the Virginia Department of Transportation (herein “VDOT”), as Signatories to this Programmatic Agreement (herein “Agreement”), have also drafted the separate Project Memorandum of Agreement (herein “Project MOA”) (**Attachment A**) detailing the obligations and responsibilities of each party in relation to the funding, preliminary engineering, land acquisition, construction and maintenance of the Undertaking; and
3. **WHEREAS**, the Army has NEPA and NHPA Section 106 responsibility and the Army has designated FHWA as the lead Federal agency to fulfill its Federal responsibilities under NHPA Section 106 for the Undertaking (letter dated June 23, 2011, **Attachment B**); however, the determination of eligibility for any future discoveries on Army property shall be made by the Army; and
4. **WHEREAS**, pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1251 et seq.), a Department of the Army (herein “DA”) permit will likely be required from the Norfolk District of the U.S. Army Corps of Engineers (herein “the Norfolk District”) for this Undertaking, and the Norfolk District has designated FHWA as the lead federal agency to fulfill federal responsibilities under Section 106 (letter dated June 21, 2011, **Attachment B**); and
5. **WHEREAS**, the Department of Defense Office of Economic Adjustment (OEA) has approved the County's application for funding assistance in an amount not to exceed \$180 million for the design and construction of transportation infrastructure improvements to Route 1 that are needed to improve patient access to the new Fort Belvoir Community Hospital, which was constructed to facilitate recommendations of the 2005 Defense Base Realignment and Closure Commission; and OEA has agreed to be a signatory to this Agreement (email dated August 24, 2012, **Attachment B**); and
6. **WHEREAS**, the National Trails System Act of 2009 (P.L. 90-453, as amended through P.L. 111-11, March 30, 2009) authorized the establishment of the Potomac Heritage National Scenic Trail and the Washington-Rochambeau Revolutionary Route National Historic Trail (herein “PHNST/WARO NHT”), a

74 portion of which may be sited within the footprint of the Undertaking and
75 administered by the National Park Service (herein “NPS”); and the *Virginia*
76 *Outdoors Plan: Charting a Course for Virginia’s Outdoors* (2007) and the Fairfax
77 County Trails Plan, a component of the Fairfax County Comprehensive Plan,
78 recognize the PHNST/WARO NHT as a regional, state and national resource;
79 however, NPS, and not FHWA, would be the lead federal agency for
80 NEPA/NHPA compliance if the National Trail designation within the footprint of
81 the undertaking is finalized by NPS in the future; and

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83 7. **WHEREAS**, the proposed improvements to Route 1 include:

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85 a) Reconstructing Route 1 to provide six through travel lanes between
86 Telegraph Road and Mount Vernon Memorial Highway;
- 87 b) Realignment of Route 1 between Belvoir Road and Mount Vernon
88 Memorial Highway south of the existing roadway, as depicted in
89 **Attachment C**;
- 90 c) **Telegraph Road Intersection** – Modifying the northbound approach to
91 include a third left-turn lane. The roadway would be widened to the north,
92 and the existing Route 1 curb-line that abuts the historic Pohick Episcopal
93 Church property would remain unchanged. The southbound approach
94 would provide for one left-turn lane and one right-turn lane at Telegraph
95 Road;
- 96 d) **Cook Inlet Drive Intersection** – Providing for one left-turn lane in the
97 northbound direction, and one right-turn lane in the southbound direction;
- 98 e) **Fairfax County Parkway Intersection** – Reconstruction of the
99 intersection to provide for two left-turn lanes in the northbound direction,
100 and two right-turn lanes and one right-turn bay in the southbound
101 direction;
- 102 f) **Pohick/Backlick Roads Intersection** – Reconstruction of the intersection
103 to provide one left-turn lane and two right-turn lanes in the northbound
104 direction, and one right-turn lane and one left-turn lane in the southbound
105 direction;
- 106 g) **Belvoir Road Intersection** – Reconstruction of the intersection to provide
107 two left-turn lanes (to the new Lieber Gate ACP) and one right-turn lane
108 in the northbound direction, and two left-turn lanes and one right-turn lane
109 in the southbound direction;
- 110 h) **Woodlawn Road Intersection** – Reconstruction of the intersection to
111 provide one left-turn lane in the northbound direction (existing Woodlawn
112 Road would be extended to connect with the realigned Route 1 roadway,
113 just to the west of Woodlawn Baptist Church. The extension shall be
114 designed and constructed to VDOT standards and maintained by VDOT),
115 and one right-turn lane in the southbound direction. A traffic signal shall
116 also be provided at the intersection;
- 117 i) **Mount Vernon Memorial Highway Intersection** – Reconstruction of the
118 intersection to provide two left-turn lanes and one right-turn lane in the
119 northbound direction; and

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8. **WHEREAS**, the *Fairfax County Transportation Plan (2011)*, and the *Final Environmental Impact Statement for Implementation of 2005 Base Realignment and Closure (BRAC) Recommendations and Related Army Actions at Fort Belvoir, Virginia* (June, 2007) provide background information to this Agreement; and
9. **WHEREAS**, the Area of Potential Effects (herein “APE”) has been established in consultation with the SHPO and other Signatories and consulting parties for the Undertaking; and separate APEs were established for archaeological and architectural resources, and are defined in **Attachment D**; and
10. **WHEREAS**, FHWA has compiled a listing of previously recorded historic properties within the APE based on SHPO, County and Army records; and FHWA has conducted additional archaeological and architectural surveys [*Archaeological Survey of Proposed Area of Potential Effects Route 1 Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial Highway), Fairfax County, Virginia; Architectural Survey of Proposed Area of Potential Effects Route 1 Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial Highway), Fairfax County, Virginia*] within the APE to supplement previous surveys and identify properties eligible, or potentially eligible, for listing in the NR; and
11. **WHEREAS**, FHWA, in consultation with the SHPO and other parties to this Agreement, has determined, and the SHPO concurs, that the sites listed in **Attachment E** Part A are architectural properties within the APE that are listed in the NR, and that the sites listed in **Attachment E** Part B are architectural properties within the APE eligible for listing in the NR; and
12. **WHEREAS**, FHWA, in consultation with the SHPO and other parties to this Agreement, has determined, and the SHPO concurs, that the sites listed in **Attachment F** Part A are archaeological sites within the APE that are listed in the NR, and that the sites listed in **Attachment F** Part B are archaeological sites within the APE that are potentially eligible for listing in the NR; and
13. **WHEREAS**, the proposed alternative minimizes public road right-of-way use of lands currently designated as a National Historic Landmark (herein “NHL”) and properties listed, or eligible for listing, on the National Register of Historic Places (herein “NR”) in accordance with Section 4(f) of the Department of Transportation Act and Section 110(f) of the NHPA, and these minimization strategies include the relocation of Route 1 farther away from Woodlawn NHL, the Woodlawn Quaker Meetinghouse and Cemetery, and the Woodlawn Baptist Church Cemetery; and

- 164 14. **WHEREAS**, FHWA, in consultation with the SHPO and other parties to this
165 Agreement, has determined, and the SHPO concurs, that the Undertaking will
166 have an Adverse Effect under NHPA Section 106 on the following properties:
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- 168 a) Fort Belvoir Military Railroad bed (029-5648); the portion of the railroad bed
169 within the limits of construction will be physically altered and destroyed;
 - 170 b) Facility No. 1433, Railroad bridge (029-5424); the bridge will be removed
171 from its current location, and may be permanently destroyed if a suitable
172 recipient cannot be identified;
 - 173 c) Woodlawn Historic District (029-5181, **Attachment E** Part C); adverse
174 effects include: alteration of the viewshed; visual and auditory impacts;
175 changes in relationship among the contributing properties; physical
176 destruction of a portion of the historic landscape for a road and stormwater
177 management infrastructure; and possible relocation of the two non-historic
178 Woodlawn Stables structures to another location within the Historic District;
179 physical relocation of Otis T. Mason House (029-5181-0006) and changes in
180 land use and circulation patterns;
 - 181 d) Sharpe Stable Complex (029-5181-0005), including the individually NR
182 eligible Bank Barn; adverse effects include: changes in land use that will
183 impact the historic setting; modification of access to pastureland associated
184 with the agricultural use of the Sharpe Stable Complex; and visual and
185 auditory impacts; and
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- 187 15. **WHEREAS**, FHWA, in consultation with the SHPO and other parties to this
188 Agreement, has determined, and the SHPO concurs, that the Undertaking will
189 have an Adverse Effect under NHPA Section 106 on Woodlawn NHL (029-
190 0056), owned by the National Trust for Historic Preservation (herein “the Trust”);
191 and these adverse effects include: taking of Woodlawn NHL property; physical
192 destruction of a portion of the historic landscape for a road and stormwater
193 management infrastructure; changes in land use and access between different
194 parts of the property; alteration of the viewshed; noise impacts; and cumulative
195 impacts from the combination of the proposed project and the widening of Old
196 Mill Road in connection with the Mulligan Road construction project; and
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- 198 16. **WHEREAS**, FHWA acknowledges that additional Adverse Effects may occur to
199 historic properties due to specific design features of the Undertaking, such as the
200 location and appearance of noise barriers and stormwater management ponds,
201 once the final design is known and that additional mitigation measures may be
202 necessary; and
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- 204 17. **WHEREAS**, FHWA, in accordance with 36 CFR § 800.10(a) and in consultation
205 with the parties to the Agreement, has ensured that, to the maximum extent
206 possible, planning and actions to minimize harm to Woodlawn NHL have taken
207 place, including an analysis of alternatives considered to avoid, minimize, and /or
208 mitigate adverse effects; and
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- 210 18. **WHEREAS**, FHWA, in consultation with the SHPO and other parties to this
211 Agreement, has conditionally determined, and the SHPO concurs, that the
212 Undertaking will have no adverse effect on King’s Highway/Old Colchester Road
213 (029-0953) if the final project plans maintain existing curb lines adjacent to
214 Pohick Church and minimize realignment of Route 1 south of the Inlet Cove
215 community; and
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- 217 19. **WHEREAS**, a determination of effect that the Undertaking will have on Pohick
218 Episcopal Church (029-0046) and the archaeological deposits associated with
219 Woodlawn Plantation (44FX1146) cannot be made at this time and will be
220 deferred until the processes contained in Stipulations IV through VI of the
221 Agreement support such determinations; and
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- 223 20. **WHEREAS**, the following archaeological sites have been identified, but
224 additional survey will be required to evaluate their significance and potential
225 impacts resulting from the Undertaking:
226 a) 44FX1810
227 b) 44FX1936; and
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- 229 21. **WHEREAS**, FHWA acknowledges that additional historic properties may be
230 adversely affected by the Undertaking once the final design is known and any
231 further identification and evaluation efforts shall be completed pursuant to
232 Stipulations V through VIII of the Agreement; and
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- 234 22. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.6(a)(1), the
235 Advisory Council on Historic Preservation (herein “ACHP”) to participate in
236 consultation and the ACHP has agreed to participate (letter dated June 18, 2012,
237 **Attachment B**); and
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- 239 23. **WHEREAS**, the Trust has requested to participate in consultation as a signatory
240 to the Agreement (letter dated June 8, 2012, **Attachment B**) and FHWA has
241 agreed to the request based on the significant level of involvement, oversight, and
242 management that will be required in order for the Trust to ensure fulfillment of
243 mitigation requirements stipulated through the execution of the Agreement; and
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- 245 24. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.10(c), the
246 Secretary of the Interior (herein “Secretary”) through the NPS to participate in
247 consultation on the Undertaking, and FHWA has received no response indicating
248 the Secretary’s willingness to participate in consultation; and
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- 250 25. **WHEREAS**, pursuant to 36 CFR § 800.2(c)(2), and in recognition of the
251 obligation conferred upon FHWA by the American Indian Religious Freedom Act
252 (42 U.S.C. § 1996; herein “AIRFA”), and Section 3(c) of the Native American
253 Graves Protection and Repatriation Act (25 USC § 3002(c); herein “NAGPRA”),
254 FHWA has invited the Catawba Indian Nation, the Eastern Band of Cherokee

- 255 Indians, the United Keetoowah Band of Cherokees, and the Tuscarora Nation to
256 participate in the consultation process; and
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- 258 26. **WHEREAS**, the Tribal Historic Preservation Officer representing the Catawba
259 Indian Nation (herein “CIN-THPO) agreed to participate in consultation as an
260 invited signatory to the Agreement (email dated May 4, 2012, **Attachment B**);
261 and
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- 263 27. **WHEREAS**, the Eastern Band of Cherokee Indians (herein “EBCI”) (during a
264 telephone conversation, in which EBCI stated that the Undertaking is not located
265 within its area of interest; see **Attachment G**) declined to participate, the United
266 Keetoowah Band of Cherokees (email dated April 10, 2012; **Attachment B**)
267 deferred consultation, and no response was received from the Tuscarora Nation;
268 and
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- 270 28. **WHEREAS**, VDOT is the State agency with administrative oversight,
271 maintenance, and jurisdictional authority for the Undertaking once the
272 Undertaking is completed and accepted into the systems of state highways; has
273 participated as a consulting party; and has been invited by FHWA to be a
274 signatory to this Agreement; and
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- 276 29. **WHEREAS**, the County, through its Department of Transportation, has
277 significant obligations related to implementing and overseeing the stipulations of
278 the Agreement and has agreed to participate in consultation as a signatory to the
279 Agreement; however, the county is not an Agency Official within the meaning of
280 36 CFR § 800.2, and has no legal or financial duties, responsibilities, obligations,
281 or liabilities with regard to the Undertaking other than those explicitly described
282 in the Agreement, or within any other written agreement signed by the County;
283 and
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- 285 30. **WHEREAS**, the Army is obligated through Stipulation II of the existing Base
286 Realignment and Closure Programmatic Agreement (BRAC PA) among the
287 Army, the SHPO, the ACHP, and the CIN-THPO to develop strategies to avoid or
288 minimize any adverse effects to the designated open space areas adjacent to the
289 Woodlawn Historic District which currently consist of 64.4 acres and are depicted
290 in **Attachment H**; and
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- 292 31. **WHEREAS**, construction of the Undertaking will encroach on, and cause the
293 unavoidable loss of, approximately 3.21 acres of designated open space, the Army
294 has identified suitable areas that shall be designated as open space to compensate
295 for the loss, totaling approximately 70.8 acres, as depicted in **Attachment I**,
296 following the guidelines of the BRAC PA; and
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- 298 32. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5), the
299 following parties to participate in the process, and the following parties have
300 participated as Consulting Parties:

- 301 a) Woodlawn Baptist Church
- 302 b) Alexandria Monthly Meeting of the Religious Society of Friends (herein
- 303 "Friends")
- 304 c) Pohick Episcopal Church
- 305 d) National Park Service – Potomac Heritage National Scenic Trail
- 306 e) National Park Service – Washington-Rochambeau Trail
- 307 f) Inlet Cove Home Owners Association
- 308 g) Save Woodlawn Stables
- 309 h) Mount Vernon Ladies Association
- 310 i) Gum Springs Historical Society
- 311 j) Fairfax County Architectural Review Board (herein "ARB")
- 312 k) Fairfax County Department of Planning and Zoning
- 313 l) Fairfax County Park Authority
- 314 m) Fairfax County History Commission; and
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316 33. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5), the
317 following parties to participate in the process, and the following parties have not
318 participated:

- 319 a) Virginia Council on Indians
- 320 b) National Park Service – George Washington Memorial Parkway
- 321 c) Historical Society of Fairfax County
- 322 d) Accotink United Methodist Church; and
- 323

324 34. **WHEREAS**, FHWA, in accordance with 36 CFR § 800.2(d), has provided the
325 public an opportunity to comment on this Undertaking through combined
326 NEPA/NHPA notifications related to the three public meetings held on December
327 10, 2010, October 19, 2011, and June 5, 2012;

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329 **NOW, THEREFORE**, FHWA, the Army, the County, VDOT, OEA, the Catawba
330 Indian Nation, the Trust, ACHP, and the SHPO agree that this undertaking shall be
331 implemented in accordance with the following stipulations in order to take into account
332 the effects of the undertaking on historic properties.

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STIPULATIONS

FHWA shall ensure that the following stipulations are implemented:

I. Treatment for Woodlawn Historic District (herein “District”)

This stipulation will describe measures to minimize and mitigate adverse effects to the District as a whole, and its contributing elements, Woodlawn NHL (029-0056); Sharpe Stables Complex including the Dairy, Corncrib, Stable and individually NR eligible Bank Barn (029-5181-0005); Grand View (029-0062); Woodlawn Quaker Meetinghouse (029-0172) and cemetery (44FX1211); Woodlawn Baptist Church cemetery (44FX1212); the George Washington’s Distillery and Grist Mill (029-0330); Otis Tufton Mason House (029-5181-0006); and Pope-Leighey House (029-0058). Mitigation specific to the NHL is contained in Stipulation II.

a) **WOODLAWN HISTORIC DISTRICT DESIGN WORKSHOPS**

FHWA shall facilitate two (2) design workshops among VDOT, the County, the Army, the SHPO, the Trust, Woodlawn Baptist Church, and Friends to evaluate alternative designs for proposed reduction of adverse effects to specific contributing properties and to the District as a whole. The first design workshop shall take place within three (3) months of execution of this Agreement. The date and location of the second workshop shall occur at a mutually agreeable time and place among the parties participating in the design workshops (herein “workshop participants”), and shall occur no later than six (6) months after the first workshop. Other parties to this Agreement not specified above are welcome to participate in the design workshops. ARB and the Fairfax County History Commission shall be included among the County’s representatives invited to attend the workshops. FHWA shall provide notification to all of the Signatories and Consulting Parties, including ARB and the Fairfax County History Commission, regarding the workshops.

FHWA and the County, in consultation with workshop participants, shall develop and submit design plans for review and comment by workshop participants. Designs may be distributed to workshop participants electronically, by mail, or at workshop meetings, as determined appropriate by workshop participants. FHWA shall provide design plans to workshop participants at least fifteen (15) days prior to each workshop. Workshop participants shall provide comments on preliminary design plans within thirty (30) calendar days of receipt. If no comments are received from the workshop participants, FHWA may assume that the non-responding party has no comments.

Any mitigation proposed as a result of the workshops would require land owner approval. Any mitigation proposed within VDOT Right-of-Way as a result of the workshops would be subject to VDOT regulations and approval.

380 FHWA and the County shall amend and submit revised design plans within thirty
381 (30) days after the end of a comment period. Plan review and submittal deadlines
382 may be changed with the agreement of all workshop participants but in no event
383 shall any comment period be less than two (2) weeks after receipt. If the relevant
384 issues cannot be resolved after two design workshops have been conducted,
385 FHWA may schedule additional workshops.

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387 Features to be discussed shall include, but not be limited to:

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- 389 i. The shared-use driveway, a portion of which will be controlled and
390 maintained by VDOT, providing access to the Trust, Woodlawn Baptist
391 Church, and Woodlawn Quaker Meetinghouse, including ownership and
392 maintenance issues.
- 393 ii. A signalized intersection at Woodlawn Road, which will be constructed to
394 provide safe access to Woodlawn Baptist Church, Woodlawn Quaker
395 Meetinghouse, and the Trust properties within the District.
- 396 iii. Landscaping needed to rehabilitate the setting, screen and reduce the
397 visibility of the highway, and maintain viewsheds, to the greatest extent
398 possible, for all Woodlawn Historic District properties, including plantings
399 within and outside VDOT Right-of-Way. FHWA shall be responsible for
400 the installation of all approved landscaping and for its maintenance and
401 replacement over a one-year establishment period.
- 402 iv. Circulation patterns within the District, including vehicular, pedestrian and
403 equestrian access, including portions of the PHNST/ WARO NHT, and the
404 abandoned section of Rt. 1.
- 405 v. FHWA shall fund the fabrication and installation of interpretive signage
406 related to the District and its contributing properties, including the
407 replacement of two (2) interpretive signs manufactured as part of the
408 Mulligan Road project using updated maps of the new roadway and
409 District configuration, the development of two (2) new interpretive signs
410 similar in format to the Mulligan Road interpretive signs and the proposal
411 of two (2) Virginia Historical Highway Markers . Installation of the
412 Virginia Historical Highway Markers is contingent upon the approval of
413 suitable locations by VDOT and the approval of text by SHPO Board of
414 Historic Resources.
- 415 vi. Reducing the width of the roadway section, pursuant to Stipulation I.(b),
416 reducing the impacts of the new road construction, and determining future
417 usage of the section of the existing Route 1 corridor that may be
418 abandoned.
- 419 vii. Re-establishment of appropriately designed fencing on Trust property.
- 420 viii. Location and design of storm water management ponds or drainage areas
421 that minimize the total disturbance of natural vegetation and soil within
422 the boundaries and viewshed of the Woodlawn Historic District so as to
423 minimize adverse effects. The primary objective for designing storm water
424 management areas shall be to create subtle and nearly imperceptible
425 depressions into the landscape through terracing, berming, and

- 426 terraforming. Biofiltration and bioretention methods such as vegetated
427 filter strips and swales shall be the preferred approach to managing
428 stormwater.
- 429 ix. Design of “gateway” features and elements, at the boundaries of and
430 within the Woodlawn Historic District, to create a context-sensitive setting
431 that is distinctive from other non-historic portions of Rt.1 and Mount
432 Vernon Memorial Highway. Gateway features shall include, but not be
433 limited to, landscaping, lighting, the size and location of sidewalks, trails,
434 fences, and signs.
- 435 x. Proposals for the relocation of the Otis Mason House and possible
436 relocation of the non-historic Woodlawn Stables commercial equestrian
437 facility. If equestrian related structures are not relocated on Trust
438 property, proposals for an appropriate driveway entrance from Mount
439 Vernon Memorial Highway to the NTHP property south of Rt. 1 will be
440 discussed.
- 441 xi. The appropriateness and feasibility of sound abatement measures, if such
442 measures are requested by qualifying landowners.

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444 If conflicts arise that cannot be resolved to the satisfaction of all parties, they shall
445 be addressed through the dispute resolution process outlined in Stipulation XII.
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447 **b) DESIGN AND MINIMIZATION OF ROADWAY SECTION THROUGH**
448 **WOODLAWN HISTORIC DISTRICT**
449

450 In an effort to minimize the adverse effects of the Undertaking on the Woodlawn
451 Historic District, consistent with Section 4(f) of the Department of Transportation
452 Act, NEPA and NHPA, to enhance the experience of visiting and traveling
453 through the Woodlawn Historic District, and to provide a safer environment for
454 motorists, pedestrians, and cyclists, FHWA, VDOT, and the County shall work
455 together, in consultation with the SHPO, the Trust and other parties to this
456 Agreement, to reduce the width of the right-of-way and roadway section to the
457 maximum extent possible through the Woodlawn Historic District. These efforts
458 shall include the following:
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- 460 i. In order to provide an appropriate transition from realigned Route 1 to
461 existing Route 1 north of Mount Vernon Memorial Highway, pursue
462 necessary approvals to extend the roadway section at the eastern terminus
463 of the project (with little or no median) as far into the historic district as is
464 feasible and prudent.
- 465 ii. FHWA and the County shall include a requirement in the project’s
466 Request for Proposals, and in the design and construction contract, which
467 directs the contractor to seek design waivers and exceptions to minimize
468 the width of the road and the right-of-way through the Woodlawn Historic
469 District. In attempting to minimize the width of the road, FHWA shall
470 direct the contractor to consider the process and solutions detailed in

471 FHWA’s Flexibility in Highway Design guide. FHWA shall direct the
472 contractor to propose solutions for VDOT to consider which may include
473 reduction in lane width (for traffic, bicycle, and pedestrian lanes), length
474 of turning lanes, median and shoulder width, size of gutter pan, adjustment
475 of speed limit, limitations on signage, and other elements of the standard
476 roadway design.

477 iii. VDOT shall consider all design waivers and exceptions presented by the
478 contractor and shall work with the contractor to accommodate, when
479 appropriate, such waivers and exceptions as provided for in VDOT
480 Instructional and Informational Memorandum: Design
481 Exceptions/Waivers, IIM-LD-227.5 and IIM-S&B-70.3, which recognizes
482 the FHWA publication “Mitigation Strategies for Design Exceptions,” as
483 providing mitigation efforts that shall be followed when processing design
484 exceptions.

485

486 c) WOODLAWN BAPTIST CHURCH AND CEMETERY

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488 i. Within six (6) months of execution of this Agreement, the Army shall
489 initiate the granting of an easement for the construction of an access
490 driveway to serve the Baptist property and a use permit with related
491 conditions allowing limited usage of the land on Fort Belvoir located
492 adjacent to the Woodlawn Baptist Church property and bounded by the
493 realigned Route 1 and new access road. The permit would allow the area
494 to be used and maintained by the Baptists for recreation, occasional
495 parking, and other temporary, low impact activities. The construction of
496 permanent buildings, including dwellings, will not be permitted. The
497 construction of certain structures, such as retaining walls, and signage,
498 may be permitted with Army approval. Granting of the access easement
499 and use permit are subject to Department of the Army (DA) approval.

500 ii. FHWA shall include in its design and implement the removal of pavement
501 from the church’s existing driveway in order to restore the historic
502 character of the landscape. Driveway modifications shall conform to *The*
503 *Secretary of the Interior’s Standards for the Treatment of Historic*
504 *Properties* as they relate to the *Guidelines for the Treatment of Cultural*
505 *Landscapes*.

506 iii. FHWA shall include in its design and implement landscaping that will
507 replace vegetation removed due to the Undertaking. Any landscaping
508 proposed within the VDOT Right-of-Way would be subject to VDOT
509 regulations and approval. Any landscaping proposed on Baptist property
510 will be subject to Baptist approval as described in Stipulation I(a)(iii) of
511 this Agreement. FHWA shall be responsible for the installation of all
512 approved landscaping and for its maintenance and replacement over a one-
513 year establishment period.

514 iv. FHWA contracted the services of archaeologists with specialized mortuary
515 experience to document the cemetery (FHWA 2012c), including a grave
516 location survey and the cataloging of gravestone data. The survey used

517 minimally invasive techniques, such as Ground Penetrating Radar, to
518 determine the locations of graves. The survey included areas within the
519 known boundaries of the cemetery, and extended beyond the known
520 boundaries to areas that may have contained associated graves. A
521 searchable database of gravestone information includes inscriptions,
522 descriptions of the stones, photographs, and other data. The survey was
523 intended as mitigation, but was implemented in advance to assist in the
524 design and project impact analysis process. FHWA shall provide final
525 copies of all materials resulting from Stipulation I(b)(iv) to the Woodlawn
526 Baptist Church, SHPO, the Virginia Room at the City of Fairfax Regional
527 Library, and Cultural Resource Management Branch, Fairfax County Park
528 Authority in a form that is acceptable to each party.

- 529 v. Additional activities impacting the Woodlawn Baptist Church, including
530 the relocation of church signs, relocation/replacement of utilities, noise
531 abatement and other details will be determined separately from this
532 Agreement by FHWA, the Woodlawn Baptist Church, and other parties,
533 as appropriate to the specific activity.
534

535 d) OTIS TUFTON MASON HOUSE

536
537 FHWA shall relocate the Otis Tufton Mason House according to the following
538 procedures:

- 539
540 i. FHWA shall relocate the building to a permanent site selected by the
541 Trust, nearby and on Trust property, as a means of recreating the historic
542 setting, association, and general feel of the Otis Tufton Mason House to
543 the extent possible. FHWA shall ensure that Consulting Parties will have
544 the opportunity to provide input regarding the proposed relocation site,
545 including site improvements such as access and parking area, during the
546 design workshops described in Stipulation I.
- 547 ii. FHWA shall contract a professional building mover that is bonded and
548 insured to undertake the relocation of the Otis Tufton Mason House. The
549 SHPO and the Trust will review and approve the experience and
550 professional qualifications of the mover prior to FHWA entering into a
551 contract.
- 552 iii. FHWA shall develop a stabilization and moving plan for the Otis Tufton
553 Mason House, in conformance with *Moving Historic Buildings* (Curtis,
554 1979), before relocation of the house or any part thereof. The plan shall be
555 developed in consultation with and shall receive the concurrence of the
556 Trust and the SHPO. At a minimum, the plan will consist of the following
557 elements: recordation of significant architectural features of the Otis
558 Tufton Mason House, documentation of the history of the building
559 (through research in federal, state and local archival depositories),
560 documentation of missing architectural features of the Otis Tufton Mason
561 House, identification of features that require stabilization prior to
562 relocation, the method of moving the building, the route which the

- 563 building will take from its existing site to its new site, and the method of
564 securing and stabilizing the Otis Tufton Mason House after relocation.
565 FHWA shall ensure that any contract entered into related to the relocation
566 will include the specific regulations or requirements governing the
567 performance of the mover's responsibilities.
- 568 iv. FHWA shall secure any necessary permits and approvals required to move
569 and site the house. Within twelve (12) months of relocation to its new site
570 the FHWA shall ensure that the Otis Tufton Mason House is in a habitable
571 condition and receives a certificate of occupancy from the appropriate
572 local government agency. This will include, at a minimum, connecting
573 utilities to the house in order to provide the building electrical, water, and
574 sewer service. Comparable electrical, water, and sewer service shall also
575 be provided to benefit the other buildings within the Sharpe Stables
576 Complex. The Trust shall be responsible for the final connections to the
577 interior of Sharpe Stables Complex structures. Access and parking will
578 also be provided by FHWA.
- 579 v. Within twelve (12) months of the move, FHWA shall demonstrate to the
580 satisfaction of the Trust and the SHPO that the relocation occurred
581 according to the previously approved stabilization and moving plan.
- 582 vi. FHWA shall be responsible for the following costs as may be necessary to
583 satisfy the terms of this Agreement: architectural and engineering services,
584 stabilization of the Otis Tufton Mason House prior to relocation, moving
585 the Otis Tufton Mason House, the construction of a new foundation that is
586 compatible with the historic character of the Otis Tufton Mason House,
587 installation of utilities consistent with Stipulation I(d)(iv), and
588 access/parking modifications. FHWA shall also ensure that the Otis
589 Mason House is reasonably protected from vandalism and the elements
590 during the construction and relocation process. All windows, doors, and
591 other entry ways shall be locked and/or secured to prevent unauthorized
592 entry. Any temporary external openings required for the relocation of
593 chimneys, roofing, or other structural components will be blocked when
594 unattended using plywood, tarps, or other materials, as appropriate, to
595 prevent damage by vandals, animals, or the elements.
- 596 vii. FHWA shall ensure that prior to the construction of the new foundation
597 the proposed relocation site is adequately surveyed for archaeological
598 deposits according to the processes outlined in Stipulations V through VII.
- 599 viii. FHWA shall ensure that archaeological monitors are present when the
600 existing foundation and/or associated builder's trench are disturbed and
601 that an archaeological monitoring report is prepared and submitted to the
602 SHPO and other parties to this agreement.
- 603
- 604 e) Within twelve (12) months of execution of this Agreement FHWA shall prepare a
605 draft NR nomination form for the Woodlawn Historic District. The draft
606 nomination shall be developed in consultation with the SHPO and other
607 consulting parties. Development of the supporting documentation will commence
608 after the completion of Stipulations I.A, V and VI. FHWA shall submit the final

- 609 NR nomination form to SHPO for listing on the Virginia Landmarks Register
610 (VLR) and transmittal to the National Park Service for listing to the NR.
611
- 612 f) Within six (6) months of execution of this Agreement, FHWA shall complete
613 draft SHPO Intensive Level Survey forms for the following properties
614 contributing to the District:
- 615 1. Sharpe Stables Complex (Dairy, Corncrib, Stable, and Bank Barn)
 - 616 2. Grand View
- 617 FHWA shall ensure that the forms are entered electronically into the Virginia
618 Department of Historic Resources (DHR) Data Sharing System (DSS), or its
619 successor electronic inventory system. FHWA shall submit the draft Intensive
620 Level Survey forms to the SHPO for review and acceptance.
621
- 622 g) Within six (6) months of execution of this Agreement FHWA shall complete
623 measured drawings of the following individually listed or eligible properties
624 within the District:
- 625 1. Woodlawn Quaker Meetinghouse
 - 626 2. Pope-Leighey House
 - 627 3. George Washington's Grist Mill
- 628 FHWA shall provide the respective owners of these properties copies of the
629 completed measured drawings for the properties which they own, and the SHPO
630 copies of the completed measured drawings for these properties.
631
- 632 h) The Department of the Army shall provide a permanent ingress/egress easement
633 to the Trust, Alexandria Monthly Meeting of the Religious Society of Friends, and
634 Woodlawn Baptist Church for a shared use driveway to ensure access to Route 1.
635
- 636 i) Upon completion of the Undertaking and the re-opening of the improved Route 1,
637 VDOT, through its Commissioner of Highways, shall file an application with the
638 Commonwealth Transportation Board requesting the abandonment of any sections
639 of the existing Route 1 alignment within the Woodlawn Historic District that are
640 outside of the area required for the improved Route 1 alignment. The
641 Commonwealth Transportation Board will consider such application in
642 accordance with the requirements and procedures set forth in Article 10 of Title
643 33.1 (33.1-145 et seq.) of the *Code of Virginia*. The Commissioner of Highways
644 has the authority to convey any abandoned section of Route 1 by deed to another
645 party in accordance with the requirements of Article 10 of Title 33.1 (33.1-149) of
646 the *Code of Virginia* and VDOT's *Right of Way Manual of Instructions*. Within
647 six (6) months of award of the design-build contract, the FHWA shall prepare a
648 title report along with a preliminary survey of Route 1 within and adjacent to the
649 Woodlawn Historic District depicting any existing and proposed easements and
650 restrictions, including but not limited to utility easements and drainage easements,
651 within the right-of-way.
652

653 **II. Treatment for Woodlawn National Historic Landmark**
654

PROGRAMMATIC AGREEMENT

Rt. 1 Improvements Project, Fairfax County, VA

Page 16 of 54

- 655 a) FHWA shall provide and oversee the distribution of project funding to mitigate
656 for impacts to Woodlawn NHL. These mitigation measures are directly relevant to
657 the adverse effects of the project on the Trust's ability to manage and maintain
658 this historic property, and to the adverse effects of the project on the experience of
659 visitors to the site. These mitigations are provided to benefit any structure or
660 landscape within the NHL boundaries including the Woodlawn Plantation, Grand
661 View, and Pope-Leighey House. The following is a list of mitigation measures
662 that will be provided within the boundaries of Woodlawn NHL:
663
- 664 i. Installation of public water service sufficient to serve the Woodlawn
665 property. Upgraded water mains will be provided with stubs from the
666 water main towards the buildings. The Trust shall be responsible for the
667 final connections to the buildings. The water service shall be sufficient to
668 provide fire protection through the use of fire hydrants and water mains
669 adequate in capacity for fire protection and a sprinkler system.
 - 670 ii. Installation of a sanitary sewer service line sufficient to serve the
671 Woodlawn property. The Trust shall be responsible for the final
672 connections from the buildings to the lateral stubs and manholes at the
673 main sewer line.
 - 674 iii. Installation of natural gas service. The Trust shall be responsible for the
675 final connections to the buildings.
676
- 677 b) FHWA shall ensure that the areas for proposed location of water and sewer lines,
678 landscaping and other ground disturbing activity resulting from mitigation
679 measures are adequately surveyed for archaeological deposits according to the
680 processes outlined in Stipulations V – VII.
681
- 682 c) FHWA shall install an underpass beneath Route 1 adjacent to the Sharpe Stable
683 Complex in order to restore access to the pastureland associated the Sharpe Stable
684 Complex buildings which would otherwise be diminished due to the Undertaking.
685 The underpass shall be built to allow limited farm equipment and vehicular access
686 between the NHL and remainder of the Woodlawn property which is listed on the
687 National Register of Historic Places. FHWA shall also provide an appropriate
688 driveway entrance from Mount Vernon Memorial to the Trust pastureland.
689
- 690 d) FHWA shall develop and submit design plans for review and comment by the
691 Trust and the SHPO. The Trust and the SHPO shall provide comments on
692 preliminary design plans within thirty (30) calendar days of receipt. If no
693 comments are received from the Trust or the SHPO, FHWA may assume that the
694 non-responding party has no comments. FHWA shall amend and submit revised
695 design plans within thirty (30) days after the end of a comment period. Plan
696 review and submittal deadlines may be changed with the agreement of all parties.
697
- 698 e) FHWA shall ensure that all work conducted on the Trust's property under this
699 Undertaking shall be closely coordinated with the Trust in order to avoid any
700 harm to the property through the construction of the mitigation measures and to

701 minimize impacts on the Trust's operation of the property. Prior to beginning
702 work on the mitigation measures on the Trust's property, the FHWA must receive
703 written permission from the Trust in the form of a right of entry agreement,
704 which outlines the scope of the work being performed and the roles,
705 responsibilities, and obligations of each party.

706
707 **III. Documentation and Treatment for Fort Belvoir Military Railroad Bed and**
708 **Bridge**

709
710 A. Prior to its removal FHWA shall conduct Historic American Engineering Record
711 (HAER) Level I documentation of the Bridge and portions of the Railroad Bed
712 within the APE. The documentation will include large-format photography, a
713 narrative history of the structures, and measured drawings. Upon completion of
714 the HAER documentation, FHWA shall provide final copies to the Army, the
715 Virginia Room at the City of Fairfax Regional Library, the Fairfax County
716 Department of Planning and Zoning, the Cultural Resource Management Branch,
717 Fairfax County Park Authority and the SHPO in a form that is acceptable to each
718 party.

719
720 B. In consultation with the Army and the SHPO, FHWA shall develop within six (6)
721 months of execution of this Agreement a marketing plan for determining if there
722 is a capable party willing to relocate and assume ownership of Railroad Bridge
723 Facility No. 1433. The marketing plan shall identify parties to whom FHWA shall
724 send direct solicitations for expressions of interest as well as the media outlets
725 through which the availability of the bridge will be advertised to the general
726 public. FHWA shall provide the marketing plan to the Army and the SHPO for
727 review and approval.

728
729 C. Once the marketing plan has been approved by the Army and the SHPO, FHWA
730 shall follow the process outlined below to identify a capable party to relocate and
731 assume ownership of Railroad Bridge Facility No. 1433:

732
733 1. FHWA shall implement the marketing plan developed pursuant to Stipulation
734 III.B. Interested parties shall have until 5:00 pm on the thirtieth (30th) calendar
735 day following receipt of a direct solicitation from FHWA or following initial
736 publication notice of the bridge's availability to submit to FHWA a detailed
737 proposal for the relocation and preservation of the bridge.

738
739 2. Proposals must describe in detail:
740 a) the individual, organization, or government agency that will assume
741 ownership;
742 b) the prospective use of the bridge and a plan for implementing that
743 use;
744 c) a plan and schedule for moving the bridge in accordance with a
745 construction schedule specified by FHWA;

- 746 d) the financial and technical capabilities of the recipient to move and
747 maintain the bridge; and
748 e) the ability of the recipient to indemnify the Army from all future
749 liability and claims.
750
- 751 3. Proposals must include a map showing the location of the proposed new site
752 for the existing structure, maps or drawings depicting any areas of the new site
753 where the ground surface will be disturbed by the reconstruction activities,
754 and a plan to identify any archaeological sites that might be present at the new
755 site and for avoiding harm to any archaeological sites eligible for the NR.
756
- 757 4. Proposals must certify that the recipient will:
758 a) assume responsibility for conducting all work associated with the
759 bridge relocation, including complying with all applicable
760 environmental regulations and laws, obtaining all appropriate
761 environmental clearances and permits, conducting any necessary
762 archaeological studies, and moving, dismantling, and reconstructing
763 the bridge according to *The Secretary of the Interior's Standards for*
764 *the Treatment of Historic Properties* (36 CFR Part 68);
765 b) assume all liability associated with the bridge and will indemnify the
766 Army from any further responsibility; and
767 c) consent to offer the donation of a preservation easement on the bridge
768 to the Board of Historic Resources, to be administered by the Virginia
769 Department of Historic Resources (*Code of Virginia* 10.1-2204), or to
770 another party selected in consultation with the SHPO and other parties
771 to this Agreement. The Board of Historic Resources or another
772 selected party is not obligated to accept a preservation easement
773 offered pursuant to this Agreement. If no entity is found that will
774 accept an easement on the bridge, the parties to this Agreement shall
775 consult in order to decide upon a mutually acceptable alternative.
776
- 777 5. FHWA shall consider only those proposals submitted in accordance with the
778 established schedule. If FHWA receives no expressions of interest in
779 acquiring the bridge by the close of the thirtieth (30th) day following receipt of
780 a direction solicitation from FHWA or following initial publication of any
781 notice of the bridge's availability, FHWA shall so notify the Army and the
782 SHPO. After fulfilling the additional requirements of Stipulation III.g) of this
783 Agreement, FHWA may proceed to demolish the bridge.
784
- 785 6. In consultation with the Army and the SHPO, FHWA shall review any
786 proposal received in accordance with the established schedule for submission,
787 but FHWA reserves the exclusive right to accept or reject any or all proposals.
788
- 789 7. FHWA shall reject any proposal that fails:
790 a) to include the information or certifications requested;

- 791 b) to preserve the historic significance of Railroad Bridge Facility No.
792 1433 by using the entire bridge at another location within either the
793 District or a location nearby;
794 c) to demonstrate that the prospective recipient has the financial and
795 technical capabilities to move and maintain the bridge;
796 d) to ensure that the bridge will be moved in accordance with FHWA's
797 specified construction schedule; or
798 e) to include appropriate and adequate measures for avoiding harm to
799 archaeological sites eligible for the NR that may be present at the new
800 site for the bridge.
801
802 8. In reviewing the proposals FHWA shall also consider:
803 a) the degree to which each proposal conforms to the *Secretary of the*
804 *Interior's Standards for the Treatment of Historic Properties* (36 CFR
805 68); and
806 b) any comments received from the Army or the SHPO within thirty (30)
807 calendar days of receipt of the proposals from FHWA.
808
809 D. FHWA shall inform the Army and the SHPO of its final decision to accept or
810 reject any proposals received for relocating and assuming ownership and
811 responsibility for maintenance and preservation of Railroad Bridge Facility No.
812 1433. If an acceptable proposal is identified and the bridge is subsequently
813 relocated, FHWA shall submit to the Army and the SHPO both black and white
814 and color 35 mm photographs of the bridge at its new location within thirty (30)
815 calendar days of completion of the relocation and installation.
816
817 E. After fulfilling the requirements of Stipulation III.A. through III.D and
818 Stipulation III.G of this Agreement, and after coordinating with the Army, FHWA
819 may demolish Railroad Bridge Facility No. 1433 if (a) FHWA identifies no
820 willing party or acceptable proposal for moving and assuming ownership and
821 responsibility for maintenance and preservation of the bridge, or (b) FHWA
822 accepts such a proposal from a willing party but the selected party fails to execute
823 an agreement with FHWA for ownership, removal, and maintenance and
824 preservation of the bridge within forty-five (45) calendar days of acceptance of its
825 proposal or fails to remove the bridge in accordance with the construction
826 schedule specified by FHWA. After demolishing the bridge, and in addition to
827 the documentation required by Stipulation III(a), FHWA shall update DHR's
828 DSS, or its successor electronic inventory system, file on the rail bridge. This
829 update shall indicate that the bridge has been demolished and reference the HAER
830 Level I documentation.
831
832 F. FHWA shall offer as an incentive to ownership a one-time monetary payment up
833 to an amount not to exceed the cost of demolition (approximately \$50,000, as
834 estimated and approved for reimbursement by the FHWA) to be used by a new
835 owner for implementing a plan, approved by the Army, the SHPO and FHWA, for
836 the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA

- 837 shall provide this payment only on a reimbursement basis for funds already
838 expended by the new owner on the relocation and preservation plan.
839
- 840 G. The portions of the FBMRR track bed north of Telegraph Road have suffered
841 erosion damage due to severe weather in 2011. FHWA shall repair and stabilize
842 the damaged sections of the track bed. Repairs shall meet all necessary storm
843 water regulations and the standards outlined in Stipulation X of this Agreement.
844
- 845 H. FHWA and the Army shall develop and install six (6) Fort Belvoir historic
846 markers at key locations along the route of the Fort Belvoir Military Railroad
847 (FBMRR) which will interpret the history of the route. The markers will conform
848 to the style of the existing Fort Belvoir historical sign program using upright cast
849 metal markers. Marker locations shall include the crossings at Telegraph Road,
850 John J. Kingman Road, Pohick Road, 21st Street, Rail Bridge 1433, which will be
851 demolished as a part of the widening, and Rail Bridge 2298, which crosses over
852 Beulah Road in Accotink Village. Fort Belvoir will provide FHWA with a copy
853 of the FBMRR Multi-Property National Register Nomination to assist FHWA in
854 the development of the signage. FHWA shall submit a draft historic marker
855 development plan to the SHPO and Fort Belvoir for review and comment. This
856 plan will include, but is not limited to, design graphics, draft language, and site
857 plans for marker location. This mitigation will be implemented within twenty-four
858 (24) months of this Agreement. FHWA shall submit to the SHPO and other
859 parties to this Agreement drafts of the markers texts and design for their review
860 and comment. The SHPO and other parties of this Agreement shall have thirty
861 (30) days upon receipt of complete information in which to respond. If the SHPO
862 or another party to this Agreement does not respond within thirty (30) days
863 FHWA may assume that the non-responding party(ies) has no comment. FHWA
864 shall fund the fabrication and installation of the historic markers.
865

866 **IV. Protective Measures and Determination of Effects for Pohick Episcopal**
867 **Church**
868

869 A. VIBRATION MONITORING
870

- 871 1) Prior to beginning construction, FHWA shall contract the services of a
872 qualified individual or firm to conduct a Pre-Construction Survey of Pohick
873 Episcopal Church. The contractor must demonstrate experience in working
874 with historic masonry buildings, and have at least five (5) years of
875 professional experience as a Building Conservation Specialist. The
876 contractor will have successfully completed at least three (3) building
877 conservation projects where he/she has taken into account the effects of
878 different levels of vibration on historic masonry and frame buildings.
879 FHWA shall ensure that all contract documents contain the specifications
880 described in this stipulation.

- 881 2) The Pre-Construction Survey shall establish baseline conditions for
882 monitoring vibration impacts during construction, and shall:
883 a) Establish an area of vibration impact;
884 b) Establish existing vibration levels unrelated to construction activity
885 from the Undertaking;
886 c) Provide details about fragility of building materials and the existing
887 conditions of the foundation and masonry/brick structure using
888 photographs, measurements, and other documentation, as appropriate;
889 d) Specify site-specific environmental conditions in the area of impact
890 that would affect the transmission of vibrations including geology, soil
891 types, water table, etc.;
- 892 e) Recommend appropriate vibration thresholds for monitoring during
893 construction to prevent damage Pohick Episcopal Church; and
894 f) Recommend appropriate vibration mitigation strategies that may be
895 incorporated into the Vibration Monitoring Plan (herein “VMP”).
- 896 3) Prior to beginning construction, FHWA shall prepare a VMP based on the
897 findings from the Pre-Construction Survey. The VMP shall include the
898 following:
899 a) Construction activities that require monitoring;
900 b) General timeframes for monitoring; and
901 c) Thresholds of vibration levels that should not be exceeded during
902 construction in the vicinity of Pohick Episcopal Church..
- 903 4) FHWA shall submit the VMP to the SHPO and Pohick Episcopal Church
904 for review and comment prior to beginning construction. The SHPO and
905 Pohick Episcopal Church shall have fifteen (15) days for review and
906 comment. If the SHPO and Pohick Episcopal Church do not respond within
907 fifteen (15) days, FHWA may assume that the non-responding party has no
908 comment. FHWA shall submit any modifications to the VMP to the SHPO
909 and Pohick Episcopal Church for review and comment. The SHPO and
910 Pohick Episcopal Church shall have fifteen (15) days for review and
911 comment. If the SHPO and Pohick Episcopal Church do not respond within
912 fifteen (15) days, FHWA may assume that the non-responding party(ies)
913 have no comment.
- 914 5) If vibrations are found to exceed the thresholds established for protection of
915 the church, the work causing that vibration will cease and corrective action
916 shall be taken to return the vibration level to acceptable thresholds.
- 917 6) FHWA shall be responsible for any repairs to damage to the church
918 resulting from construction activities within the vibration monitoring area,
919 in accordance with *The Secretary of the Interior’s Standards for*
920 *Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1994).

921 Before initiating repairs, FHWA shall, in consultation with Pohick
922 Episcopal church, develop specifications for repair work. FHWA shall
923 submit rehabilitation plans to the SHPO, for a period not to exceed thirty
924 (30) calendar days, for review and comment. If no comments are received
925 from the SHPO with thirty (30) days, FHWA can assume concurrence.

926
927 **B. TELEGRAPH ROAD INTERSECTION DESIGN WORKSHOPS**

928
929 FHWA shall facilitate two (2) design workshops among VDOT, the County, the
930 SHPO, the Army, Pohick Episcopal Church and representatives of the Inlet Cove
931 Board of Directors or Home Owners Association to evaluate alternative designs at
932 the intersection of Telegraph Road and Route 1. The first design workshop shall
933 take place within three (3) months of execution of this Agreement. The date and
934 location of the second workshop shall occur at a mutually agreeable time and
935 place among the workshop participants, and shall occur no later than six (6)
936 months after the first workshop. Other consulting parties may participate in the
937 design workshops. ARB and the Fairfax County History Commission shall be
938 included among the County's representatives invited to attend the workshops.
939 FHWA shall provide notification to all of the Signatories and Consulting Parties,
940 including ARB and the Fairfax County History Commission, regarding the
941 workshops.

942
943 FHWA and the County, in consultation with workshop participants, shall develop
944 and submit design plans for review and comment by workshop participants.
945 Designs may be distributed to workshop participants electronically, by mail, or at
946 workshop meetings, as determined appropriate by workshop participants. FHWA
947 shall provide design plans to workshop participants at least fifteen (15) days prior
948 to each workshop. Workshop participants shall provide comments on preliminary
949 design plans within thirty (30) calendar days of receipt. If no comments are
950 received from the workshop participants, FHWA may assume that the non-
951 responding party has no comments.

952
953 Any mitigation proposed as a result of the workshops would require land owner
954 approval. Any mitigation proposed within VDOT Right-of-Way as a result of the
955 workshops would be subject to VDOT regulations and approval.

956
957 FHWA and the County shall amend and submit revised design plans within thirty
958 (30) days after the end of a comment period. Plan review and submittal deadlines
959 may be changed with the agreement of all workshop participants but in no event
960 shall any comment period be less than two (2) weeks after receipt. If the relevant
961 issues cannot be resolved after two design workshops have been conducted,
962 FHWA may schedule additional workshops.

963
964 If conflicts arise that cannot be resolved to the satisfaction of all parties, they will
965 be addressed through the dispute resolution process outlined in Stipulation XII.

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C. DETERMINATION OF EFFECT FOR POHICK CHURCH

A determination of effect cannot be made at this time due to uncertainty related to the final design, particularly the potential construction of sound walls, and the possibility of damage resulting from construction vibration. When the design plans are more fully developed a determination of effect based on visual impacts will be made by FHWA in consultation with the parties to this Agreement. If the project will have an adverse effect on Pohick Church, an appropriate minimization and mitigation strategy will be developed in consultation with the parties to the Agreement. If construction vibration results in an adverse impact, corrective action will be taken as described in Stipulation IV.A.

V. Additional Testing of Archaeological Properties

- A. FHWA acknowledges that identification surveys have not been conducted in all portions of the APE, including the vicinity of Accotink Village and near Telegraph Road. All areas within the archaeological APE shall be surveyed prior to construction in accordance with the stipulations of this agreement.
- B. An archaeological survey of the entire Trust property was conducted by the Chicora Foundation in 1999; however the survey recommendations and results did not receive SHPO concurrence. Within six (6) months of the execution of this agreement, FHWA shall review and update the Chicora survey, as necessary, to identify and evaluate archaeological sites throughout the entire Trust property. This will help guide the design of mitigation measures so that impacts to any significant deposits can be avoided or minimized, including the archaeological deposits associated with the NHL (44FX1146).
- C. FHWA shall evaluate sites 44FX1810 and 44FX1936 for NR eligibility. FHWA shall consult with the Signatories, and other consulting parties, regarding the NR eligibility of the sites, and seek concurrence and development of avoidance, minimization, or mitigation measures.
- D. If activities related to the implementation of the Undertaking, and having the potential to impact archaeological resources, are to occur outside the previously identified APE, FHWA shall identify and evaluate archaeological properties prior to initiation of any land disturbing construction activities. If, as a result of testing, archaeological sites are identified that are eligible for listing in the NR, a plan for their treatment will be developed as described under Stipulation VII.
- E. FHWA shall ensure that archaeological properties occurring within the APE that are to be impacted by activities related to the implementation of the Undertaking (including, but not limited to, construction of stormwater management measures, borrow and staging areas, or tree removal and revegetation) are evaluated for NR eligibility by FHWA in consultation with SHPO. Evaluation shall be accomplished

1012 prior to initiation of land disturbing activities. FHWA shall consult with the
1013 Signatories, and other consulting parties, regarding the NR eligibility of
1014 archaeological properties evaluated, and seek concurrence and development of
1015 avoidance, minimization, or mitigation measures.
1016

1017
1018 **VI. Eligibility Determination and Determinations of Effect for Archaeological**
1019 **and Architectural Properties**
1020

1021 A. FHWA shall submit its findings regarding archaeological Phase I and II testing in a
1022 report to the SHPO with a formal request for concurrence. FHWA shall apply the
1023 NR criteria for eligibility to surveyed archeological sites in consultation with the
1024 SHPO, CIN-THPO, Signatories, and other consulting parties, to reach one of the
1025 following conclusions:

- 1026 1. If FHWA determines the criteria are not met, and the SHPO and CIN-THPO
1027 agrees, the property shall be considered not eligible. Such sites shall typically
1028 require no further review or consideration under this Agreement. If FHWA
1029 and the SHPO or CIN-THPO do not agree, or if ACHP or the Secretary so
1030 request, FHWA shall obtain a determination of eligibility from the Secretary
1031 pursuant to 36 CFR Part 63.
- 1032 2. If FHWA determines any of the NR criteria are met and the SHPO or CIN-
1033 THPO agree, the property shall be considered eligible for listing in the NR for
1034 purposes of this Agreement, and shall be included in the Archeological
1035 Property Treatment Plan (herein "Treatment Plan") described in Stipulation
1036 VII if such property would be adversely affected by the Project.
1037

1038 B. For those archaeological properties identified subsequent to the signing of this
1039 Agreement, FHWA shall oversee the Determination of Effects, which shall be
1040 based on the APEs for the Project (see Attachment D), preliminary engineering
1041 data, the Determinations of Eligibility (Stipulation VI.A.), and consultation with
1042 the Signatories and consulting parties. This determination shall be in accordance
1043 with procedures outlined in 36 CFR § 800.5.
1044

1045 C. A determination of effect for archaeological site 44FX1146, the deposits
1046 associated with Woodlawn Plantation, shall be made after the site has been
1047 delineated as described in Stipulation V.B and the locations of any utility
1048 installations or other components of the Undertaking have been determined.
1049 Significant deposits shall be avoided to the extent possible. If an adverse effect
1050 cannot be avoided, an Archaeological Treatment Plan shall be developed in
1051 consultation with the parties to this Agreement.
1052

1053 D. If future design modifications, such as the proposed construction of sound walls or
1054 storm water management facilities, would adversely impact an architectural
1055 property in a manner that was not previously anticipated, a revised determination
1056 of effect shall be issued by FHWA, in consultation with the SHPO and other
1057 parties to this Agreement, and appropriate avoidance, minimization, and/or

1058 mitigation measures shall be developed if necessary and in consultation with the
1059 parties to this Agreement.

1060

1061 E. If any architectural property is inadvertently damaged as a result of the
1062 Undertaking in a manner that was not previously anticipated, a revised
1063 determination of effect shall be issued by FHWA and appropriate mitigation
1064 measures shall be developed in consultation with the parties to this agreement.

1065

1066 **VII. Archaeological Property Treatment Plan**

1067

1068 A. If, as a result of the testing program, archaeological sites are identified that are
1069 eligible for listing in the NR, a plan to avoid, minimize, or mitigate adverse effects
1070 shall be developed by FHWA in consultation with the Signatories, and other
1071 consulting parties; and approved by the SHPO prior to implementation.

1072

1073 B. When adverse effects to archaeological properties cannot be avoided, a Treatment
1074 Plan shall provide specific treatment measures that could include, but shall not
1075 necessarily be limited to, data recovery or other documentation.

1076

1077 C. Wherever prudent and feasible, the Treatment Plan shall provide for the
1078 preservation of archaeological sites in place, with as little change as possible, and
1079 include provisions for long term management. Where necessary to preserve such
1080 sites, the plan shall provide for such management actions as physical stabilization,
1081 planting, and fencing where applicable and appropriate.

1082

1083 D. With respect to archaeological sites associated with Native American occupation
1084 and use of the area, regardless of age, the Treatment Plan shall be developed in full
1085 consultation with the CIN THPO and the appropriate state-recognized tribe(s) to
1086 the extent the CIN THPO and the appropriate state-recognized tribe(s) are willing
1087 to participate. To the maximum extent prudent and feasible, the plan shall give
1088 deference to their wishes for treatment of archaeological sites and/or objects of
1089 cultural significance.

1090

1091 E. Where physical disturbance is unavoidable, and data recovery is agreed to be the
1092 appropriate option, all data recovery plans prepared under the terms of this
1093 Agreement shall include the following elements:

1094

1095 1. Information on the archeological property or properties where data recovery is
1096 to be carried out and the context in which such properties are eligible for the
1097 NR;

1098 2. Information on any properties, or portions of properties that will be destroyed
1099 without data recovery;

1100 3. Discussion of the research questions to be addressed through the data recovery
1101 with an explanation/ justification of their relevance and importance;

1102 4. Description of the recovery methods to be used, with an explanation of
1103 techniques of analysis, data management and dissemination of data;

- 1104 5. Information on arrangements for any regular progress reports or meetings to
1105 keep the signatory and consulting parties up to date on the course of the work.
1106 The plan shall contain the expected timetable for excavation, analysis and
1107 preparation of the final report.
1108 6. Proposed methods for disseminating results for the work to the interested
1109 public; and
1110 7. If Native American human remains or associated funerary objects are
1111 expected to be encountered, information on consultation with the CIN THPO,
1112 and/or the appropriate state-recognized tribe(s) regarding final treatment and
1113 disposition of the materials, including a Plan of Action pursuant to NAGPRA,
1114 if appropriate.
1115 8. The disposition of recovered materials and records shall be in accordance with
1116 Stipulation X.C of this Agreement regarding curation, dependent upon
1117 whether material/and or records are found on Federal, Commonwealth or
1118 private lands.
1119
1120

1121 **VIII. Late Discoveries of Archaeological Properties**
1122

- 1123 A. In order to address the potential for the late discovery of archaeological properties
1124 within the APE, the parties to this Agreement are bound to the provisions of this
1125 stipulation. Additionally, FHWA shall ensure that all contract documents contain
1126 the provisions of this stipulation, as appropriate to the contractor's involvement,
1127 and that contractors are appropriately notified of their obligation to protect
1128 archaeological discoveries.
1129
1130 B. In the event that previously unidentified archaeological properties are discovered
1131 during ground disturbing activities, the contractor shall immediately halt all
1132 construction work involving subsurface disturbance in the area of the property
1133 and in the surrounding area, and immediately notify FHWA. FHWA shall notify
1134 the SHPO, Signatories, and other consulting parties of the discovery within two
1135 (2) business days.
1136
1137 C. Using a qualified archaeologist meeting the Secretary's *Professional*
1138 *Qualifications Standards for Archaeology*, FHWA shall promptly inspect the
1139 work site and determine the area and nature of the affected archaeological
1140 property. Other Signatories may participate in this or a separate inspection of the
1141 discovery site if they so desire. Construction work may then continue in the area
1142 outside the archaeological property as defined by FHWA and the SHPO, or their
1143 designated representative.
1144
1145 D. Within five (5) business days of the original notification of discovery, FHWA, in
1146 consultation with the Signatories and other consulting parties, shall determine the
1147 NR eligibility of the property and provide the eligibility determination to SHPO
1148 for concurrence.
1149

- 1150 E. If the property is determined eligible for the NR, or contains human burials,
1151 FHWA shall prepare a plan for its avoidance, protection, or recovery of
1152 information. The plan shall be submitted to the Signatories and other consulting
1153 parties for review and approval prior to its implementation. If comments are not
1154 received within five (5) business days following receipt, it shall be presumed that
1155 the party has no objection and the plan may be implemented.
1156
- 1157 F. Work in the affected area shall not proceed until either:
1158 1. The development and implementation of appropriate data recovery or other
1159 recommended mitigation procedures is completed, or
1160 2. The determination is made that the located properties are not eligible for
1161 inclusion on the NR.
1162
- 1163 G. Any disputes over the evaluation or treatment of previously unidentified
1164 properties shall be resolved as provided in the section of this Agreement entitled
1165 Dispute Resolution (Stipulation XII).
1166

1167 **IX. Discovery of Human Remains or Funerary Objects**
1168

1169 If suspected human remains or funerary objects are identified during construction,
1170 FHWA shall require that construction be halted immediately at the location of the
1171 remains. The County Police Department or Army Military Police, as appropriate, shall
1172 be immediately contacted by the on-site FHWA engineer to determine if the discovery
1173 is a crime scene. FHWA shall ensure that further construction does not occur within
1174 200 feet in any direction of the discovery until a qualified archeologist arrives to
1175 assess the discovery. FHWA shall secure the area of the apparent human remains to
1176 ensure no further disturbance or removal of those remains and associated material
1177 occurs. FHWA shall also ensure that vehicular traffic across the area is restricted to a
1178 location removed from the discovery. After arrival at the site, FHWA shall ensure that
1179 a qualified archaeologist shall evaluate the discovery. If it does consist of human
1180 remains, the archaeologist shall follow the procedures as follows:
1181

1182 **A. HUMAN REMAINS ON FEDERAL LANDS**
1183

1184 If Native American human remains and cultural items, as defined by NAGPRA,
1185 are encountered on Federal lands during inventory, testing, data recovery or any
1186 construction-related activities, work within 200 feet of the discovery shall cease.
1187 FHWA shall immediately notify the SHPO, CIN-THPO and all other Signatories
1188 and consulting parties, of the discovery. The Army, as the Federal land-
1189 management agency, shall comply with the requirements of NAGPRA (43 CFR §
1190 10) and shall take into account, if applicable, the *Catawba Indian Nation THPO*
1191 *Burial Policy* and Procedures, provided as **Attachment J**.
1192

1193 **B. HUMAN REMAINS ON COMMONWEALTH OR PRIVATE LANDS**
1194

1195 The treatment of any human skeletal remains and associated funerary objects
1196 recovered from non-Federal lands, including those controlled by the
1197 Commonwealth, shall be in accordance with the terms of the burial permit issued
1198 by the Director of the SHPO governing the removal of such remains, and if
1199 applicable, the *Catawba Indian Nation THPO Burial Policy and Procedures*, as
1200 provided in Attachment J.

1201

1202 C. PERMITS

1203

1204 A permit for the archaeological removal of human remains on Commonwealth
1205 and private lands is required under Virginia Code 10.1-2305(A), together with
1206 assurances that any such remains shall be treated with dignity and respect.

- 1207 1. FHWA shall ensure that human skeletal remains and associated funerary
1208 objects encountered during the course of actions taken as a result of this
1209 agreement shall be treated in accordance with the Regulations Governing
1210 Permits for the Archaeological Removal of Human Remains (Virginia
1211 Register 390-01-02) found in the Code of Virginia (17VAC5-20-30, 10.1-
1212 2305, et seq., Virginia Antiquities Act) and the *Catawba Indian Nation THPO*
1213 *Burial Policy and Procedures*, as applicable, provided in Attachment J.
1214 FHWA shall obtain a permit from the SHPO for the removal of human
1215 remains in accordance with the regulations stated above.
- 1216 2. FHWA shall notify the appropriate state-recognized tribe(s) and CIN-THPO
1217 when burials, human skeletal remains, or funerary objects are encountered on
1218 the Project, prior to any analysis or recovery.
- 1219 3. FHWA shall ensure that the general public is excluded from viewing any
1220 Native American burial sites, human remains, or associated funerary objects.
1221 The Signatories, and the consulting parties to this Agreement, shall not release
1222 any photographs of any American Indian burial site or associated funerary
1223 objects to the press or the general public.
- 1224 4. Any Native American human remains and associated funerary objects
1225 recovered pursuant to this agreement shall be re-interred in consultation with
1226 the CIN THPO and the appropriate state-recognized tribe(s). The appropriate
1227 state-recognized tribe(s) or CIN THPO shall consult with the SHPO to
1228 determine the party or parties that shall assume responsibility for planning and
1229 executing the re-interment. FHWA shall deliver these remains and objects to
1230 the party or parties designated by the CIN THPO and the appropriate state-
1231 recognized tribe(s) and shall be responsible for the costs of re-interment. The
1232 disposition of any other human skeletal remains and associated funerary
1233 objects shall be governed as specified in any permit issued by the SHPO or
1234 any order of the local court authorizing their removal.

1235

1236

1237 X. Standards

1238

1239 A. PRESERVATION STANDARDS AND PROFESSIONAL QUALIFICATIONS

PROGRAMMATIC AGREEMENT

Rt. 1 Improvements Project, Fairfax County, VA

Page 29 of 54

- 1240 1. All work carried out pursuant to this agreement shall be conducted by or
1241 under the direct supervision of an individual or individuals who meet, at a
1242 minimum, the Secretary of the Interior professional qualification standards for
1243 history, architectural history, archaeology, or architecture, as appropriate to
1244 the specific property, and as defined in 36 CFR Part 61.
1245 2. In accordance with Section 4 of the Archaeological Resource Protection Act
1246 of 1979 (ARPA), all archaeological investigations on Federal land shall be
1247 performed under an appropriate ARPA Cultural Resource Use Permit issued
1248 by the Army. FHWA shall ensure that all contract documents contain
1249 procedures for obtaining the permit.
1250 3. A Department of Historic Resources permit (under Code of Virginia § 10.1-
1251 2302) and a VDOT Land Use Permit (under 24VAC30-151-20) are required
1252 for archaeological investigation on Commonwealth highway right of way.
1253

1254 B. DOCUMENTATION STANDARDS

- 1255 1. All archaeological reports, including data recovery plans included in
1256 Treatment Plans, shall be consistent with the Secretary's *Standards for*
1257 *Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and
1258 the professional standards set forth in SHPO's *Guidelines for Conducting*
1259 *Historic Resources Survey in Virginia* (October 2011), and shall take into
1260 account the ACHP's publications, *Recommended Approach for Consultation*
1261 *on Recovery of Significant Information from Archeological Sites* (1999) and
1262 *Section 106 Archaeology Guidance* (June 2007).
1263 2. All historical and architectural reports and survey documentation shall be
1264 consistent with pertinent standards and guidelines of the Secretary, including
1265 as applicable the *Standards for Historical Documentation* (48 FR 44728-30),
1266 the Secretary of the Interior's *Standards for Architectural and Engineering*
1267 *Documentation* (48 FR 44730-34, September 29, 1983), and the SHPO's
1268 *Guidelines for Conducting Historic Resources Survey in Virginia* (October
1269 2011).
1270 3. The FHWA shall provide the VDOT Preservation Program Manager (VDOT
1271 Central Office, Richmond, VA) one hard copy and one electronic copy in PDF
1272 format on compact disc of the final version of any technical cultural resources
1273 survey or study, prepared in fulfilling the requirements of the Stipulations of
1274 this Agreement, of a geographic area, building, structure, or archaeological
1275 site located within or immediately adjacent to existing or proposed VDOT
1276 right-of-way.
1277

1278 C. CURATION AND CURATION STANDARDS

- 1279 1. The material remains and associated records resulting from the actions within
1280 the APE shall be curated in accordance with 36 CFR Part 79, with the
1281 exception of artifacts found on private land, human skeletal remains and
1282 associated funerary objects.
1283 2. The curator of artifacts potentially discovered as a result of the Undertaking
1284 shall be dependent upon the owner of the lands where the artifacts are found.

- 1285 3. On Federal lands, material and records obtained from the Army shall be
1286 curated at a curation center or another depository as specified in the Cultural
1287 Resource Use Permit issued by the Army. Currently, an agreement is in place
1288 with the County to curate artifacts at the Cultural Resource curation facility at
1289 the James Lee Center in Falls Church, VA.
- 1290 4. Pursuant to the Code of Virginia §10.1-2302 all material remains (with the
1291 exception of materials found on Army property, human skeletal remains and
1292 associated funerary artifacts) resulting from the actions cited in this
1293 Agreement, and recovered from lands controlled by the Commonwealth,
1294 including highway right of way, are the property of the Commonwealth.
1295 SHPO shall pursue the execution of a loan agreement documenting the loan of
1296 collections recovered from Commonwealth land or within Commonwealth
1297 owned/maintained right of way. The loan agreement would specify that any
1298 such collections would be curated by the Fairfax County Park Authority on
1299 behalf of the County, pursuant to Federal regulation at 36 CFR Part 79. If the
1300 Fairfax County Park Authority should ever close the curatorial facility, or
1301 terminate the agreement, the County or the Fairfax County Park Authority
1302 shall notify the SHPO and arrange for the transfer of any curated materials.
- 1303 5. Any private landowner shall have claim to artifacts found on its land as a
1304 result of this undertaking, as prescribed by the laws of the Commonwealth.
- 1305

1306 **XI. Continuing Review Process**

1307

- 1308 A. The SHPO and the parties to this Agreement agree to provide comments to
1309 FHWA on all plans, technical materials, findings and other documentation arising
1310 from this Agreement within thirty (30) calendar days of their receipt, unless
1311 otherwise stipulated in this Agreement. If no comments are received from the
1312 SHPO or the concurring parties to this Agreement, FHWA may assume that the
1313 non-responding party has no comment. FHWA shall take into consideration all
1314 comments received in writing from the SHPO and the concurring parties to this
1315 Agreement within the thirty (30) calendar day review period, unless otherwise
1316 stipulated in this Agreement.
- 1317
- 1318 B. All roadway design, signage, landscaping, and other mitigation measures
1319 proposed as part of this agreement that will be accepted into the state highway
1320 system must meet VDOT standards and requirements, and are subject to VDOT
1321 approval, including the granting of exceptions as specified in Stipulation I.b of
1322 this Agreement.
- 1323
- 1324
- 1325 C. Unanticipated Effects on Historic Properties: An unanticipated adverse effect is
1326 accidental damage or destruction of a historic property or contributing landscape
1327 feature. In the event that any contributing features or properties are subject to
1328 unanticipated adverse effect(s), FHWA shall immediately notify the SHPO and
1329 ACHP, and shall ensure that the Signatories and Consulting Parties are notified of
1330 the unanticipated adverse effect within one (1) business day. FHWA shall

1331 immediately enter into consultation in an effort to resolve the unanticipated effect
1332 in accordance with Stipulation VI.E. of this Agreement.

1333

1334 **XII. Dispute Resolution**

1335

1336 **A. OBJECTIONS BY SIGNATORY PARTIES**

1337

1338 Should any signatory to this agreement object in writing to FHWA regarding any
1339 action carried out or proposed with respect to the undertaking or implementation of
1340 this agreement, FHWA shall consult with the objecting Signatory to resolve the
1341 objection. If after initiating such consultation FHWA determines that the objection
1342 cannot be resolved through consultation, the agency shall forward all documentation
1343 relevant to the objection to the ACHP, including the agency's proposed response to
1344 the objection. Within thirty (30) days after receipt of all pertinent documentation, the
1345 ACHP shall exercise one of the following options:

1346

- 1347 1. Advise the FHWA that the ACHP concurs in the agency's proposed response to
1348 the objection, whereupon the agency will respond to the objection accordingly; or
1349
- 1350 2. Provide the FHWA with recommendations, which the agency shall take into
1351 account in reaching a final decision regarding its response to the objection; or
1352
- 1353 3. Notify the FHWA that the objection will be referred for comment pursuant to 36
1354 CFR Part 800.2(b)(2), and proceed to refer the objection and comment. The
1355 agency shall take the resulting comment into account.

1356

1357 Should the ACHP not exercise one of the above options within thirty (30) days after
1358 receipt of all pertinent documentation, the FHWA may assume ACHP has no
1359 comment.

1360 The FHWA shall take into account any ACHP recommendation or comment provided
1361 in accordance with this stipulation with reference only to the subject of the objection;
1362 the agency's responsibility to carry out all actions under this Agreement that are not
1363 the subjects of the objection shall remain unchanged.

1364

1365 **B. CONSULTING PARTY COMMENTS AND DISPUTE RESOLUTION**

1366

1367 Should any consulting party to this Agreement object in writing to the FHWA
1368 regarding any action carried out or proposed with respect to the undertaking or
1369 implementation of this Agreement, the FHWA, in conjunction with all other
1370 Signatories to this Agreement, will consult with the objector regarding such
1371 objections.

1372

1373 The Signatories shall consult with the objecting consulting party within thirty (30)
1374 days after receipt of written comments. If the Signatories and the consulting party
1375 cannot resolve the matter with respect to the project, the FHWA shall notify SHPO
1376 and provide copies of the objection. SHPO, as appropriate, shall advise the FHWA of
1377 measures, if any, that could resolve the matter.

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If the Signatories, in consultation with SHPO, cannot resolve the matter with respect to the project, and the Signatories consider the issue of sufficient importance, the Signatories shall proceed as set forth in Stipulation XII.A. above.

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

XIII. Amendment and Termination

- A. Any signatory to this Agreement may propose to FHWA that the Agreement be amended, whereupon FHWA shall consult with the other signatories to consider such an amendment. 36 CFR § 800.6(c)(7) shall govern the execution of any such amendment. Any signatory to this Agreement may terminate it in accordance with the provisions of 36 CFR § 800.6(c)(8).
- B. If FHWA decides they will not proceed with the Undertaking, they may so notify the signatories and concurring parties and then this Agreement shall become null and void.
- C. In the event that this Agreement is terminated or rendered null and void, FHWA shall submit to the SHPO a technical report on the results of any archaeological investigations conducted prior to and including the date of termination, and shall ensure that any associated collections and records recovered are curated in accordance with Stipulation X.C. of this Agreement.
- D. In the event of termination, FHWA shall either execute a Section 106 agreement pursuant to 36 CFR § 800.6(c)(1) or request the comments of the ACHP under 36 CFR § 800.7(a). FHWA shall notify all parties to this Agreement and give them the opportunity to participate in the development of any new agreements.

XIV. Duration

- A. Unless this Agreement is terminated pursuant to Stipulation XIII or superseded by another Agreement executed for the Undertaking, or the Undertaking has been terminated, this Agreement shall remain in effect for a period of ten (10) years from the date of the final signature.
- B. FHWA shall provide quarterly updates to the parties of this Agreement regarding the status of the mitigation commitments contained herein. Upon a determination by FHWA that construction of all aspects of the Undertaking have been

1424 completed and that all terms of this Agreement have been fulfilled in a
1425 satisfactory manner, FHWA shall notify the other Signatories and consulting
1426 parties of that determination in writing. If no objections to the determination are
1427 submitted in writing to FHWA by a Signatory within 30 days, this Agreement
1428 shall no longer have any effect.

1429
1430 C. FHWA shall provide notice of this Agreement's expiration to all Signatories at
1431 least six months prior to Agreement's expiration. Amendments to extend the
1432 duration of this Agreement must be consistent with the procedural requirements
1433 set forth in Stipulation XIII.

1434
1435

1436 **XV. Other Clauses**

1437

1438 A. This Agreement is intended to be consistent with the Project MOA attached hereto
1439 as Attachment A. Furthermore, this agreement will be funded as described in the
1440 Project MOA, and no party will incur any financial obligation not specifically
1441 provided for in the Project MOA.

1442

1443 B. All requirements for funds to be borne by Fairfax County shall be subject to
1444 annual appropriations by the Fairfax County Board of Supervisors.

1445

1446 C. This agreement shall not be construed as creating any personal liability on the part
1447 of any officer, employee, or agent of the parties, nor shall it be construed as giving
1448 any rights or benefits to anyone other than the parties hereto.

1449

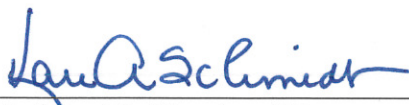
1450 D. This agreement shall not be construed as a waiver of the sovereign immunity of
1451 Fairfax County, the Commonwealth of Virginia, or the United States of America

EXECUTION

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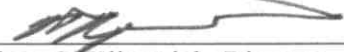
Execution and implementation of this Agreement by the Signatories, and implementation of its terms, shall evidence that FHWA has afforded the ACHP and SHPO an opportunity to comment on the Undertaking and its effects, and that FHWA has taken into account the effects of the Undertaking on historic properties in compliance with 36 CFR Part 800 and Sections 106 and 110(f) of the NHPA.

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 13 NOV 2012
Karen A. Schmidt, Director of Program Administration
Federal Highway Administration
Eastern Federal Lands Highway Division

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VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By: 
Kathleen S. Kilpatrick, Director
Department of Historic Resources

Date: *11/2/12*

VIRGINIA DEPARTMENT OF TRANSPORTATION

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By: 
Stephen J. Long, State Environmental Administrator

Date: 10/29/12

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COUNTY OF FAIRFAX, VIRGINIA

By: Edward L. Long, Jr.
Edward L. Long, Jr., Fairfax County Executive

Date: 11/1/12

1638 U.S. ARMY GARRISON, FORT BELVOIR

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By: Stephen J. Rowan, Deputy Date: 11/7/2012

1642 Colonel Gregory Gadsen, Garrison Commander

1643 FOR

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1684 **DEPARTMENT OF DEFENSE OFFICE OF ECONOMIC ADJUSTMENT**

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By: 
Patrick J. O'Brien, Director

Date: 10/19/12

1730 **CATAWBA INDIAN NATION**

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By: William Yano Date: 10.25.12
Chief, Catawba Indian Nation

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By: Wenonah G. Haire, PhD Date: 10/23/12
Wenonah G. Haire, Tribal Historic Preservation Officer

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1776 **NATIONAL TRUST FOR HISTORIC PRESERVATION**

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By: David J. Brown Date: 11/9/12

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1822 **ADVISORY COUNCIL ON HISTORIC PRESERVATION**

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By: John M. Fowler Date: 4/12/12

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ALEXANDRIA MONTHLY MEETING OF THE RELIGIOUS SOCIETY OF FRIENDS

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POTOMAC HERITAGE NATIONAL SCENIC TRAIL & WASHINGTON-ROCHAMBEAU NATIONAL HISTORIC TRAIL, NATIONAL PARK SERVICE

By: _____ Date: _____
Donald E. Briggs, Superintendent, Potomac Heritage National Scenic Trail

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SAVE WOODLAWN STABLES

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MOUNT VERNON LADIES ASSOCIATION

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FAIRFAX COUNTY PARK AUTHORITY

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GUM SPRINGS HISTORICAL SOCIETY

By: _____ Date: _____

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2283 **ATTACHMENTS**
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2285 **Attachment A: Route 1 Improvements Project Memorandum of Agreement**
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2287 **Attachment B: Correspondence**
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2289 **Attachment C: Proposed New Alignment for Route 1**
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2291 **Attachment D: Area of Potential Effect**
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2293 **Attachment E: Architectural Properties Listed or Eligible for Listing on the**
2294 **National Register**
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2296 **Attachment F: Archaeological Sites Listed or Eligible for Listing on the National**
2297 **Register**
2298

2299 **Attachment G: Eastern Band of Cherokee Indians Aboriginal Territory Map**
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2301 **Attachment H: Existing BRAC PA Open Space Map**
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2303 **Attachment I: Proposed BRAC PA Open Space Map**
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2305 **Attachment J: Catawba Indian Nation THPO Burial Policy and Procedures**
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Page 54 of 54

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